



MINUTES OF THE APRIL 1-2, 2019
MEETING OF THE STATE OF OHIO BOARD OF PHARMACY

Monday, April 1, 2019

10:13 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; Shawn C. Wilt, RPh; Joshua M. Cox, RPh; Megan E. Marchal, RPh; Donald R. Miller, RPh; Richard J. Newlon, *Public Member*; Curtis L. Passafume, Jr., RPh; Jennifer M. Rudell, RPh; and Kilee S. Yarosh, RPh.

Also present were Steven Schierholt, *Executive Director*; Nicole Dehner, *Chief Legal Counsel*; Joe Koltak, *Senior Legal Counsel*; Justin Sheridan, *Senior Legal Counsel*; Ashley Gilbert, *Senior Legal Counsel*; and Kathryn Lewis, *Administrative Assistant*.

The Board was joined by Assistant Attorney General Henry Appel to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Kenneth Wingate, Galloway, Ohio**.

11:21 a.m. The case was closed.

R-2019-244 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; Cox-yes; Marchal-yes; Miller-Yes; Newlon-yes; Passafume-yes; Rudell-yes; and Yarosh-yes.

11:45a.m. The recess ended and the hearing was opened to the public.

R-2019-245 After votes were taken in public session, the Board adopted the following order in the matter of **Kenneth Wingate, Galloway, Ohio**.

ORDER OF THE STATE BOARD OF PHARMACY

(Case Number 2018-2064)

In The Matter Of:

Kenneth Wingate, R.Ph.1103 Oak Bay Drive
Galloway, OH 43119
(License No. 03-325613)**INTRODUCTION**

The Matter of Kenneth Wingate came for hearing on April 1, 2019, before the following members of the State of Ohio Board of Pharmacy (Board): Fred M. Weaver, RPh, *Presiding*; Joshua M. Cox, RPh; Megan E. Marchal, RPh; Donald R. Miller, RPh; Richard J. Newlon, *Public Member*; Curtis L. Passafume, Jr., RPh; Jennifer M. Rudell, RPh; Shawn C. Wilt, RPh and Kilee S. Yarosh, RPh.

Kenneth Wingate was represented by Levi Tkach. The State of Ohio was represented by Henry Appel, Assistant Attorney General.

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

1. Kenneth Wingate, R.Ph

Respondent's Witnesses:

1. Kenneth Wingate, R.Ph

State's Exhibits:

- | | |
|--|-----------------------|
| 1. Notice Letter | 08.30.2018 |
| 2. Request for a Hearing | 09.27.2018 |
| 3. License Report | 03.27.2019 |
| 4. Statement of Respondent | 08.24.2018 |
| 5. DEA report of for Chillicothe location | 08.24.2018 |
| 6. DEA report for Mansfield location | 05.17.2018 |
| 7. DEA report for Dublin location | 08.21.2018 |
| 8. Statement of Haley Spencer | 10.17.2018 |
| 9. Second Statement of Haley Spencer | No Date |
| 10. Aplprazolam activity report (placed under seal) | 07.13.2018-07.17.2018 |
| 11. Buprenorphin activity report (placed under seal) | 07.13.2018-10.01.2018 |
| 12. Report of manual adjustments | 07.14.2018 |
| 13. Work schedule for respondent | Various |

Respondent's Exhibits:

A. Resume of Kenneth Wingate, R.Ph	No Date
B. Restitution Payment Information (Bank Account Redacted)	08.24.2018
C. Letter of Support	03.22.2019
D. Letter from Cindy Herzberg, LPCCS, Bluestone Counseling	03.30.2019

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 August 24, 2018, Kenneth Wingate admitted in an interview with agents from the Board that for approximately one year he had been stealing buprenorphine/naloxone 8/2mg and alprazolam from Kroger, where he was employed as a floater pharmacist, and giving drugs to his friend, S.S. Kenneth Wingate admitted to stealing the following:
 - a. On or about July 10, 2018, Kenneth Wingate stole one box of 30 buprenorphine/naloxone 8/2mg films from Kroger #310, located at 1165 Western Avenue, Chillicothe, Ohio. This was consistent with losses reported from that location where Kenneth Wingate worked as a fill-in pharmacist.
 - b. On or about July 14, 2018, Kenneth Wingate stole buprenorphine/naloxone 8/2mg and alprazolam from Kroger #518, located at 1240 Park Avenue, Mansfield, Ohio. This was consistent with losses reported from that location where Kenneth Wingate worked as a fill-in pharmacist.
 - c. On or about July 25, 2018, Kenneth Wingate stole buprenorphine/naloxone 8/2mg and alprazolam from Kroger #806, located at 850 South Hamilton Road, Whitehall, Ohio.

CONCLUSIONS OF LAW

1. Such conduct as set forth in paragraph (1)(a), (b), and (c) of the Findings of Fact Section each constitutes a violation of Section 2913.02 of the O.R.C., theft of a controlled substance.
2. Such conduct as set forth in paragraph (1)(a), (b), and (c) of the Findings of Fact Section each constitutes a violation of Section 2925.11(A) of the O.R.C., Possession of a Schedule III (buprenorphine/naloxone) controlled substances.
3. Such conduct as set forth in paragraph (1)(b) and (c) of the Findings of Fact Section each constitutes a violation of Section 2925.11(A) of the O.R.C., Possession of a Schedule IV (alprazolam) controlled substances.
4. Such conduct as set forth in the Findings of Fact Section, each constitutes a violation of Section 2925.03 of the O.R.C., Trafficking in Drugs.

5. Such conduct as set forth in the Findings of Fact Section constitutes a violation of the following divisions of (A) of section 4729.16 of the ORC effective as of April 6, 2017:
 - a. Engaged in dishonesty or unprofessional conduct in the practice of pharmacy, ORC 4729.16 Section (A)(2)(b); and
 - b. Violated, conspired to violate, attempted to violate, or aided and abetted the violation of any of the provisions of this chapter 3715.75 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 4729.16(A)(2)(e); and
 - c. Engaged in any conduct for which the board may imposed discipline as set forth in rules adopted under section 4729.26 of the Revised Code, ORC Section 4729.16(A)(2)(l).
6. Such conduct as set forth in the Findings of Fact section constitutes a violation of each of the following divisions of Rule 4729:1-4-01 of the OAC as effective May 1, 2018, each violation punishable by a maximum penalty of \$500:
 - a. Engaged in dishonesty or unprofessional conduct in the practice of pharmacy, OAC Rule 4729:1-4-01(B)(2)(b); and
 - b. Violated, conspired to violate, attempted to violate, or aided and abetted the violation of any of the provisions of Chapters 4729...3719. and 2925. of the Revised Code, or any rule adopted by the board under those provisions, OAC Rule 4729:1-4-01(B)(2)(e); and
 - c. Committed an act involving moral turpitude that constitutes a misdemeanor or felony in this state, regardless of the jurisdiction in which the act was committed, OAC Rule 4729:1-4-01(B)(2)(l); and
 - d. Violated any state or federal law, regulation or rule regardless of the jurisdiction in which the acts were committed..., OAC Rule 4729:1-4-01(B)(2)(m).

DECISION OF THE BOARD

Pursuant to Section 4729.16 of the Ohio Revised Code, and pursuant to Section 4729-9-01(E) of the Ohio Administrative Code, and after consideration of the record as a whole, the State of Ohio Board of Pharmacy adjudicates the matter of Kenneth Wingate as follows:

On the basis of the Findings of Fact and section (1) of the Conclusions of Law, the State of Ohio Board of Pharmacy hereby revokes permanently the Pharmacist license, No. 03-325613, held by Kenneth Wingate effective as of the date of the mailing of this Order.

On the basis of the Findings of Fact and section (2) of the Conclusions of Law, the State of Ohio Board of Pharmacy hereby revokes permanently the Pharmacist license, No. 03-325613, held by Kenneth Wingate effective as of the date of the mailing of this Order.

On the basis of the Findings of Fact and section (3) of the Conclusions of Law, the State of Ohio Board of Pharmacy hereby revokes permanently the Pharmacist license, No. 03-325613, held by Kenneth Wingate effective as of the date of the mailing of this Order.

On the basis of the Findings of Fact and section (4) of the Conclusions of Law, the State of Ohio Board of Pharmacy hereby revokes permanently the Pharmacist license, No. 03-325613, held by Kenneth Wingate effective as of the date of the mailing of this Order.

On the basis of the Findings of Fact and sections (5a), (5c), and (5d) of the Conclusions of Law, the State of Ohio Board of Pharmacy hereby revokes permanently the Pharmacist license, No. 03-325613, held by Kenneth Wingate effective as of the date of the mailing of this Order.

On the basis of the Findings of Fact and sections (6a), (6c), (6d), and (6e) of the Conclusions of Law, the State of Ohio Board of Pharmacy hereby revokes permanently the Pharmacist license, No. 03-325613, held by Kenneth Wingate effective as of the date of the mailing of this Order.

Kenneth Wingate, pursuant to Section 4729.16(B) of the Ohio Revised Code, must return 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, the Board hereby grants the State's Motion to Seal the Record in this matter including, but not limited to, all confidential patient health information and personal bank account information contained in the record, specifically State's exhibits: 10 and 11, and Respondent's exhibit B.

Mr. Passafume moved for Findings of Fact; Ms. Yarosh seconded the motion. Motion passed (Aye-8/Nay-0).

Ms. Yarosh moved for Conclusions of Law; Ms. Marchal seconded the motion. Motion passed (Aye-8/Nay-0).

Mr. Wilt moved for Action of the Board; Ms. Marchal seconded the motion. Motion passed (Aye-8/Nay-0).

SO ORDERED.

11:47 a.m. The Board recessed for lunch.

1:01 p.m. Mr. Griffin provided the Compliance Report.

1:05 p.m. Ms. Southard provided the Licensing Report.

1:10 p.m. Ms. Southard presented a resolution titled "Pharmacy Technician Trainee Registration Extensions" to the Board for consideration.

R-2019-246 Mr. Passafume moved that the Board approve the Resolution. The motion was seconded by Ms. Rudell and approved by the Board: Aye-8, Nay-0. The following Resolution was adopted by the Board:

Resolution: Pharmacy Technician Trainee Registration Extensions

Approved 1/8/2019

Updated 4/2/2019

The Board hereby authorizes the Executive Director, or the Director's designee, to grant a six (6) month extension of a trainee's registration in accordance with section 4729:3-2-01(D) of the Ohio Administrative Code for the following conditions:

- Medical leave/absence.
 - Initial employment or change in employment four (4) months prior to the expiration of a trainee's registration.
 - Failure to pass an employer-based training program examination.
 - Failure to obtain a pharmacy technician certification from an organization that has been recognized by the board.
 - Active enrollment in an ASHP accredited pharmacy technician training program.
-

1:11 p.m. Ms. Southard presented the request of Jennifer Davis-Hrabik (license no. 03438356) to serve as the Responsible Person at two locations: Trinity West Main Campus Pharmacy, 4000 Johnson Road, Steubenville, Ohio and Trinity East, One Ross Park, Steubenville, Ohio.

R-2019-247 Ms. Marchal moved that the Board approve Jennifer Davis-Hrabik's request to serve as the Responsible Person at both locations. The motion was seconded by Mr. Wilt and approved by the Board: Aye-8, Nay-0.

1:12 p.m. Ms. Southard presented the request of Mark Fondreist (license no. 03223754) to serve as the Responsible Person at two locations: UH Regional Hospitals—Richmond Heights, 27100 Chardon Road, Richmond Heights, Ohio and UH Regional Hospitals—Bedford, 44 Blaine Avenue, Bedford, Ohio.

R-2019-248 Mr. Cox moved that the Board approve Mark Fondreist's request to serve as the Responsible Person at both locations for **one calendar year**. The motion was seconded by Ms. Yarosh and approved by the Board: Aye-8, Nay-0.

1:14 p.m. Mr. Cox presented the PAPC Report. Mr. Cox and Ms. Marchal informed the Board that for the foreseeable future, no member of the Pharmacy Board is needed or required to participate in the PAPC. Ms. Dehner confirmed that due to the language of Revised Code Section 4730.05(A)(4) a Pharmacy Board member is no longer need, since a clinical pharmacists recommended by OPA has been appointed.

- 1:15 p.m.** Ms. Dehner presented the Legal Report.
- 1:22 p.m.** Mr. McNamee provided the Legislative report, after which he and Ms. Wai began a discussion on changes to the following rules: Updated Definition of Positive Identification, Definitions Sections for Locations Based Rules, Updated Electronic Record Keeping Requirements for Non-Pharmacy Rule Chapters, Updated Record Keeping Sections to Account for Sale Records, Updated Security Rules to Account for Records of Receipt, 4719:5-5-16—Pharmacist Modifications to a Prescription, 4729: 2-3-03—Immunization Administration by Pharmacy Interns, 4729: 1-3-02—Immunization Administration, 4729: 1-3-03—Administration of Dangerous Drugs by Injection, 4729: 1-3-04—Dispensing of Naloxone by Pharmacists, 4729:1-5-02—Continuing Education Requirements for Pharmacists, 4729: 5-7-01—Definitions—Charitable Pharmacies, 4729: 5-21-01—Opioid Treatment Programs—Definitions, 4729: 5-21-02—Personally Furnishing Dangerous Drugs from an Opioid Treatment Facility, 4729: 5-21-03—Security and Control of Dangerous Drugs, 4729: 7-3-01—Definitions—Prescriber Compounding, 4729: 7-3-03—Non-Hazardous Drugs Compounded by a Prescriber, 4729: 7-3-04—Immediate-Use, Sterile Non-Hazardous Dugs Compounded by a Prescriber, 4729: 7-3-06—Records Keeping, 4729: 5-19-01—Clinics and Prescriber Offices—Definitions, 4729-5-19-02—Personally Furnishing Dangerous Drugs, 4729: 5-20-04—Records Keeping, 4729: 5-15-01—Animal Shelters—Definitions, 4729: 5-15-02—Security and Control of Dangerous Drugs, 4729: 5-15-03—Record Keeping, 4729: 5-17-01—Medical Oxygen, Nitrous Oxide, Medical Gases and Dialysis Solutions—Definitions, 4729: 5-17-02—Medical Oxygen—General Provisions, 4729:5-1-01—Definitions, 4729: 9-3—Ephedrine Chapter.
- 1:39 p.m.** Mr. Garner presented the OARRS Report.
- 1:51 p.m.** Mr. McNamee and Ms. Wai resumed the discussion on changes to Updated Definition of Positive Identification, Definitions Sections for Locations Based Rules, Updated Electronic Record Keeping Requirements for Non-Pharmacy Rule Chapters, Updated Record Keeping Sections to Account for Sale Records, Updated Security Rules to Account for Records of Receipt, 4719:5-5-16—Pharmacist Modifications to a Prescription, 4729: 2-3-03—Immunization Administration by Pharmacy Interns, 4729: 1-3-02—Immunization Administration, 4729: 1-3-03—Administration of Dangerous Drugs by Injection, 4729: 1-3-04—Dispensing of Naloxone by Pharmacists, 4729:1-5-02—Continuing Education Requirements for Pharmacists, 4729: 5-7-01—Definitions—Charitable Pharmacies, 4729: 5-21-01—Opioid Treatment Programs—Definitions, 4729: 5-21-02—Personally Furnishing Dangerous Drugs from an Opioid Treatment Facility, 4729: 5-21-03—Security and Control of Dangerous Drugs, 4729: 7-3-01—Definitions—Prescriber Compounding, 4729: 7-3-03—Non-Hazardous Drugs Compounded by a Prescriber, 4729: 7-3-04—Immediate-Use, Sterile Non-Hazardous Dugs Compounded by a Prescriber, 4729: 7-3-06—Records Keeping, 4729: 5-19-01—Clinics and Prescriber Offices—Definitions, 4729-5-19-02—Personally Furnishing Dangerous Drugs, 4729: 5-20-04—Records Keeping, 4729: 5-15-01—Animal Shelters—Definitions, 4729: 5-15-02—Security and Control of Dangerous Drugs, 4729: 5-15-03—Record Keeping, 4729: 5-17-01—Medical Oxygen, Nitrous Oxide, Medical Gases and Dialysis Solutions—Definitions, 4729: 5-17-02—Medical Oxygen—General Provisions, 4729:5-1-01—Definitions, 4729: 9-3—Ephedrine Chapter

- R-2019-249** Mr. Passafume moved that the revisions be approved for filing with JCARR. The motion was seconded by Ms. Yarosh and approved by the Board: Aye-8, Nay-0.
- 2:10 p.m.** The Board recessed for a break.
- 2:20 p.m.** Mr. McNamee and Ms. Wai presented the Hearing Summary Report, which provided a synopsis of the Board's rescinded rules as well as some of the new locations, as well as detailing some of the public comments received.
- 2:25 p.m.** Mr. McNamee and Ms. Wai led a discussion on proposed changes to: 4729: 7-2-01—Definitions-Pharmacy Compounding, 4729: 7-2-02—Exemptions, 4729: 7-2-03—Drugs Compounded in a Pharmacy, 4729: 7-2-04—Record Keeping, 4729: 5-8-04—Drugs Compounded by a Nonresident Pharmacy, 4729: 7-2-05—Drugs Compounded for Veterinarian Office Use, 4729: 5-5-06—Labeling of Drugs Dispensed on Prescription.
- R-2019-250** Mr. Passafume moved that the revisions be approved for filing with CSI. The motion was seconded by Ms. Yarosh and approved by the Board: Aye-8, Nay-0.
- 3:13 p.m.** Mr. McNamee and Ms. Wai led a discussion on proposed changes to: 4729: 5-9-01—Definitions, 4729: 5-9-02—Minimum Standards for an Institutional Pharmacy, 4729: 5-9-03—Security, Storage and Control of Dangerous Drugs in an Institutional Facility.
- 3:35 p.m.** The Board recessed for a break.
- 3:46 p.m.** Mr. McNamee and Ms. Wai resumed the discussion on proposed changes to: 4729: 5-9-01—Definitions, 4729: 5-9-02—Minimum Standards for an Institutional Pharmacy, 4729: 5-9-03—Security, Storage and Control of Dangerous Drugs in an Institutional Facility and began a discussion on: 4729: 5-9-04—Record Keeping, 4729: 5-9-05—Institutional Point of Care Location, 4729: 5-9-06—Temporary Absence of a Pharmacist in an Institutional Pharmacy, 4729: 5-9-07—Patient Profiles, 4729:5-9-08—Prospective Drug Utilization Review, 4729: 5-9-09—Drug Orders for Inpatients, Outpatient Prescriptions and Personally Furnishing Dangerous Drugs, 4729: 5-9-010—Labeling of Prescriptions for Patients, 4729: 5-9-11—Hospital Self-Service Employee Prescription Kiosks, 4729: 5-9-12—Use of Hospital and Other Institution D.E.A. Registrations, 4729:5-9-13—Returned Drugs, 4729:5-9-14—Dispensing of Multiple Drugs in Single-Dose or Multi-Dose Containers, and 4729:5-9-15—Drugs Repackaged or Relabeled by an Institutional Pharmacy. A motion on these rules for filing with JCARR was tabled until they could be reviewed with additional language related to the Joint Commission.
- 4:31 p.m.** Mr. McNamee and Ms. Wai led a discussion on proposed changes to: 4729: 7-01—Severability, 4729:5-5-18—Dispensing of Multiple Drugs in Single-Dose Containers, 4729:5-3-14—General Security Requirements, 4729: 5-3-13—Temporary Removal of Dangerous Drugs from a Licensed Location, 4729:5-23-01—Limited Facilities-Definitions, 4729:5-23-02—Security, Control and Storage of Dangerous Drugs, 4729:5-23-03—Records Keeping, 4729:5-22-02—Security, Control and Storage of Dangerous Drugs, and 4729:5-22-03—Record Keeping.
- R-2019-251** Mr. Passafume moved that the revisions be approved for filing with JCARR. The motion was seconded by Mr. Cox and approved by the Board: Aye-8, Nay-0.

4:47 p.m. The Board recessed for the day.

Tuesday, April 2, 2019

9:00 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; Shawn C. Wilt, RPh; Megan E. Marchal, RPh; Donald R. Miller, RPh; Richard J. Newlon, *Public Member*; Curtis L. Passafume, Jr., RPh, Jennifer M. Rudell, RPh; and Kilee S. Yarosh, RPh.

Also present were Steven Schierholt, *Executive Director*; Nicole Dehner, *Chief Legal Counsel*; Joe Koltak, *Senior Legal Counsel*; Justin Sheridan, *Senior Legal Counsel*; Ashely Gilbert, *Senior Legal Counsel*; Grant Miller, *Medical Marijuana Patient and Caregiver Liaison*, Leslie Arnold, *Pharmacy Board Agent*, Paul Schad, *Compliance Specialist*, Tom Pyles, *Chief of Investigations*, Kevin Flaharty, *Regional Agent in Charge*, and Kathryn Lewis, *Administrative Assistant*.

9:01 a.m. Mr. Schierholt introduced and the Board recognized the recipients of the Annual Staff awards as follows: Customer Service Award—Grant Miller, Investigator of the Year Award—Leslie Arnold, and President’s Award—Paul Schad.

9:06 a.m. The Board was joined by Assistant Attorney General Henry Appel to conduct, in the matter of **Jasmin Lyons, Shaker Heights, Ohio**, an administrative hearing requesting reconsideration of a Settlement Agreement, in accordance with the Ohio Revised Code Chapters 119. and 4729..

9:26 a.m. The case was closed.

R-2019-252 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; Marchal-yes; Miller-Yes; Newlon-yes; Passafume-yes; Rudell-yes; and Yarosh-yes.

9:43 a.m. The recess ended and the hearing was opened to the public.

R-2019-253 After votes were taken in public session, the Board adopted the following order in the matter of **Jasmin Lyons, Shaker Heights, Ohio**.

ORDER OF THE STATE BOARD OF PHARMACY

(Case Number 2018-1405)

In The Matter Of:

Jasmin Lyons

3290 Warrensville Center Road, Apt. 211
Shaker Hts., OH 44122
(License No. 09-307982)

INTRODUCTION

The Matter of Jasmin Lyons came for consideration on April 2, 2019, before the following members of the State of Ohio Board of Pharmacy (Board): Fred M. Weaver, RPh, *Presiding*; Megan E. Marchal, RPh; Donald R. Miller, RPh; Richard J. Newlon, *Public Member*; Curtis L. Passafume, Jr., RPh; Jennifer M. Rudell, RPh; Shawn C. Wilt, RPh and Kilee S. Yarosh, RPh.

Jasmine Lyons was present but was not represented by counsel. The State of Ohio was represented by Henry Appel, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses:

1. None

Respondent's Witnesses:

1. Jasmin Lyons

State's Exhibits:

1. Respondent's Request for Reinstatement	01.14.2019
2. Settlement Agreement	12.20.2018
3a. Citation (*to be filed under seal)	09.06.2018
3b. Citation	09.06.2018
4a. E-mail from MetroHealth (*to be filed under seal)	Various
4b. E-mail from MetroHealth	Various

Respondent's Exhibits:

A. None

FINDINGS OF FACT & DECISION OF THE BOARD

After having heard the testimony, observed the demeanor of the witnesses, considered the evidence, and weighed the credibility of each, the Board finds there has been no material change in circumstance to warrant a

deviation from the December 20, 2018 Settlement Agreement. Accordingly, the Board declines to modify the Settlement Agreement.

Further, the Board hereby grants the State's Motion to Seal the Record in this matter including, but not limited to, all confidential patient health information contained in the record, specifically State's exhibits: 3a and 4a.

Mr. Passafume moved for Findings of Fact and Decision of the Board; Mr. Newlon seconded the motion. Motion passed (Aye-7/Nay-0).

SO ORDERED.

-
- 9:47 a.m.** Ms. Reed presented an update on the Medical Marijuana Control Program: including Dispensary Certificates of Operation and pending Provisional Dispensary Licenses, PMP Reporting to OARRS, and an overview of Medical Marijuana Advertising issues, including raising concerns about definitive health claims.
- 11:04 a.m.** The Board recessed for a break.
- 11:20 a.m.** Ms. Reed continued her update on the Medical Marijuana Control Program: including Dispensary Certificates of Operation, PMP Reporting to OARRS, and Medical Marijuana Advertising.
- R-2019-254** Mr. Passafume moved that the Board assemble an ad hoc committee to review clinical research and assess the names, logos, signs and advertisements submitted by a Medical Marijuana Dispensary before the materials are made available to the public. The motion was seconded by Ms. Rudell and approved by the Board: Aye-7, Nay-0.
- R-2019-255** 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, after which it would recess for lunch. The motion was seconded by Mr. Passafume and a roll-call vote was conducted by President Weaver as follows: Wilt-yes; Marchal-yes; Miller-Yes; Newlon-yes; Passafume-yes; Rudell-yes; and Yarosh-yes.
- 1:59 p.m.** The Board reconvened after lunch. Mr. McNamee and Ms. Wai led a discussion on revisions to 4729:1-3-06—Dispensing of Epinephrine Autoinjectors by Pharmacists and 4729:2-3-06—Dispensing of Epinephrine Autoinjectors by Pharmacy Interns.
- R-2019-256** Mr. Passafume moved that the revisions to 4729:2-3-06 and 4729:1-3-06 be approved for filing with the Rules Review Committee then sent to CSI. The motion was seconded by Ms. Rudell and approved by the Board: Aye-7, Nay-0.
- 2:16 p.m.** Mr. McNamee and Ms. Wai resumed the discussion from the previous day on proposed changes to: 4729: 5-9-01—Definitions, 4729: 5-9-02—Minimum Standards for an Institutional Pharmacy, 4729: 5-9-03—Security, Storage and Control of Dangerous Drugs in an Institutional Facility and began a discussion on: 4729: 5-9-04—Record Keeping, 4729: 5-9-05—Institutional Point of Care

Location, 4729: 5-9-06—Temporary Absence of a Pharmacist in an Institutional Pharmacy, 4729: 5-9-07—Patient Profiles, 4729:5-9-08—Prospective Drug Utilization Review, 4729: 5-9-09—Drug Orders for Inpatients, Outpatient Prescriptions and Personally Furnishing Dangerous Drugs, 4729: 5-9-010—Labeling of Prescriptions for Patients, 4729: 5-9-11—Hospital Self-Service Employee Prescription Kiosks, 4729: 5-9-12—Use of Hospital and Other Institution D.E.A. Registrations, 4729:5-9-13—Returned Drugs, 4729:5-9-14—Dispensing of Multiple Drugs in Single-Dose or Multi-Dose Containers, and 4729:5-9-15—Drugs Repackaged or Relabeled by an Institutional Pharmacy.

- R-2019-257** Mr. Passafume moved that the revisions be approved for filing with JCARR. The motion was seconded by Ms. Yarosh and approved by the Board: Aye-7, Nay-0.
- 2:29 p.m.** Mr. McNamee and Ms. Wai led a discussion on revisions to 4729:5-5-23—Control and Storage of Dangerous Drugs in an Outpatient Pharmacy and 5-4729:5-5-24—Drug Inventory Records at an Outpatient pharmacy.
- R-2019-258** Mr. Passafume moved that the revisions to 4729:5-5-23 and 4729: 5-5-24 be approved for filing with JCARR. The motion was seconded by Mr. Miller and approved by the Board: Aye-7, Nay-0.
- R-2019-259** Mr. Wilt moved that the Probation Committee Minutes of March 4, 2019 be approved as written. The motion was seconded by Mr. Passafume and approved by the Board: Aye-7, Nay-0.
- R-2019-260** Mr. Newlon moved that the Conference Minutes of March 13, 2019 be approved as written. The motion was seconded by Mr. Wilt and approved by the Board: Aye-7, Nay-0.
- R-2019-261** Mr. Newlon moved that the Conference Minutes of March 20, 2019 be approved as written. The motion was seconded by Mr. Wilt and approved by the Board: Aye-7, Nay-0.
- R-2019-262** Ms. Marchal moved that the Board Meeting Minutes of March 4-6, 2019 be approved as written. The motion was seconded by Ms. Rudell and approved by the Board: Aye-7, Nay-0.

R-2019-263 The Board adopted the following order in the matter of **Medical Center West Pharmacy**.

IN THE MATTERS OF:

Case No. A-2018-0121

Medical Center West Pharmacy
c/o Douglas Birkhimer, R.Ph.
5212 W. Broad St.
Columbus, OH 43228

SUSPENDED License No. 02-2661450

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 Medical Center West Pharmacy, for the purpose of resolving all issues between the parties relating to the Board's

Summary Suspension/Notices of Opportunity for Hearing issued December 13, 2018. Together, the Board and Medical Center West Pharmacy 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. Additionally, Section 4729.571 of the ORC grants the Board the authority to suspend a TDDD license without a hearing.
3. Medical Center West Pharmacy is a licensed Terminal Distributor of Dangerous Drugs under suspended license number 02-2661450.

FACTS

1. The Board initiated an investigation of Medical Center West Pharmacy, Terminal Distributor of Dangerous Drugs license number 02-2661450 related to concerns that the owner, Doug Birkhimer, had an alcohol addiction and was purchasing drugs under the DEA number of another pharmacy, and improper closure/failure to properly dispose of drug stock.
2. On or about December 13, 2018, the Board sent a Summary Suspension/Notice of Opportunity for Hearing to Medical Center West Pharmacy for license numbers 02-2661450, 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 XXX, Medical Center West Pharmacy, through counsel, timely requested a hearing.

WHEREFORE, the parties desire to resolve the issues relating to the above-referenced findings without resorting to further administrative 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. Medical Center West Pharmacy neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated December 13, 2018; however, the Board has evidence sufficient to sustain the allegations, finds them to violate Ohio’s pharmacy laws as set forth in the Notice, and hereby adjudicates the same.
3. Medical Center West Pharmacy permanently and voluntarily surrenders to the State of Ohio Board of Pharmacy its Terminal Distributor of Dangerous Drugs licenses, license number 02-2661450, with discipline pending.

4. Medical Center West Pharmacy agrees to dispose of the drug stock that has been placed under seal by the Board consistent with the Agreement signed, dated, and effective as of January 29, 2019, as set forth in Attachment A and incorporated as though fully set forth herein.
5. Medical Center West Pharmacy agrees never to reapply for any license issued by the State of Ohio Board of Pharmacy pursuant to Chapters 3719., 3796., 4729., or 4752. of the Revised Code.
6. Medical Center West Pharmacy 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.
7. Medical Center West Pharmacy agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
8. Medical Center West Pharmacy 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 Medical Center West Pharmacy will operate.
10. Medical Center West Pharmacy withdraws its request for and waives its right to a hearing and an opportunity to be heard pursuant to Chapter 119. of the Ohio Revised Code, and further, waives any right to an appeal.
11. This Agreement may be executed in counterparts or facsimiles, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.
12. All parties to this Agreement understand that this document is a public record pursuant to Ohio Revised Code Section 149.43.
13. This Agreement contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this Agreement.
14. This Agreement shall become effective upon the date of the Board President's signature below.

R-2019-264 The Board adopted the following order in the matter of **Martek Pharmacal Co.**

IN THE MATTERS OF:

Martek Pharmacal Co.
c/o Andrew E. Steck
575 Prospect St. #213
Lakewood, NJ 08701

Case No. 2016-2384

License No. 01-2121250

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 Martek Pharmacal Co. (Martek), for the purpose of resolving all issues between the parties relating to the Board's Notices of Opportunity for Hearing issued on August 30, 2017. Together, the Board and Martek are referred to hereinafter as "the parties."

JURISDICTION

4. Pursuant to Section 4729.56 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 4729.52 and 4729.53 of the Ohio Revised Code.
5. Martek was a licensed Wholesale Distributor of Dangerous Drugs under license number 01-2121250.

FACTS

4. The Board initiated an investigation of Martek related to Martek's sale of controlled substance diet drugs into Ohio between February of 2014 through February of 2017.
5. On or about August 30, 2017, the Board sent a Notice of Opportunity for Hearing to Martek, 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
6. On or about September 21, 2017, Martek by and through counsel, Mark A. McAndrew, timely requested an administrative hearing in this matter.

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

TERMS

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

15. The recitals set forth above are incorporated in this Settlement Agreement as though fully set forth herein.
16. Martek neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated August 30, 2017; however, the Board has evidence sufficient to sustain the allegations, finds them to violate Ohio's pharmacy laws as set forth in the Notice, and hereby adjudicates the same.
17. Martek voluntarily relinquished to the State of Ohio Board of Pharmacy its Wholesale Distributor of Dangerous Drugs license, license number 01-2121250, on or about June 30, 2018 without applying for renewal, while the disciplinary matter was pending.
18. Martek agrees never to reapply for any license issued by the State of Ohio Board of Pharmacy pursuant to Chapters 3719., 3796., 4729., or 4752. of the Revised Code.

19. Martek agrees to pay to the Board a monetary penalty in the amount of \$10,000.00. This fine will be attached to your license records 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.
20. Martek 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.
21. Martek agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
22. Martek understands that it has the right to be represented by counsel for review and execution of this agreement.
23. 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 Martek will operate.
24. Martek withdraws its request for and waives its right to a hearing and an opportunity to be heard pursuant to Chapter 119. of the Ohio Revised Code, and further, waives any right to an appeal.
25. 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.
26. All parties to this Agreement understand that this document is a public record pursuant to Ohio Revised Code Section 149.43.
27. 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.
28. This Agreement shall become effective upon the date of the Board President's signature below.

R-2019-265 The Board adopted the following order in the matter of **George Perdue, RPh.**

IN THE MATTER OF:

Case No. A-2019-0122

George Perdue, RPh
11563 Canterbury Ave.
Pickerington, OH 43147

SURRENDERED License No. 03-212750

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 George Perdue, for the purpose of resolving all issues between the parties relating to the Board investigation of Mr. Perdue's theft of oxycodone from his employer and his addiction to oxycodone. Together, the Board and George Perdue 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 in the state of Ohio.
2. George Perdue is an Ohio-licensed pharmacist under suspended license number 03-212750.

FACTS

1. On or about February 18, 2019, the Board initiated an investigation of George Perdue, pharmacist license number 03-212750, related to George Perdue's theft of oxycodone from his employer and addiction to oxycodone.
2. On or about February 28, 2019, the Board sent a Notice of Opportunity for Hearing to George Perdue, 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. George Perdue neither admits nor denies the allegations stated in the Notice of Opportunity for hearing letter dated February 28, 2019; 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. **GEORGE PERDUE PERMANENTLY AND VOLUNTARILY SURRENDERS TO THE STATE OF OHIO BOARD OF PHARMACY HIS LICENSE TO PRACTICE PHARMACY, LICENSE NO. 03-212750, WITH DISCIPLINE PENDING.**
4. **George Perdue agrees to immediately return his license and wall certificate to the Board, if the Board is not already in possession of both.**
5. **George Perdue may never reapply for any license or registration over which the State of Ohio Board of Pharmacy has jurisdiction, including those set forth in Chapters 3719., 3796., 4729., or 4752. of the Revised Code.**

6. George Perdue agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
 7. George Perdue understands that he has the right to be represented by counsel for review and execution of this agreement.
 8. George Perdue 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. George Perdue waives an opportunity to be heard pursuant to Chapter 119. of the Ohio Revised Code and specifically withdraws any request for a hearing in this matter 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.
 13. This Agreement shall become effective upon the date of the Board President's signature below.
-

R-2019-266 The Board adopted the following order in the matter of **Julie Randall**.

IN THE MATTER OF:

CASE No. A-2018-0024

Julie Randall
1443 Parkdale Drive
Dover, OH 44622

License No. 03318769

ADVANCED 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 Julie Randall, for the purpose of resolving all issues between the parties relating to the Board investigation of an error in dispensing. Together, the Board and Julie Randall 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 [4729.11] of the Ohio Revised Code to practice pharmacy in the state of Ohio.

2. Julie Randall is an Ohio-licensed pharmacist under license number 03318769.

FACTS

1. On or about October 31, 2017, the Board initiated an investigation of Julie Randall, pharmacist license number 03318769, related to Julie Randall's error in dispensing that occurred at Discount Drug Mart #26, where Julie Randall is employed as a pharmacist.
2. On or about February 28, 2019, the Board sent a Notice of Opportunity for Hearing to Julie Randall, which outlined the allegations and provided notice of her right to a hearing, her rights in such hearing, and her right to submit contentions in writing.

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

TERMS

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

1. The recitals set forth above are incorporated in this Settlement Agreement as though fully set forth herein.
2. Julie Randall neither admits nor denies the allegations stated in the Notice of Opportunity for hearing letter February 28, 2019; 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. Julie Randall agrees to pay to the OSBP the amount of amount of \$500. 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.license.ohio.gov and process the items in your cart.
4. Julie Randall 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. Julie Randall agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
 6. Julie Randall understands that she has the right to be represented by counsel for review and execution of this agreement.
 7. Julie Randall agrees and acknowledges that this Board disciplinary action must be disclosed to the proper licensing authority of any state or jurisdiction in which she currently holds a professional license, including to the Board on renewal applications or applications for a new license.
 8. Julie Randall 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.
 12. This Agreement shall become effective upon the date of the Board President's signature below.
-

R-2019-267 The Board adopted the following order in the matter of **McKesson Medical-Surgical**.

IN THE MATTER OF:

CASE No. A-2019-0064

McKesson Medical-Surgical
3500 Centerpoint Drive, Ste A
Urbancrest, OH 43123

WDDD License No. 01-0438700

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 McKesson Medical-Surgical, for the purpose of resolving all issues between the parties relating to the Board investigation of illegal delivery of dangerous drugs to an unlicensed site. Together, the Board and McKesson Medical-Surgical are referred to hereinafter as "the parties."

JURISDICTION

1. Pursuant to Section 4729.56 of the Ohio Revised Code and the rules adopted thereunder, the Board has the authority to suspend, revoke, or refuse to grant or renew any license issued pursuant to Section 4729.52 of the Ohio Revised Code.
2. McKesson Medical-Surgical is a licensed Wholesale Distributor of Dangerous Drugs under license number 01-0438700.

FACTS

1. On or about September 28, 2017 the Board initiated an investigation of McKesson Medical-Surgical, Wholesale Distributor of Dangerous Drugs license number 01-0438700, related to McKesson Medical-Surgical's illegal delivery of dangerous drugs to an unlicensed site.
2. On or about March 1, 2019, the Board sent a Notice of Opportunity for Hearing to McKesson Medical-Surgical, 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. McKesson Medical-Surgical neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated March 1, 2019; 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. McKesson Medical-Surgical agrees to pay to the Board a monetary penalty the amount of \$4,500.00. 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.
4. McKesson Medical-Surgical 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.

5. McKesson Medical-Surgical agrees to comply with all federal and state requirements related to Wholesale Distributors of Dangerous Drugs, including but not limited to, Ohio Revised Code Chapter 4729. and the Rules adopted thereunder, Chapter 3719. and the Rules adopted thereunder, Chapter 3715. and the Rules adopted thereunder as well as the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301 and Chapter 21, Section 360 of the United States Code, and Section 207.20 of the Code of Federal Regulations. Any violation by McKesson Medical-Surgical 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 McKesson Medical-Surgical by the Board and will NOT discharge McKesson Medical-Surgical from any obligation under the terms of this Agreement.
6. McKesson Medical-Surgical agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
7. McKesson Medical-Surgical understands that it has the right to be represented by counsel for review and execution of this agreement.
8. This Agreement is binding upon any and all successors, assigns, affiliates, and subsidiaries of the parties or any other corporation through whom or with whom McKesson Medical-Surgical will operate.
9. McKesson Medical-Surgical waives its right to a hearing and 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.
13. This Agreement shall become effective upon the date of the Board President's signature below.

3:47 p.m.

Pursuant to Sections 4729.96(B), the State of Ohio Board of Pharmacy was joined by Thomas Pyles, *Chief of Investigations* for the purpose of considering summary suspension as authorized by Section 3719.121 of the Ohio Revised Code.

R-2019-268 After hearing Mr. Pyles discuss the significant facts regarding the activities of Gary Holschuh, Pharmacist, Mr. Wilt moved that the Board summarily suspend the pharmacist's license belonging to Gary Holschuh (03-122847), Willow Wood, Ohio. The motion was seconded by Mr. Passafume and approved by the Board: Aye-7, Nay-0.

R-2019-269 Mr. Wilt moved that the meeting be adjourned. The motion was seconded by Ms. Marchal and approved by the Board: Aye-7, Nay-0.

3:51 p.m. The meeting adjourned.



Fred M. Weaver, RPh, President

Date: 5-7-19



Steven W. Schierholt, Executive Director

Date: 5/9/19