



MINUTES OF THE AUGUST 5-6, 2019
MEETING OF THE STATE OF OHIO BOARD OF PHARMACY

Monday, August 5, 2019

10:04 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:

Shawn C. Wilt, RPh, *Presiding*; Joshua M. Cox, RPh; Megan E. Marchal, RPh; Donald R. Miller, RPh; Jennifer M. Rudell, RPh; and Fred M. Weaver, RPh.

Kilee S. Yarosh, RPh and Richard J. Newlon, *Public Member*, **Absent**

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

R-2020-0065 Ms. Rudell 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. Cox and a roll-call vote was conducted by President Wilt as follows: Cox-yes; Marchal-yes; Miller-yes; Rudell-yes; and Weaver-yes.

10:34 a.m. 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 **Emmylou Melton, Moores Hill, Ohio**.

R-2020-0066 Ms. Rudell 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. Cox and a roll-call vote was conducted by President Wilt as follows: Cox-yes; Marchal-yes; Miller-yes; Rudell-yes; and Weaver-yes.

11:09 a.m. The recess ended and the hearing was opened to the public.

R-2020-0067 After votes were taken in public session, the Board adopted the following order in the matter of **Emmylou Melton, Moores Hill, Ohio**.

ORDER OF THE STATE BOARD OF PHARMACY
(Case Number I-2019-0213, I-2017-1677 and A-2019-0115)

In The Matter Of:

Emmylou Melton
17536 Hogan Hill Road
Moore's Hill, IN 47032
(License no. 03-1-32369)

INTRODUCTION

The Matter of Emmylou Melton came for hearing on August 5, 2019, before the following members of the State of Ohio Board of Pharmacy (Board): Shawn C. Wilt, RPh, *Presiding*; Joshua M. Cox, RPh; Megan E. Marchal, RPh; Donald R. Miller, RPh; Jennifer M. Rudell, RPh; and Fred M. Weaver, RPh.

Kilee S. Yarosh, RPh and Richard J. Newlon, *Public Member*; Absent.

Emmylou Melton was not present and was not represented by counsel. The State of Ohio was represented by Henry Appel, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses:

1. Rick Haun, Agent of the Board

Respondent's Witnesses:

1. None

State's Exhibits:

- | | | |
|-----|--------------------------------------|------------|
| 1. | Notice Letter | 04.10.2019 |
| 2. | Request for Hearing | 05.16.2016 |
| 3. | Notice of Hearing | 05.20.2019 |
| 4. | Denial of Continuance | 06.28.2019 |
| 5. | Settlement Agreement | 10.02.2018 |
| 6. | Statement of Respondent | 02.13.2019 |
| 7. | December 19, 2018 Positive Drug Test | 12.19.2018 |
| 8. | January 3, 2019 Positive Drug Test | 01.03.2019 |
| 9. | February 22, 2019 Positive Drug Test | 02.22.2019 |
| 10. | February 22, 2019 Confirmation Test | 02.22.2019 |
| 11. | E-mail from Jarrod Grossman—1/3/19 | 01.03.2019 |
| 12. | E-mail from Jarrod Grossman—3/18/19 | 03.18.2019 |

Respondent's Exhibits:

- A. 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 September 27, 2018 Emmylou Melton signed a Settlement Agreement (Agreement) with the State of Ohio Board of Pharmacy. The Agreement was effective as of October 2, 2018. A term of the Agreement was that Emmylou Melton's pharmacy license would be placed on probation for a period of three years from the date of the Agreement. A condition of probation included random drug and alcohol screens. The results of all screens must be negative for all drugs and alcohol. The Agreement further stated that any positive drug or alcohol screen results obtained while on probation would be treated as a violation of the Board's Order and could result in additional sanctions, including and up to revocation of license.
2. Emmylou Melton violated the terms of the Agreement on three separate occasions by testing positive for drugs or alcohol in urine screens submitted while on probation. Specifically:
 - a. On or about December 19, 2018, Emmylou Melton provided a drug and alcohol screen. The results of the screen were positive for Ethyl Glucuronide.
 - b. On or about January 3, 2019, Emmylou Melton provided a drug and alcohol screen. The results of the screen were positive for Ethyl Glucuronide.
 - c. On or about February 22, 2019, Emmylou Melton provided a drug and alcohol screen. The results of the screen were positive for Marijuana Metabolite.
3. On or about February 13, 2019, in an interview with a Board agent, Emmylou Melton admitted to drinking alcohol on two occasions during the holiday months. Specifically, Emmylou Melton admitted to consuming four to five beers while wrapping presents on December 16, 2018 and Emmylou Melton admitted to consuming four to five beers while celebrating New Year's Eve on December 31, 2018. Emmylou Melton stated that she did not have a problem with alcohol and these were isolated events.
4. During a conversation with the Pharmacist Rehabilitation Organization regarding the results of the February 22, 2019 drug and alcohol screen, Emmylou Melton denied use of marijuana.

CONCLUSIONS OF LAW

1. Such conduct as set forth in paragraphs 2a, 2b, and 2c of the Findings of Fact Section each constitutes a violation of the following divisions of (A) of section 4729.16 of the ORC effective as of September 29, 2017, each violation constituting a minor misdemeanor:
 - a. Engaged in dishonesty or unprofessional conduct in the practice of pharmacy, ORC 4729.16 Section (A)(2)(b); and
 - b. Is addicted to or abusing alcohol or drugs or is impaired physically or mentally to such a degree as to render the pharmacist unfit to practice pharmacy, ORC Section 4729.16(A)(2)(c); and

- c. Violated, conspired to violate, attempted to violate, or aided and abetted the violation of 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 4729.16 (A)(2)(e); and
 - d. Failed to comply with an order of the board or a settlement agreement, ORC 4729.16 (A)(2)(k); and
 - e. 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).
- 2. Such conduct as set forth in paragraphs 2a, 2b, and 2c of the Findings of Fact Section each constitutes a violation of each of the following divisions of Rule 4729:1-4-01 of the OAC as effective May 1, 2018:
 - a. Engaged in dishonesty or unprofessional conduct in the practice of pharmacy, OAC Rule 4729:1-4-01(B)(2)(b); and
 - b. Is addicted to or abusing alcohol or drugs or is impaired physically or mentally to such a degree as to render the pharmacist unfit to practice pharmacy 4729:1-4-01(B)(2)(c); and
 - c. Violated, conspired to violate, attempted to violate, or aided and abetted the violation of any of the provisions of Chapter 4729. of the Revised Code, sections 3715.52 to 3715.72 of the Revised Code, Chapter 2925., 3796., 3719. or 4752. of the Revised Code, or any rule adopted by the board under those provisions, OAC Rule 4729:1-4-01(B)(2)(k); and
 - d. Failed to comply with an order of the board or a settlement agreement, OAC Rule 4729:1-4-01(B)(2)(k); and
 - e. Violated any state or federal law, regulation or rule regardless of the jurisdiction in which the acts were committed, except for minor traffic violations such as parking violations, speeding tickets and violations such as failure to obey a red light, failure to use a turn signal or expired vehicle registration, OAC Rule 4729:1-4-01(B)(2)(m).

DECISION OF THE BOARD

Pursuant to Section 4729.16 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy hereby suspends indefinitely the pharmacist identification card, No. 03-1-32369, held by Emmylou Melton and such suspension is effective as of the date of the mailing of this Order.

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

Further, after the effective date of this order, but only after all conditions of this Order have been met, the Board will consider any petition filed by Emmylou Melton 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. Emmylou Melton must provide the Board with satisfactory proof of substantial compliance of her October 2, 2018 Settlement Agreement with the State of Ohio Board of Pharmacy or provide the Board with a satisfactory explanation as to why there is not substantial compliance with the Settlement Agreement.
2. Emmylou Melton must provide the Board with a copy of the APHA Immunization Training certificate of completion for which the Board granted a continuance of the July 10, 2019 hearing date.

Upon receipt of the required materials, the Board will entertain Ms. Melton's Petition for Reinstatement at a subsequent meeting, which will require an in-person appearance by Ms. Melton.

Megan E. Marchal moved for Findings of Fact; Joshua M. Cox seconded the motion. Motion passed (Aye-5/Nay-0).

Fred M. Weaver moved for Conclusions of Law; Donald R. Miller seconded the motion. Motion passed (Aye-5/Nay-0).

Fred M. Weaver moved for Action of the Board; Megan E. Marchal seconded the motion. Motion passed (Aye-5/Nay-0).

SO ORDERED.

11:12 a.m. 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 **EMED Medical Company, Maryland Heights, MO.**

R-2020-0068 Ms. Rudell 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. Miller and a roll-call vote was conducted by President Wilt as follows: Cox-yes; Marchal-yes; Miller-yes; Rudell-yes; and Weaver-yes.

11:35 a.m. The recess ended and the hearing was opened to the public.

R-2020-0069 After votes were taken in public session, the Board adopted the following order in the matter of **EMED Medical Company, Maryland Heights, MO.**

ORDER OF THE STATE BOARD OF PHARMACY

(Case Number A-2019-0216)

In The Matter Of:

EMED Medical Company
c/o Eric Bailey
11551 Adie Rd

Maryland Heights, MO 63043
(License no. 01-1843050)

INTRODUCTION

The Matter of EMED Medical Company came for hearing on August 5, 2019, before the following members of the State of Ohio Board of Pharmacy (Board): Shawn C. Wilt, RPh, *Presiding*; Joshua M. Cox, RPh; Megan E. Marchal, RPh; Donald R. Miller, RPh; Jennifer M. Rudell, RPh; and Fred M. Weaver, RPh.

Richard J. Newlon, *Public Member*, and Kilee S. Yarosh, RPh, Absent.

EMED Medical Company was not present and was not represented by counsel. The State of Ohio was represented by Henry Appel, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses:

1. Don Newton

Respondent's Witnesses:

1. None

State's Exhibits:

- | | | |
|-----|--|------------|
| 1. | Notice Letter | 05.03.2019 |
| 2. | Notice that Request was Untimely | 06.19.2019 |
| 3. | Indictment (select pages only) | 12.07.2012 |
| 4. | Plea Agreement | 03.12.2015 |
| 5. | Sentencing Entry | 02.16.2019 |
| 6. | Sentencing Transcript | 04.21.2017 |
| 7. | National Association of Boards of Pharmacy Report | 06.19.2017 |
| 8. | 2013 Renewal Application | No Date |
| 9. | 2014 Renewal Application | 06.24.2014 |
| 10. | 2015 Renewal Application | 06.13.2015 |
| 11. | 2016 Renewal Application | 07.06.2016 |
| 12. | Settlement Agreement Between Missouri Board of Pharmacy
and EMED Medical Products | 1.2.2003 |
| 13. | Consent Agreement Between Emed Medical Company and the
Main Board of Pharmacy | 10.04.2012 |
| 14. | South Carolina Permanent Revocation Order | 1.22.2019 |

Respondent's Exhibits:

- A. 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 12, 2015, President of EMED Eric Bailey pleaded guilty to one count of Conspiracy to commit mail and one count of wire fraud in the United States District Court, for the District of Puerto Rico. In the stipulated version of facts, Mr. Bailey admitted that he knowingly facilitated the illegal shipment of pharmaceuticals by others by permitting them to “use his license.” On or about February 16, 2016, Eric Bailey was sentenced to three years of federal probation, ordered to pay a \$100 fine and forfeit \$50,000. Case No. 3:12-CR-0922-023.
2. On or about September 27, 2012, EMED was disciplined by the Maine Board of Pharmacy for failing to disclose disciplinary action taken against EMED’s Missouri license. EMED was issued a warning and paid a \$500.00 fine.
3. On or about January 17, 2003, EMED’s Missouri license was placed on probation for two years due to the owner purchasing prescription drugs for personal use without a valid prescription.
4. On or about January 28, 2013, EMED’s South Carolina license was indefinitely suspended and was ultimately permanently revoked by the South Carolina State Board of Pharmacy on or about January 22, 2019.
5. On or about June 13, 2015, EMED submitted an online renewal application and indicated “No” in response to the question that inquired “Within the last 18 months: does the responsible person or owner(s), or any agent or employee of the responsible person/owner(s), or any officer of the corporation, have criminal charges pending or have a conviction of a felony or a misdemeanor (even if sealed or expunged).” EMED did not disclose that Eric Bailey had pleaded guilty to criminal proceedings in Puerto Rico in March 2015.
6. On or about July 6, 2016, EMED submitted an online renewal application and indicated “No” in response to the question that inquired “Within the last 18 months: has the applicant, owner(s), responsible person any agent or employee of the location being licensed, or any officer of the corporation, have a record of arrest of criminal charges pending or have a conviction of a felony, misdemeanor, or traffic violation (even if sealed or expunged), or the equivalent in another jurisdiction.” EMED did not disclose that Eric Bailey had been sentenced in February 2016 from the criminal proceedings in Puerto Rico.

CONCLUSIONS OF LAW

1. Such conduct as set forth in the Findings of Fact Section constitutes the following violations of the section 4729.53 (as effective July 1, 1992) of the ORC, failure to meet the registration requirements for a WDDD:
 - a. If the applicant has been convicted of a violation of any federal, state, or local law relating to drug samples, wholesale or retail drug distribution, or distribution of controlled substances or of a felony, or if a federal, state, or local governmental entity has suspended or revoked any current or prior license or registration of the applicant for the manufacture or sale of any dangerous drugs, including controlled substances, the applicant, to the satisfaction of the board, assures that the applicant has in place adequate safeguards to prevent the recurrence of any such violations, ORC 4729.53(A)(1); and

- b. The applicant's past experience in the manufacture or distribution of dangerous drugs, including controlled substances, is acceptable to the board, ORC 4729.53(A)(2); and
 - c. Any other requirement or qualification the board, by rule adopted in accordance with Chapter 119. of the Revised Code, considers relevant to and consistent with the public safety and health, ORC 4729.53(A)(7); and
 - d. In addition to the causes described in section 4729.56 of the Revised Code for refusing to grant or renew a registration certificate, the board may refuse to register or renew the registration certificate of any person if the board determines that the granting of the registration certificate or its renewal is not in the public interest, ORC 4729.53(B).
2. Such conduct as set forth in the Findings of Fact Section constitutes the following violations of the section 4729.56 (as effective July 1, 1992) of the ORC:
- a. Violating any federal, state, or local drug law; any provision of chapter 4729. or Chapter 2925., 3715., or 3719. of the Revised Code; or any rule of the board, ORC Section 4729.56(A)(2); and
 - b. A conviction of a felony, ORC Section 4729.56(A)(3); and
 - c. Failing to satisfy the qualifications for registration under section 4729.53 of the Revised Code or the rules of the board or ceasing to satisfy the qualifications after the registration is granted or renewed.
3. Such conduct as set forth in the Findings of Fact Section constitutes a violation of the following sections of Rule 4729-9-19(A) of the OAC, the Board may deny or discipline a person's registration as a WDDD if any of the following have occurred:
- a. Has been convicted of a felony, ORC Rule 4729-9-19(A)(1); and
 - b. Commission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed, OAC Rule 4729-9-19(A)(2); and
 - c. Has been convicted of violating any state or federal pharmacy or drug law, OAC Rule 4729-9-19(A)(3); and
 - d. Is not of good moral character and habits, OAC Rule 4729-9-19(A)(4); and
 - e. Has been disciplined by any professional licensing board, OAC Rule 4729-9-19(A)(7).
4. Such conduct as set forth in the Findings of Fact Section constitutes a violation of the following sections of Rule 4729-9-19(B) of the OAC (as effective October 5, 2015), the Board may consider as evidence of the facility not meeting the requirements for licensure or may deny the issuance of licensure if the owner of the facility knowingly employs a person who:
- a. Has been convicted of a felony, ORC Rule 4729-9-19(B)(3)(c); and
 - b. Has committed an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed, OAC Rule 4729-9-19(B)(3)(d); and

- c. Has been convicted of violating any state or federal pharmacy or drug law, OAC Rule 4729-9-19(B)(3)(e); and
- d. Is not of good moral character and habits, OAC Rule 4729-9-19(B)(3)(f); and
- e. Has been disciplined by any professional licensing board, OAC Rule 4729-9-19(B)(3)(i).

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 EMED Medical Company as follows:

On the basis of the Findings of Facts and section (1) of the Conclusions of Law, the State of Ohio Board of Pharmacy hereby revokes permanently the Wholesale Distributor of Dangerous Drugs License No. 01-1843050, held by EMED Medical Company effective as of the date of the mailing of this Order.

On the basis of the Findings of Facts and section (2) of the Conclusions of Law, the State of Ohio Board of Pharmacy hereby revokes permanently the Wholesale Distributor of Dangerous Drugs License No. 01-1843050, held by EMED Medical Company effective as of the date of the mailing of this Order.

On the basis of the Findings of Facts and section (3) of the Conclusions of Law, the State of Ohio Board of Pharmacy hereby revokes permanently the Wholesale Distributor of Dangerous Drugs License No. 01-1843050, held by EMED Medical Company effective as of the date of the mailing of this Order.

On the basis of the Findings of Facts and section (4) of the Conclusions of Law, the State of Ohio Board of Pharmacy hereby revokes permanently the Wholesale Distributor of Dangerous Drugs License No. 01-1843050, held by EMED Medical Company effective as of the date of the mailing of this Order.

Megan E. Marchal moved for Findings of Fact; Jennifer M. Rudell seconded the motion. Motion passed (Aye-5/Nay-0).

Fred M. Weaver moved for Conclusions of Law; Megan E. Marchal seconded the motion. Motion passed (Aye-5/Nay-0).

Donald R. Miller moved for Action of the Board; Megan E. Marchal seconded the motion. Motion passed (Aye-5/Nay-0).

SO ORDERED.

11:38 a.m. Mr. Garner and Mr. Cathcart provided the OARRS Report.

11:52 a.m. Ms. Southard provided the Licensing Report.

- 11:58 a.m.** Ms. Southard presented Angela Trent's, RPh (License No. 03226448), continuing education request to the Board for consideration. Ms. Trent filed a request that 40 hours of her relevant military training be applied towards her required continuing education requirements.
- R-2020-0070** Mr. Cox moved that Angela Trent's request be approved. The motion was seconded by Ms. Marchal and approved by the Board: Aye-5, Nay-0.
- 12:03 p.m.** Ms. Southard presented Dallas Smith's, RPh (License No. 03236954), continuing education request to the Board for consideration. Mr. Smith filed a request that he be granted a one-year extension for submitting his continuing education requirements.
- R-2020-0071** Mr. Cox moved that Dallas Smith's request for a one-year extension be approved. The motion was seconded by Ms. Marchal and approved by the Board: Aye-5, Nay-0.
- 12:06 p.m.** Ms. Southard presented an updated resolution for Responsible Person Requirements for Licensure to the Board for approval.
- R-2020-0072** Ms. Rudell moved that the Board approve the resolution. The motion was seconded by Mr. Miller and approved by the Board: Aye-5, Nay-0. The following resolution was adopted by the Board:

RESPONSIBLE PERSON REQUIREMENTS FOR LICENSURE

Updated 8/5/2019

Pursuant to Section 4729:5-2-01 and 4729:6-2-01 of the Ohio Administrative Code, the Board of Pharmacy is required to adopt a resolution providing the credential types or qualifications required for the responsible person of each classification of terminal distributor of dangerous drugs and drug distributor license. Only individuals that meet the credentials specified may be the responsible person for that classification type.

Effective, August 5, 2019, the Board hereby adopts the following responsible person requirements:

TERMINAL - CLINIC			
Business Type	Business Type Definition	Approved Credentials for Responsible Person	Special Requirements
AS	Ambulatory Surgery	DO, MD, RPH, DDS, DPM	
CI	Correctional Institution - clinic or med room that is located within a correctional facility or jail.	DO, MD, RPH, APRN	
CL	Clinic - Health Dept., Free Clinic, Specialty Clinic	DO, MD, RPH, APRN, DDS	
CT	Chemical Treatment	DO, MD, APRN	
ED	Free Standing Emergency Department	DO, MD, RPH	

MC	Mobile Clinic - Drugs stored on a truck, aircraft, bus, etc.; includes non-emergent helicopters and aircraft.	DO, MD, DVM, APRN, DDS	
MH	Mental Health	DO, MD, APRN	
ONC	Oncology Clinic	DO, MD, RPH	
PC	Prescriber Practice- general medical provider	DO, MD, APRN, DDS, OD, RPH	OD must provide therapeutic #
POC	Point of Care - Pyxis located in another Hospital	RPH	
RT	Clinical Trials	DO, MD, DVM, OD, DDS	OD must provide therapeutic #
SC	Sports Training Facility	DO, MD, APRN	
UR	Urgent Care + Convenience Care Clinic	DO, MD, APRN	

TERMINAL - CLINIC - SOLE PRACTITIONER/DENTIST			
Business Type	Business Type Definition	Approved Credentials for Responsible Person	Special Requirements
PC	Prescriber Practice-general medical provider	DO, MD, APRN, DDS, OD, RPH	OD must provide therapeutic #

TERMINAL - EMS - LIMITED			
Business Type	Business Type Definition	Approved Credentials for Responsible Person	Special Requirements
EM	EMS Headquarters	DO, MD, RPH	
EMSS	EMS Satellite	DO, MD, RPH	

TERMINAL - FACILITY - UNLIMITED			
Business Type	Business Type Definition	Approved Credentials for Responsible Person	Special Requirements
AC	Animal Control, Humane Society	DVM	
BB	Blood Bank	DO, MD	
CC	Custodial Care, Pediatric Respite, Group Home	DO, MD, APRN, RN	RN - only if medication is delivered patient specific
DU	Dialysis Unit	DO, MD, APRN, RPH	
HC	Hospice	DO, MD	
IC	Infusion Center	DO, MD, RPH	
IM	Imaging	DO, MD	
LA	Laboratory/Research	DO, MD, PHD, Chemist, Management, RPH, DVM, DDS	PHD, Chemist or Management must provide a proof of a degree in one of the following: chemistry, biochemistry, forensic science, biology, microbiology, or related pure applied science or proof of certified training in the field of expertise.

TERMINAL - FACILITY - VETERINARY MEDICINE			
Business Type	Business Type Definition	Approved Credentials for Responsible Person	Special Requirements
VT	Veterinary Practice, Zoo, Veterinary Hospital	DVM	

TERMINAL - FACILITY - LIMITED			
Business Type	Business Type Definition	Approved Credentials for Responsible Person	Special Requirements
AE	Animal Euthanasia, Dog Pound, Dog Warden	CET, DVM, DOG WARDEN	All personnel must complete a euthanasia certification course.
DG	Dog Trainer	Management + LENA	Law Enforcement Affiliation or Contract required.
FA	First Aid Room/Department	DO, MD, APRN, RN	RN only if medication is delivered patient specific or for the purposes of personal furnishing naloxone.
HH	Home Health Care - providing services to the patient's homes or vaccinations off-site	DO, MD	
ND	Nursing Home Drug Stock	DO, MD, APRN	
PD	Peritoneal Dialysis Center - ships directly to the patient's home, RPh does not perform final verification	Management	
PT	Physical Therapy	DO, MD	
TE	Teaching Institution	DDS, DO, MD, HEAD OF PROGRAM (RN), RPH, APRN, PA, OD, DVM	If injecting into humans, must be - DDS, DO, MD, DDS, OD, RPH or APRN.

TERMINAL - MEDICAL GAS - LIMITED			
Business Type	Business Type Definition	Approved Credentials for Responsible Person	Special Requirements
CX	Contingency Stock	RN, LNHA, Management, RRT	
GM	Manufacturer Process Use + Food Processor	Management	
OX	Retail Seller or Biller of Oxygen	MD, DO, RN, APRN, LNHA, RRT, OD, DDS, DVM, RPH, Management	*Saline and Sterile Water can be included on drug list

TERMINAL - NON-RESIDENT PHARMACY - UNLIMITED			
Business Type	Business Type Definition	Approved Credentials for Responsible Person	Special Requirements
CF	Central Fill Pharmacy	RPH	
IP	Pharmacy Servicing Institutions	RPH	*May included Mental Health Pharmacies & Nursing Home Inpatient Pharmacies
MO	Mail Order Pharmacy	RPH	
NU	Nuclear Pharmacy	RPH	
SP	Specialty Pharmacy - High \$ Drugs	RPH	**MAY INCLUDE COMPOUNDING

TERMINAL - NON-RESIDENT PHARMACY - LIMITED			
Business Type	Business Type Definition	Approved Credentials for Responsible Person	Special Requirements
CR	Consulting Pharmacy- NO DRUGS ON SITE	RPH	*Category II only
CRP	Contract Remote Order Entry - NO DRUGS ON SITE	RPH	*Category II only

TERMINAL - OPIOID TREATMENT PROGRAM			
Business Type	Business Type Definition	Approved Credentials for Responsible Person	Special Requirements
OTP	Opioid Treatment Program - personally furnish buprenorphine and/or administer methadone.	DO, MD	*Category III only. Obtain SAMHSA or CARF accreditation after licensure.

TERMINAL - OFFICE-BASED OPIOID TREATMENT			
Business Type	Business Type Definition	Approved Credentials for Responsible Person	Special Requirements
OBOT	Office-Based Opioid Treatment Facility	DO, MD, APRN	*Category III only. Required background check on Owners, RP and employees. APRN may only treat 30 patients.

TERMINAL - PAIN MANAGEMENT CLINIC			
Business Type	Business Type Definition	Approved Credentials for Responsible Person	Special Requirements
PMC	Pain Management Clinic	DO, MD	*Category III only. Required background check on Owners, RP and employees.
GPMC	Grandfathered Pain Management Clinic **Approved by the Medical and Pharmacy Boards in 2011	DO, MD	*Category III only. Required background check on Owners, RP and employees.

TERMINAL - PHARMACY - UNLIMITED			
Business Type	Business Type Definition	Approved Credentials for Responsible Person	Special Requirements
CF	Central Fill Pharmacy	RPH	
CH	Charitable Pharmacy	RPH	Must provide Tax Exempt paperwork
CP	Clinic Pharmacy	RPH	
DM	Durable Medical Equipment	RPH	
DR	Drug Repository	RPH	Must provide Tax Exempt paperwork
FL	Fluid Therapy	RPH	
HS	Hospital	RPH	
II	Independent Community Retail (1 Outlet)	RPH	
IL	Large Chain Retail (12+ Outlets)	RPH	
IP	Pharmacy Servicing Institutions	RPH	*May included Mental Health Pharmacies & Nursing Home Inpatient Pharmacies
IS	Small Chain Retail (2-11 Outlets)	RPH	
KI	Kiosk	RPH	
MD	Multi-Disciplinary	RPH	**MAY INCLUDE COMPOUNDING
MO	Mail Order Pharmacy	RPH	
NU	Nuclear Pharmacy	RPH	
ONC	Oncology Pharmacy	RPH	
SP	Specialty Pharmacy - High \$ Drugs	RPH	**MAY INCLUDE COMPOUNDING

TERMINAL - PHARMACY - LIMITED			
Business Type	Business Type Definition	Approved Credentials for Responsible Person	Special Requirements
CR	Consulting Pharmacy- NO DRUGS ON SITE	RPH	*Category II only
CRP	Contract Remote Order Entry - NO DRUGS ON SITE	RPH	*Category II only
MTM	Medication Therapy Management - NO DRUGS ON SITE	RPH	*Category II only

TERMINAL – PHARMACY SUPPLIED CONTINGENCY STOCK - UNLIMITED			
Business Type	Business Type Definition	Approved Credentials for Responsible Person	Special Requirements
CI	Correctional Institution	RPH	
CS	Community Pharmacy	RPH	
HC	Hospice Facility	RPH	
HS	Hospital	RPH	
MH	Mental Health Institution	RPH	
NH	Nursing Home		

MANUFACTURER			
Business Type	Business Type Definition	Approved Credentials for Responsible Person	Special Requirements
MF	Manufacturer	Management	

OUTSOURCER			
Business Type	Business Type Definition	Approved Credentials for Responsible Person	Special Requirements
OSC	Outsourcing Facility - sterile compounding at wholesale, not patient specific	Ohio Licensed RPH	Must provide FDA inspection report

REPACKAGER			
Business Type	Business Type Definition	Approved Credentials for Responsible Person	Special Requirements
RE	Repackager	Management	US FDA Registration

THIRD-PARTY LOGISTICS			
Business Type	Business Type Definition	Approved Credentials for Responsible Person	Special Requirements
3PL	Third-Party Logistics - stores and distributes drug but does not have ownership	Management	If out of state, must have licensure from home state or VAWD Accreditation.

WHOLESALE			
Business Type	Business Type Definition	Approved Credentials for Responsible Person	Special Requirements
BC	Bulk Pharmaceutical Chemical Seller	Management	
BG	Buying Group - A group of Wholesalers/Stores that leverage for better pricing	Management	
BR	Broker	Management	If out of state, must have licensure from home state.
CM	Compressed Medical Gases	Management	
CN	Clinic Wholesaler: Blood Banks, Health Departments	Management	
DM	Durable Medical Equipment	Management	Home Medical Equipment license/registration if applicable (ORC 4752)
FS	Full Service	Management	
IE	Import/Export - importing drugs from in/out of the country	Management	
LA	Laboratory	Management	
PM	Pre-Packaged Meds	Management	FDA repackaging registration
PU	Public Health Preparedness	Management	
SD	Samples Distributor	Management	
VW	Virtual Wholesaler- NO DRUGS ONSITE	Management	If out of state, must have licensure from home state or VAWD Accreditation.
WD	Waste Disposal/Reverse Distributor	Management	Must provide DEA & EPA registration

12:08 p.m. Ms. Southard presented the *TOEFL for Pharmacy Technician Applicants* resolution to the Board for approval.

R-2020-0073 Mr. Cox moved that the Board approve the resolution. The motion was seconded by Ms. Marchal and approved by the Board: Aye-5, Nay-0. The following resolution was adopted by the Board:

Resolution: TOEFL for Pharmacy Technician Applicants

Approved 11/13/2017 Amended 8/5/2019

Pharmacy technician applicants with a foreign school diploma equivalent to a U.S. high school diploma who have completed an associate's degree or higher from an accredited college, junior college, community college or university in the United States are not required to submit successful completion of the Test of English as a Foreign Language, Internet-based test (TOEFL). In lieu of TOEFL scores, the applicant shall submit a copy of a diploma or transcript.

If the applicant has completed an approved training program by a healthcare licensing board (Ohio State Dental Board, Ohio Veterinary Medical Licensing Board, State Medical Board of Ohio, or Ohio Board of Nursing) and obtained licensure with that board, the applicant will not be required to submit successful completion of the Test of English as a Foreign Language, Internet-based test. In lieu of TOEFL scores, the applicant shall submit a verification of licensure.

12:11 p.m. Ms. Southard presented the OBOT Non-Physician Ownership Waiver Request of *Three Waters Recovery Center* in Goshen, Ohio (APP-000239559) and *Three Waters Recovery Center* in Seaman, Ohio (APP-000270655).

12:14 p.m. The Board tabled discussion on this matter for a later date.

12:15 p.m. The Board recessed for lunch.

1:17 p.m. Ms. Yarosh joined the meeting.

Ms. Dehner presented the request of Pharmacist Emily Eppley to the Board for approval. On June 27, 2019, Ms. Eppley filed a request that the Board remove the restriction on her license that prevented her from serving as a responsible pharmacist. The probation committee made a recommendation to the full Board that the request be approved.

R-2020-0074 Mr. Weaver moved that the Board approve Emily Eppley's request. The motion was seconded by Ms. Marchal and approved by the Board: Aye-6, Nay-0. The following modification to Emily Eppley's April 7, 2017 Board Order was adopted by the Board:

ORDER OF THE STATE OF OHIO BOARD OF PHARMACY

(Case Number 2016-1555)

In The Matter Of:

Emily Eppley

31619 State Route 83
Coshocton, Ohio 43812
(License No. 03-2-36596)

After reviewing the supportive documents submitted by Emily Eppley, her employer Rite Aid Field District Leader Kim Richardson, PharmD, and the Pharmacists Rehabilitation Organization, and upon recommendation of the Probation Committee, the Board hereby modifies the April 7, 2017 Board Order as follows:

6(e): Emily Eppley may not serve as a responsible pharmacist is **stayed**.

Ms. Eppley may, as of this date, serve in the role of a responsible pharmacist. All other Board terms and conditions remain in place.

Mr. Weaver moved the Board grant the exemption from its April 7, 2017 Order as noted above, Ms. Marchal seconded the motion. Motion passed (Aye – 6/Nay – 0).

1:23 p.m. Ms. Reed provided the Medical Marijuana update.

1:34 p.m. Mr. Griffin provided the Compliance Report.

1:38 p.m. Ms. Dehner presented the request of Tamara Hacker to the Board for consideration. Tamara Hacker submitted a petition on June 24, 2019, requesting that the Board remove her 1989 Board action from her license (no. 03-3-16845) related to a 1988 Board inspection. The Board discussed the petition during the July 2019 Board Meeting and tabled the discussion for August. Ms. Dehner presented information regarding the definition of discipline as well as the National Practitioner Databank (NPDB) standards, which were not effective until 1990. Board discussion centered around whether the specific facts and circumstances of this matter should be considered disciplinary and concluded the Board's intent from the 1989 Order clearly indicated this was not intended to be a disciplinary action.

- R-2020-0075** Ms. Rudell moved that the Board approve Tamera Hacker's request and that Board Discipline be removed from Ms. Hacker's license. The motion was seconded by Mr. Weaver and approved by the Board: Aye-6, Nay-0.
- R-2020-0076** Ms. Rudell moved to approve a 2.5% increase in compensation to the Executive Director, to be effective in the pay period beginning June 23, 2019, subject to approval of the Governor's Office. The motion was seconded by Mr. Weaver and approved by the Board: Aye-6, Nay-0.
- 2:02 p.m.** Premier Health, represented by Brendan Deere, Shannon Hendricks, Joanne Morgan, and Candy Skidmore, presented information regarding Premier Health's proposed Drug Exchange Program with EMS Organizations.
- 2:39 p.m.** The Board recessed for a break.
- 2:44 p.m.** Mr. Miller was absent for the remainder of the afternoon session.
Mr. McNamee and Ms. Wai led a discussion on revisions to rule 4729:5-10-03—Donating Drugs.
- R-2020-0077** Mr. Cox moved that the Board approve revisions to 4729:5-10-03 for filing with JCARR. The motion was seconded by Mr. Weaver and approved by the Board: Aye-5, Nay-0.
- 2:47 p.m.** Mr. McNamee and Ms. Wai led a discussion on revisions to rules 4729:5-10-04—Eligible Drugs, 4729:5-19-02—Personally Furnishing Dangerous Drugs, and 4729: 5-21-02—Personally Furnishing Dangerous Drugs from an Opioid Treatment Facility.
- R-2020-0078** Mr. Cox moved that the Board approve revisions to 4729:5-10-04, 4729:5-19-02, and 4729: 5-21-02 for filing with CSI and/or JCARR. The motion was seconded by Ms. Marchal and approved by the Board: Aye-5, Nay-0.
- 2:57 p.m.** Mr. McNamee and Ms. Wai led a discussion on revisions to rules 4729:5-20-01—Veterinary Clinics-Definitions, 4729: 1-4-02—Duty to Report, 4729: 5-6-01—Radiopharmaceutical CSI Comments, 4729:5-5-06—Labeling of Drugs Dispensed on Prescription, 4729: 5-5-15—Manner of Issuance of a Prescription, 4729: 5-5-07—Patient Profiles, 4729: 5-15-01—Animal Shelters, 4729: 5-15-02—Security and Control of Dangerous Drugs, and 4729: 05-15-03—Records Keeping.
- R-2020-0079** Ms. Yarosh moved that the Board approve revisions to 4729:5-20-01, 4729: 1-4-02, 4729: 5-6-01, 4729:5-5-06, 4729: 5-5-15, , 4729: 5-5-07, 4729: 5-15-01, 4729: 5-15-02, and 4729: 05-15-03 for filing with CSI and/or JCARR. The motion was seconded by Ms. Marchal and approved by the Board: Aye-5, Nay-0.
- 3:34 p.m.** Mr. McNamee and Ms. Wai led a discussion on revisions to rule 4729:5-8-04—Drugs Compounded by a Nonresident Pharmacy.
- R-2020-0080** Mr. Weaver moved that the Board approve revisions to 4729:5-8-04 for filing with CSI and/or JCARR. The motion was seconded by Mr. Cox and approved by the Board: Aye-5, Nay-0.

- 3:37 p.m.** Mr. McNamee and Ms. Wai led a discussion on revisions to rule 4729:5-5-18—Dispensing Customized Patient Medication Packages by an Outpatient Pharmacy.
- R-2020-0081** Ms. Marchal moved that the Board approve revisions to 4729:5-5-18 for filing with CSI and/or JCARR. The motion was seconded by Mr. Weaver and approved by the Board: Aye-5, Nay-0.
- 3:39 p.m.** Mr. McNamee and Ms. Wai led a discussion on revisions to rule 4729:1-6-03—Standards for Managing Drug Therapy.
- R-2020-0082** Mr. Cox moved that the Board approve revisions to 4729:1-6-03 for filing with CSI and/or JCARR. The motion was seconded by Ms. Yarosh and approved by the Board: Aye-5, Nay-0.
- 4:00 p.m.** Mr. McNamee and Ms. Wai presented a letter from John A. Gilbert, Jr. requesting guidance on the requirements for registered manufacturers and distributors use of the DEA's ARCOS Online Reporting System Tool.
- 4:05 p.m.** The Board tabled the discussion for a subsequent Board meeting once additional information could be obtained from the DEA.
- R-2020-0083** Ms. Rudell 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 Wilt as follows: Cox-yes; Marchal-yes; Rudell-yes; Weaver-yes; and Yarosh-yes.
- 4:36 p.m.** Executive Session concluded.

Tuesday, August 6, 2019

- 9:01 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:

Shawn C. Wilt, RPh, *Presiding*; Joshua M. Cox, RPh; Megan E. Marchal, RPh; Donald R. Miller, RPh; Jennifer M. Rudell, RPh; Fred M. Weaver, RPh; and Kilee S. Yarosh, RPh.

Richard J. Newlon, *Public Member*, **Absent**

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

- 9:01 a.m.** 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 **Modern Medical Products, Inc. Chatsworth, CA.**

R-2020-0084 Ms. Rudell 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. Cox and a roll-call vote was conducted by President Wilt as follows: Cox-yes; Marchal-yes; Miller-yes; Rudell-yes; Weaver-yes; and Yarosh-yes.

9:25 a.m. The recess ended and the hearing was opened to the public.

R-2020-0085 After votes were taken in public session, the Board adopted the following order in the matter of **Modern Medical Products, Inc. Chatsworth, CA.**

ORDER OF THE STATE BOARD OF PHARMACY

(Case Number A-2019-0030)

In The Matter Of:

Modern Medical Products, Inc.

9420 Lurline Ave., Unit A

Chatsworth, CA 91311

(License no. 01-2416650)

INTRODUCTION

The Matter of Modern Medical Products, Inc. came for hearing on August 6, 2019, before the following members of the State of Ohio Board of Pharmacy (Board): Shawn C. Wilt, RPh, *Presiding*; Joshua M. Cox, RPh; Megan E. Marchal, RPh; Donald R. Miller, RPh; Jennifer M. Rudell, RPh; Fred M. Weaver, RPh and Kilee S. Yarosh, RPh.

Richard J. Newlon, *Public Member*, Absent.

Modern Medical Products, Inc. was not present and not represented by counsel. The State of Ohio was represented by Henry Appel, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses:

1. Matthew Armstrong

Respondent's Witnesses:

None

State's Exhibits:

1. Notice Letter

05.03.2019

2. Invoices	03.02.2015
3. E-mail from Licensee	10.26.2017
4. California Discipline	08.23.2018
5. Inspection Report	11.07.2018
6. Phentermine FDA Sheet	No Date

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. Wholesale invoices from Modern Medical indicate the company sold 51,000 unit doses of phentermine products to Diet Med Clinics in Fairview Park, Ohio from October 2014 to March 2015. Modern Medical sales to Diet Med Clinics from October 2014 through March 2015 were not reported to the OARRS database.
 - a. On or about October 16, 2014, Modern Medical sold the following dangerous drugs to Diet Med Clinics:
 - i. Phentermine 37.5 mg tab, 1000, NDC# 10702-025-10, quantity 5; and
 - ii. Phentermine 37.5 mg tab, 1000, NDC# 0603-5192-32, quantity 1;
 - b. On or about November 4, 2014, Modern Medical sold the following dangerous drugs to Diet Med Clinics:
 - i. Phentermine 37.5 mg tab, 1000, NDC#10702-025-10, quantity 6; and
 - ii. Phentermine 37.5 mg tab, 1000, NDC#0603-5192-32, quantity 2; and
 - iii. Phentermine 30 mg tab, 1000, NDC#10702-027-10, quantity 1.
 - c. On or about December 1, 2014, Modern Medical sold the following dangerous drugs to Diet Med Clinics:
 - i. Phentermine 37.5 mg tab, 1000, NDC# 10702-025-10, quantity 5; and
 - ii. Phentermine 37.5 mg tab, 1000, NDC# 0603-5192-32, quantity 4.
 - d. On or about January 5, 2015, Modern Medical sold the following dangerous drugs to Diet Med Clinics:
 - i. Phentermine 37.5 mg tab, 1000, NDC#10702-025-10, quantity 6; and
 - ii. Phentermine 37.5 mg tab, 1000, NDC#0603-5192-32, quantity 3.
 - e. On or about February 2, 2015, Modern Medical sold the following dangerous drugs to Diet Med Clinics:
 - i. Phentermine 37.5 mg tab, 1000, NDC# 10702-025-10, quantity 5; and
 - ii. Phentermine 37.5 mg tab, 1000, NDC#0603-5192-32, quantity 4.

- f. On or about March 2, 2015, Modern Medical sold the following dangerous drugs to Diet Med Clinics:
 - i. Phentermine 37.5 mg tab, 1000, NDC#10702-025-10, quantity 5; and
 - ii. Phentermine 37.5 mg tab, 1000, NDC# 0603-5192-32, quantity 4.
2. On or about August 23, 2018, the California Board of Pharmacy issued a citation against Modern Medical and imposed a fine of \$2,250. CI 2015 70167.

CONCLUSIONS OF LAW

1. Such conduct as set forth in paragraph (1)(a), (1)(b), (1)(c), (1)(d), (1)(e), (1)(f) of the Findings of Fact Section each constitutes a violation of Rule 4729-9-12(G), as effective January 1, 2009 and October 5, 2015, each wholesale distributor of dangerous drugs shall report any suspicious purchases of any dangerous drugs by a prescriber exempted from licensure as a terminal distributor of dangerous drugs. A suspicious purchase includes, but is not limited to, any drugs that the prescriber is not authorized to use in the course of his/her professional practice. Ohio law prohibits a prescriber from personally furnishing controlled substances in an amount that exceeds a total of two thousand five hundred dosage units within a 30-day period. ORC Section 4729.291(C).
2. Such conduct as set forth in paragraph (1)(a), (1)(b), (1)(c), (1)(d), (1)(e), (1)(f) of the Findings of Fact Section each constitutes a violation of Rule 4729-9-16(H)(I)(e), as effective October 27, 2011, a system shall be designed and operated to disclose orders for controlled substances and other dangerous drugs subject to abuse. Ohio law prohibits a prescriber from personally furnishing, within a 30-day period, controlled substances in an amount that exceeds a total of two thousand five hundred dosage units. ORC Section 4729.291(C)(1)(a), as effective March 13, 2013.
3. Such conduct as set forth in paragraph (1)(a), (1)(b), (1)(c), (1)(d), (1)(e), (1)(f) of the Findings of Fact Section each constitutes a violation of Rule 4729-9-16(H)(1)(e)(i) of the Ohio Administrative Code (OAC), as effective October 27, 2011, the wholesaler shall inform the board of suspicious orders for drugs when discovered. Ohio law prohibits a prescriber from personally furnishing, within a 30-day period, controlled substances in an amount that exceeds a total of two thousand five hundred dosage units. ORC Section 4729.291(C)(1)(a), as effective March 13, 2013.
4. Such conduct as set forth in paragraph (1)(a), (1)(b), (1)(c), (1)(d), (1)(e), (1)(f) of the Findings of Fact Section each constitutes a violation of Section 4729.78(A) of the ORC, wholesale distributor of dangerous drugs that delivers drugs to prescribers or terminal distributors, shall submit to the board information about the sale.
5. Such conduct as set forth in paragraph (1)(a), (1)(b), (1)(c), (1)(d), (1)(e), (1)(f) of the Findings of Fact Section each constitutes a violation of Section 4729-37-02(C) of the OAC, as effective May 22, 2014, all schedule IV controlled substances shall be submitted

to the board of pharmacy when sold at wholesale to a prescriber or a terminal distributor of dangerous drugs.

6. Such conduct as set forth in paragraph (1)(a), (1)(b), (1)(c), (1)(d), (1)(e), (1)(f) of the Findings of Fact Section each constitutes a violation of Section 4729-37-03(C) of the OAC, as effective October 27, 2011, all wholesalers licensed as a wholesale distributor of dangerous drugs that sells drugs identified in rules 4729-37-02 of the Administrative Code at wholesale shall report those drug transactions.
7. Such conduct as set forth in paragraph (1)(a), (1)(b), (1)(c), (1)(d), (1)(e), (1)(f) of the Findings of Fact Section each constitutes a violation of Section 4729-37-04(C) of the OAC, as effective May 22, 2014, wholesalers...that sell drugs at wholesale must at least report...the wholesaler or pharmacy DEA registration number, purchaser's DEA registration number, national drug code number, quantity, date of sale, and transaction identifier.
8. Such conduct as set forth in paragraph (2) of the Findings of Fact Section constitutes a violation of Rule 4729-9-19(A)(7) of the OAC, has been disciplined by any professional licensing board.
9. Such conduct as set forth in the Findings of Fact Section each constitutes the following violations of the section 4729.53 of the ORC, as effective July 1, 1992, failure to meet the registration requirements for a WDDD:
 - a. The applicant's past experience in the manufacture or distribution of dangerous drugs, including controlled substances, is acceptable to the board, ORC Section 4729.53(A)(2); and
 - b. The applicant is equipped as to land, buildings, equipment, and personnel to properly carry on the business of a wholesale distributor of dangerous drugs, including providing adequate security for and proper storage conditions and handling for dangerous drugs, and is complying with the requirements under this chapter and the rules adopted pursuant thereto for maintaining and making available records to properly identified board officials and federal, state, and local law enforcement agencies, ORC 4729.53(A)(3); and
 - c. Adequate safeguards are assured to prevent the sale of dangerous drugs to any person other than those named in division (B) of section 4729.51 of the Revised Code, ORC 4729.53(A)(6); and
 - d. In addition to the causes described in section 4729.56 of the Revised Code for refusing to grant or renew a registration certificate, the board may refuse to register or renew the registration certificate of any person if the board determines that the granting of the registration certificate or its renewal is not in the public interest, ORC 4729.53(B).

10. Such conduct as set forth in the Findings of Fact Section each constitutes the following violations of the section 4729.56 of the ORC, as effective July 1, 1992:

- a. Violating any federal, state, or local drug law; any provision of chapter 4729. or Chapter 2925., 3715., or 3719. of the Revised Code; or any rule of the board, ORC Section 4729.56(A)(2); and
- b. Ceasing to satisfy the qualifications for registration under section 4729.53 of the Revised Code or the rules of the board, ORC Section 4729.56(A)(4).

DECISION OF THE BOARD

Pursuant to Section 4729.56 of the Ohio Revised Code, the State of Ohio Board of Pharmacy imposes a monetary penalty in the amount of \$5,000.00. 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.

Fred M. Weaver moved for Findings of Fact; Jennifer M. Rudell seconded the motion. Motion passed (Aye-6/Nay-0).

Joshua M. Cox moved for Conclusions of Law; Kilee S. Yarosh seconded the motion. Motion passed (Aye-6/Nay-0).

Kilee S. Yarosh moved for Action of the Board; Fred M. Weaver seconded the motion. Motion passed (Aye-6/Nay-0).

SO ORDERED.

9:27 a.m. Ms. Dehner presented Angela Howell's request for an extension to complete the 66 hours of continuing pharmacy education required by her May 6, 2019 Settlement Agreement.

R-2020-0086 Ms. Yarosh moved that the Board deny Angela Howell's request. The motion was seconded by Ms. Marchal and denied by the Board: Aye-6, Nay-0.

R-2020-0087 Mr. Wilt announced the following Settlement Agreement has been signed by all parties and is now effective:

**IN THE MATTER OF:
CASE NO. A-2019-0019**

David Brian House, RPh

License No. 03-330971

5157 Summer Drive
Sylvania, OH 43560

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 David House for the purpose of resolving all issues between the parties relating to the Board investigation of engaging in the practice of pharmacy during the time David House's license was lapsed. Together, the Board and David House 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. David House is an Ohio-licensed pharmacist under license number 03-330971.

FACTS

1. The Board initiated an investigation of David House, pharmacist license number 03-330971, related to David House's practice of pharmacy during the time his license was lapsed.
2. On or about June 11, 2019 the Board sent a Notice of Opportunity for Hearing to David House, 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. David House neither admits nor denies the allegations stated in the Notice of Opportunity for hearing letter dated May 31, 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. David House agrees to pay the Board a monetary penalty in the amount of \$400.00. 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. David House agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
5. David House understands that he has the right to be represented by counsel for review and execution of this agreement.
6. David House 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.
7. David House waives an opportunity to be heard pursuant to Chapter 119. of the Ohio Revised Code and waives any right to an appeal.
8. This Agreement may be executed in counterparts or facsimiles, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.
9. All parties to this Agreement understand that this document is a public record pursuant to Ohio Revised Code Section 149.43.
10. This Agreement contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this Agreement.
11. This Agreement shall become effective upon the date of the Board President's signature below.

R-2020-0088

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

**IN THE MATTER OF:
CASE NO. A-2019-0060**

**Harmeet Kaur Brar, RPh
License No. 03-237441**

2402 Fieldcrest Lane
Twinsburg, OH 44087

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 Harmeet Brar for the purpose of resolving all issues between the parties relating to the Board investigation of engaging in the practice of pharmacy during the time Harmeet Brar's license was lapsed. Together, the Board and Harmeet Brar 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. Harmeet Brar is an Ohio-licensed pharmacist under license number 03-237441.

FACTS

1. The Board initiated an investigation of Harmeet Brar, pharmacist license number 03-237441, related to Harmeet Brar's practice of pharmacy during the time her license was lapsed.
2. On or about June 17, 2019 the Board sent a Notice of Opportunity for Hearing to Harmeet Brar, 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. Harmeet Brar neither admits nor denies the allegations stated in the Notice of Opportunity for hearing letter dated June 17, 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. Harmeet Brar agrees to pay the Board a monetary penalty in the amount of \$100.00. This fine will be attached to your license record and must be paid no later than 30 days from the effective date of this Agreement. To pay this fine you must login to www.elicense.ohio.gov and process the items in your cart.
4. Harmeet Brar agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
5. Harmeet Brar understands that she has the right to be represented by counsel for review and execution of this agreement.
6. Harmeet Brar 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.
7. Harmeet Brar waives an opportunity to be heard pursuant to Chapter 119. of the Ohio Revised Code and waives any right to an appeal.
8. This Agreement may be executed in counterparts or facsimiles, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.
9. All parties to this Agreement understand that this document is a public record pursuant to Ohio Revised Code Section 149.43.
10. This Agreement contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this Agreement.
11. This Agreement shall become effective upon the date of the Board President's signature below.

R-2020-0089 Mr. Wilt announced the following Settlement Agreement has been signed by all parties and is now effective:

**IN THE MATTER OF:
CASE NO. A-2019-0081**

Michael Hoar, RPh
License No. 03-216686
760 Bigham Ridge Boulevard
Westerville, OH 43081

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 Hoar for the purpose of resolving all issues between the parties relating to the Board investigation of engaging in the practice of pharmacy during the time Michael Hoar's license was lapsed. Together, the Board and Michael Hoar 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. Michael Hoar is an Ohio-licensed pharmacist under license number 03-216686.

FACTS

1. The Board initiated an investigation of Michael Hoar, pharmacist license number 03-216686, related to Michael Hoar's practice of pharmacy during the time his license was lapsed.
2. On or about June 11, 2019 the Board sent a Notice of Opportunity for Hearing to Michael Hoar, 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. Michael Hoar neither admits nor denies the allegations stated in the Notice of Opportunity for hearing letter dated May 31, 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. Michael Hoar agrees to pay the Board a monetary penalty in the amount of \$400.00. 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. Michael Hoar agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
 5. Michael Hoar understands that he has the right to be represented by counsel for review and execution of this agreement.
 6. Michael Hoar 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.
 7. Michael Hoar waives an opportunity to be heard pursuant to Chapter 119. of the Ohio Revised Code and waives any right to an appeal.
 8. This Agreement may be executed in counterparts or facsimiles, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.
 9. All parties to this Agreement understand that this document is a public record pursuant to Ohio Revised Code Section 149.43.
 10. This Agreement contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this Agreement.
 11. This Agreement shall become effective upon the date of the Board President's signature below.
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R-2020-0090 Mr. Wilt announced the following Settlement Agreement has been signed by all parties and is now effective:

IN THE MATTER OF:
Case No. A-2019-0113
Kenneth Cundiff
License No. 03-317011
3513 Glenbrook Dr.
Norton, OH 44203

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 Kenneth Cundiff, for the purpose of resolving all issues between the parties relating

to the theft and illegal distribution of controlled substances and other dangerous drugs. Together, the Board and Kenneth Cundiff 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. Kenneth Cundiff is an Ohio-licensed pharmacist under suspended license number 03-317011.

FACTS

1. On or about January 28, 2019, the Board initiated an investigation of Kenneth Cundiff, pharmacist license number 03-317011, related to Kenneth Cundiff's theft and illegal distribution of controlled substances and other dangerous drugs.
2. On or about February 14, 2019, the Board sent a Summary Suspension/Notice of Opportunity for Hearing to Kenneth Cundiff, 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 March 12, 2019, the Board timely received a request for a hearing in this matter.

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

TERMS

NOW WHEREFORE, in consideration of the mutual promises wherein 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. Kenneth Cundiff neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated February 14, 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. **KENNETH CUNDIFF PERMANENTLY AND VOLUNTARILY SURRENDERS TO THE STATE OF OHIO BOARD OF PHARMACY HIS LICENSE AND REGISTRATION TO PRACTICE PHARMACY, LICENSE NO. 03-317011, WITH DISCIPLINE PENDING.**
4. **Kenneth Cundiff agrees to immediately return his license and wall certificate to the Board, if the Board is not already in possession of both.**
5. **Kenneth Cundiff 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. Kenneth Cundiff agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
7. Kenneth Cundiff understands that he has the right to be represented by counsel for review and execution of this agreement.
8. Kenneth Cundiff 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.
9. Kenneth Cundiff waives an opportunity to be heard pursuant to Chapter 119. of the Ohio Revised Code and specifically withdraws his 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-2020-0091

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

**IN THE MATTER OF:
CASE No. 2018-1088-B**

Abel Ngoh, R.Ph.
License No. 03-325292
1249 Greystone Circle
Dayton, Ohio 45414

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 Abel Ngoh, R.Ph. (Ngoh), for the purpose of resolving all issues between the parties relating to the Board investigation of his practice as a pharmacist and his filing of an application for a Terminal Distributor of Dangerous Drugs as the owner and the Responsible Person. Together, the Board and Abel Ngoh, R.Ph., 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. Abel Ngoh is an Ohio-licensed pharmacist under license number 03-325292.

FACTS

1. On or about January 17, 2018, the Board initiated an investigation of Abel Ngoh’s practice of pharmacy.
2. On or about September 14, 2018, the Board sent a Notice of Opportunity for Hearing to Abel Ngoh, 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 September 21, 2018, Abel Ngoh, through counsel, timely requested an administrative hearing, which was subsequently scheduled for April 2, 2019. The matter was continued, and the hearing was scheduled for September 9, 2019.

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. Abel Ngoh neither admits nor denies the allegations stated in the Notice of Opportunity for hearing letter dated September 14, 2018; 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. Abel Ngoh agrees to pay a fine of \$2,500.00 to the State of Ohio Board of Pharmacy. The fine shall be paid no later than thirty (30) days from the effective date of this Settlement Agreement. You must login to www.elicense.ohio.gov and process the items in your cart to pay this fine.
4. Abel Ngoh agrees not to apply at any location licensed by the Board to be a responsible person for two (2) years from the date of this order. The Board agrees to allow Abel Ngoh to petition the Board to reconsider the restriction on applying to be a responsible person one (1) year from the date of this Settlement Agreement. In his petition, Abel Ngoh must provide sufficient information as to his current practice as a pharmacist, competency of performance, and necessity of practicing as a Responsible Person prior to the two-year restriction.
5. Abel Ngoh must obtain, within six months from the effective date of this Agreement, twenty (20) hours of approved continuing education, not to count towards renewal. Abel Ngoh will also attend one of the Board's "RP Round Table." Copies of completed continuing education courses must be e-mailed to legal@pharmacy.ohio.gov within 30 days of completion.
6. Abel Ngoh agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
7. Abel Ngoh understands that the Board will not consider any request for deviation from the terms and conditions of this Agreement until a minimum of one year has passed from the effective date of this Agreement.
8. Abel Ngoh understands that he has the right to be represented by counsel for review and execution of this agreement.
9. Abel Ngoh 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.
10. Abel Ngoh waives an opportunity to be heard pursuant to Chapter 119. of the Ohio Revised Code and specifically withdraws his request for a hearing in this matter 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.
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R-2020-0092 Mr. Wilt announced the following Settlement Agreement has been signed by all parties and is now effective:

**IN THE MATTER OF:
CASE NO. 2018-1088-A**

Springfield Pharmacy
WITHDRAWN License No. 02-2845450
c/o Abel Ngoh
1714 E. Main Street
Springfield, OH 45503

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 Springfield Pharmacy (Springfield), for the purpose of resolving all issues between the parties relating to the Board investigation of issues involving the application for a Terminal Distributor of Dangerous Drugs license. Together, the Board and Springfield 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. On or about December 7, 2017, Springfield Pharmacy filed an application for licensure as a Terminal Distributor of Dangerous Drugs under pending license number 02-2845450.

FACTS

1. On or about January 17, 2018, the agents from the Board initiated an investigation of Springfield Pharmacy's Terminal Distributor of Dangerous Drugs application, pending license number 02-2845450.

2. On or about September 13, 2018 the Board sent a Notice of Opportunity for Hearing to Springfield Pharmacy, 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 September 21, 2018, Springfield Pharmacy timely requested an administrative hearing, which was subsequently scheduled for April 2, 2019. The matter was continued and the hearing was scheduled for September 9, 2019.

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. Springfield Pharmacy neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated September 13, 2018; 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. Springfield Pharmacy and Abel Ngoh agree to withdraw Springfield Pharmacy's application for a Terminal Drug Distributor of Dangerous Drugs (TDDD) license., Neither Springfield Pharmacy nor Abel Ngoh may reapply for a TDDD license for a period of two (2) years from the date of this order. The Board agrees to allow Springfield Pharmacy or Abel Ngoh to petition the Board to reconsider the restriction on applying for a TDDD license after one (1) year from the date of this Settlement Agreement. In the petition, Springfield Pharmacy and/or Abel Ngoh must provide sufficient information as to Abel Ngoh's current practice as a pharmacist, competency of performance, and necessity of a TDDD license prior to the two-year restriction.
4. Springfield 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, including the Board on renewal applications or applications for a new license.
5. Springfield Pharmacy 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 Springfield 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 Springfield by the Board and will NOT discharge Springfield from any obligation under the terms of this Agreement.

6. Springfield Pharmacy agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
7. Springfield Pharmacy 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 Springfield Pharmacy will operate.
9. Springfield Pharmacy waives its right to a hearing and an opportunity to be heard pursuant to Chapter 119. of the Ohio Revised Code, specifically withdraws its 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-2020-0093 Mr. Wilt announced the following Settlement Agreement has been signed by all parties and is now effective:

**IN THE MATTER OF:
CASE No. 2017-2405**

CrowdRx, Inc.
License No. 02-2803750
c/o David Saloum, MD
7585 Kindle Valley Road
Thornville, OH 43076

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 CrowdRx, Inc., for the purpose of resolving all issues between the parties relating to the Board investigation of CrowdRx, Inc.'s new license inspection during which it was discovered CrowdRx, Inc. was already in possession of Category II dangerous drug stock. Together, the Board and CrowdRx, 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.
2. CrowdRx, Inc. was a licensed Terminal Distributor of Dangerous Drugs under license number 02-2803750.

FACTS

1. On or about September 27, 2017, the Board initiated an investigation of CrowdRx, Inc., Terminal Distributor of Dangerous Drugs license number 02-2803750, related to CrowdRx, Inc.'s new license inspection during which it was discovered CrowdRx, Inc. was already in possession of Category II dangerous drug stock.
2. On or about February 28, 2019 the Board sent a Notice of Opportunity for Hearing to CrowdRx, Inc., which outlined the allegations and provided notice of its right to a hearing, its rights in such hearing, and its right to submit contentions in writing.

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

TERMS

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

1. The recitals set forth above are incorporated in this Settlement Agreement as though fully set forth herein.
2. CrowdRx, Inc. 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.
 - i. CrowdRx, Inc. agrees to pay to the Board a monetary penalty in the amount of \$4,500. 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.elicense.ohio.gov and process the items in your cart.

3. CrowdRx, Inc. 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.
 4. CrowdRx, Inc. agrees to comply with all federal and state requirements related to Terminal Distributors of Dangerous Drugs, including but not limited to, Ohio Revised Code Chapter 4729. and the Rules adopted thereunder, Chapter 3719. and the Rules adopted thereunder, Chapter 3715. and the Rules adopted thereunder as well as the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301 and Chapter 21, Section 360 of the United States Code, and Section 207.20 of the Code of Federal Regulations. Any violation by CrowdRx, Inc. of the terms of one or more federal or state requirements may constitute sufficient grounds for further enforcement action related to any licenses granted to CrowdRx, Inc. by the Board and will NOT discharge CrowdRx, Inc. from any obligation under the terms of this Agreement.
 5. CrowdRx, Inc. agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
 6. CrowdRx, Inc. understands that it has the right to be represented by counsel for review and execution of this agreement.
 7. 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 CrowdRx, Inc. will operate.
 8. CrowdRx, Inc. waives its opportunity to be heard pursuant to Chapter 119. of the Ohio Revised Code and waives any right to 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.
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- 9:45 a.m.** Mr. McNamee and Ms. Wai led a discussion on revisions to rules 4729: 5-6-03—Consult Rules.
- R-2020-0094** Mr. Weaver moved that the Board approve revisions to 4729:5-6-03. The motion was seconded by Ms. Rudell and approved by the Board: Aye-6, Nay-0.
- 9:53 a.m.** Mr. McNamee and Ms. Wai led a discussion on revisions to 4729: 5-6—Nuclear Pharmacy.
- R-2020-0095** Ms. Marchal moved that the Board approve revisions to 4729: 5-6. The motion was seconded by Mr. Miller and approved by the Board: Aye-6, Nay-0.
- 9:55 a.m.** Mr. McNamee presented a resolution pertaining to Drug Bag Exchange for consideration.
- 10:15 a.m.** The Board tabled the discussion for a subsequent Board Meeting to obtain additional information from DEA.
- R-2020-0096** Ms. Marchal moved that the Probation Committee Minutes of July 8, 2019 of be approved as written. The motion was seconded by Mr. Weaver and approved by the Board: Aye-6, Nay-0.
- R-2020-0097** Ms. Marchal moved that the Board Meeting Minutes of July 8-10, 2019 of be approved as written. The motion was seconded by Ms. Yarosh and approved by the Board: Aye-6, Nay-0.
- R-2020-0098** Ms. Rudell moved that the Conference Call Minutes of July 15, 2019 of be approved as written. The motion was seconded by Mr. Miller and approved by the Board: Aye-6, Nay-0.
- R-2020-0099** Ms. Marchal moved that the Conference Call Minutes of July 24, 2019 of be approved as written. The motion was seconded by Ms. Rudell and approved by the Board: Aye-6, Nay-0.
- R-2020-0100** Ms. Rudell 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. Cox and a roll-call vote was conducted by President Wilt as follows: Cox-yes; Marchal-yes; Miller-yes; Rudell-yes; Weaver-yes, and Yarosh-yes.
- R-2020-0101** After votes were taken in public session, the Board adopted the following order in the matter of **Deidre Martinez, Cleveland, OH.**
-

ORDER OF THE STATE BOARD OF PHARMACY
CONFIRMING AND APPROVING IN PART & MODIFYING IN PART
REPORT & RECOMMENDATION OF HEARING EXAMINER

(Case Number A-2018-1706)

In The Matter Of Deidre Martinez:

Deidre Martinez, Registered Pharmacy Technician

2921 Scranton Road, Upstairs

Cleveland, Ohio 44113

(REVOKED License No. 09-305443)

INTRODUCTION

A Summary Suspension/Notice of Opportunity for Hearing (Notice) was issued by the Board on May 31, 2018. An Amended Summary Suspension/Notice of Opportunity for Hearing was issued by the Board on July 17, 2018. The Matter of Deidre Martinez came for hearing before Hearing Examiner Shantae Decarlow on February 13, 2019, at which time Deidre Martinez did not appear, nor did anyone appear on her behalf. The State of Ohio was represented by Henry G. Appel, Assistant Attorney General. The Hearing Examiner's Report and Recommendation was served upon the Respondent on or about June 27, 2019 and, without having received any written objections, the matter subsequently came for consideration by the Board on August 5, 2019, before the following members of the State of Ohio Board of Pharmacy (Board): Shawn C. Wilt, RPh, *Presiding*; Josh M. Cox, RPh; Megan E. Marchal, RPh; Donald R. Miller, RPh; Jennifer M. Rudell, RPh; and Fred M. Weaver, RPh; and Kilee S. Yarosh, RPh.

BOARD REVIEW OF THE RECORD

The Board reviewed the entire administrative record in this matter prior to making its decision, which included the following items: State's Exhibits numbered 1 through 8, the hearing transcript, and Hearing Examiner Decarlow's Report and Recommendation.

DECISION OF THE BOARD

FINDINGS OF FACT & CONCLUSIONS OF LAW

After thorough review of the entire administrative record, the Board hereby confirms and approves Hearing Examiner Decarlow's Findings of Facts (1) through (9), including those that specifically relate to the Board's Notice letter dated July 17, 2018.

The Board confirms and approves Conclusions of Law (1), (2), (3), (4), (5)(a), (5)(d), (6)(b), (6)(d), (6)(e), (6)(f), (7) as set forth by Hearing Examiner Decarlow's Report and Recommendation as they relate to the Board's July 17, 2018 Notice letter. The Board modifies the Report and

Recommendation to include a finding of the violations of law as set forth in the Notice letter dated July 17, 2018, paragraphs:

(5)(c) Violated, conspired to violate, attempted to violate... any of the provisions of this chapter...Chapter 2925... or any rule adopted by the board under those provisions, ORC Section 4729.96(A)(2)(d); and

(6)(a) Has engaged in any of the conduct specified in division (A)(2) of Section 4729.96 of the Revised Code, OAC Rule 4729:3-4-01(B)(1).

The Board further finds respondent violated the following violations of law as set forth in the Notice, as amended:

(5)(b) Is abusing alcohol or drugs or is impaired physically or mentally to such a degree as to render the individual unable to perform the individual's duties, ORC Section 4729.96(A)(2)(c); and

(6)(c) Committed acts that constitute gross immorality, Rule 4729:3-4-01(B)(5).

All four violations of law are supported based on the evidence in the record, particularly testimony of Agent William Edwards that Deidre Martinez was seen on surveillance video taking drugs from the pharmacy that she should not be taking and Ms. Martinez's admission that she stole drugs from the pharmacy and traded them to a family member for marijuana, as found in the transcript (p. 13-15). The Board also considered Ms. Martinez's indictment and guilty plea as found in State's Exhibits 6, 7, and 8.

ORDER OF THE BOARD

Pursuant to Section 4729.96 of the Ohio Revised Code, and Rule 4729:3-4-01 of the Ohio Administrative Code, and after consideration of the record, the State of Ohio Board of Pharmacy hereby confirms, approves, and adopts the Hearing Examiner's Recommendation and permanently revokes the suspended registration as a registered pharmacy technician of Deidre Martinez, 09-305443. Deidre Martinez may not be employed by any facility in the capacity of a registered pharmacy technician. The Board Orders:

On the basis of the Findings of Facts (1) through (9) and the Hearing Examiner's Conclusion of Law (7(i)), paragraph (1) as it relates to the Notice dated July 17, 2018, the State of Ohio Board of Pharmacy hereby revokes permanently the registered pharmacy technician registration, No. 09-305443, held by Deidre Martinez, effective as of the date of the mailing of this order.

On the basis of the Findings of Facts (1) through (9) and the Hearing Examiner's Conclusion of Law (7(ii)), paragraph (2) as it relates to the Notice dated July 17, 2018, the State of Ohio Board of Pharmacy hereby revokes permanently the registered pharmacy technician registration, No. 09-305443, held by Deidre Martinez, effective as of the date of the mailing of this order.

On the basis of the Findings of Facts (1) through (9) and the Hearing Examiner's Conclusion of Law (7(iii)), paragraph (3) as it relates to the Notice dated July 17, 2018, the State of Ohio Board of Pharmacy hereby revokes permanently the registered pharmacy technician registration, No. 09-305443, held by Deidre Martinez, effective as of the date of the mailing of this order.

On the basis of the Findings of Facts (1) through (9) and the Hearing Examiner's Conclusion of Law (7(v)), paragraph (4) as it relates to the Notice dated July 17, 2018, the State of Ohio Board of Pharmacy hereby revokes permanently the registered pharmacy technician registration, No. 09-305443, held by Deidre Martinez, effective as of the date of the mailing of this order.

On the basis of the Findings of Facts (1) through (9) and the Hearing Examiner's Conclusion of Law (7(iv)) and (7(vi)), paragraph (5(a)) as it relates to the Notice dated July 17, 2018, the State of Ohio Board of Pharmacy hereby revokes permanently the registered pharmacy technician registration, No. 09-305443, held by Deidre Martinez, effective as of the date of the mailing of this order.

On the basis of the Findings of Facts (1) through (9) and the Board's additional finding of Conclusion of Law paragraph (5(b)) as set forth above, the State of Ohio Board of Pharmacy hereby revokes permanently the pharmacy technician trainee registration, No. 09-305443, held by Deidre Martinez effective as of the date of the mailing of this order.

On the basis of the Findings of Facts (1) through (9) and the Board's additional finding of Conclusion of Law paragraph (5(c)) as set forth above, the State of Ohio Board of Pharmacy hereby revokes permanently the pharmacy technician trainee registration, No. 09-305443, held by Deidre Martinez effective as of the date of the mailing of this order.

On the basis of the Findings of Facts (1) through (9) and the Hearing Examiner's Conclusion of Law (7(v)), paragraph (5(d)) as it relates to the Notice dated July 17, 2018, the State of Ohio Board of Pharmacy hereby revokes permanently the registered pharmacy technician registration, No. 09-305443, held by Deidre Martinez, effective as of the date of the mailing of this order.

On the basis of the Findings of Facts (1) through (9) and the Board's additional finding of Conclusion of Law paragraph (6(a)) as set forth above, the State of Ohio Board of Pharmacy hereby revokes permanently the pharmacy technician trainee registration, No. 09-305443, held by Deidre Martinez effective as of the date of the mailing of this order.

On the basis of the Findings of Facts (1) through (9) and the Hearing Examiner's Conclusion of Law (7(vi)), paragraph (6(b)) as it relates to the Notice dated July 17, 2018, the State of Ohio Board of Pharmacy hereby revokes permanently the registered pharmacy technician registration, No. 09-305443, held by Deidre Martinez, effective as of the date of the mailing of this order.

On the basis of the Findings of Facts (1) through (9) and the Board's amended finding of Conclusion of Law (7(vi)), paragraph (6(c)) as set forth above, the State of Ohio Board of

Pharmacy hereby revokes permanently the pharmacy technician trainee registration, No. 09-305443, held by Deidre Martinez effective as of the date of the mailing of this order.

On the basis of the Findings of Facts (1) through (9) and the Hearing Examiner's Conclusion of Law (7(vi)), paragraph (6(d)) as it relates to the Notice dated July 17, 2018, the State of Ohio Board of Pharmacy hereby revokes permanently the registered pharmacy technician registration, No. 09-305443, held by Deidre Martinez, effective as of the date of the mailing of this order.

On the basis of the Findings of Facts (1) through (9) and the Hearing Examiner's Conclusion of Law (7(vi)), paragraph (6(e)) as it relates to the Notice dated July 17, 2018, the State of Ohio Board of Pharmacy hereby revokes permanently the registered pharmacy technician registration, No. 09-305443, held by Deidre Martinez, effective as of the date of the mailing of this order.

On the basis of the Findings of Facts (1) through (9) and the Hearing Examiner's Conclusion of Law (7(vi)(i)), paragraph (6(f)) as it relates to the Notice dated July 17, 2018, the State of Ohio Board of Pharmacy hereby revokes permanently the registered pharmacy technician registration, No. 09-305443, held by Deidre Martinez, effective as of the date of the mailing of this order.

On the basis of the Findings of Facts (1) through (9) and the Hearing Examiner's Conclusion of Law (7(vi)(ii)), paragraph (7) as it relates to the Notice dated July 17, 2018, the State of Ohio Board of Pharmacy hereby revokes permanently the registered pharmacy technician registration, No. 09-305443, held by Deidre Martinez, effective as of the date of the mailing of this order.

Mr. Miller moved to confirm and approve the Report and Recommendation of Hearing Examiner Decarlow, with the modifications as set forth herein. Ms. Marchal seconded the motion. Motion passed (Aye - 6/Nay - 0).

SO ORDERED.

R-2020-0102

Ms. Rudell moved that the Board adjourn. The motion was seconded by Mr. Cox and approved by the Board: Aye-6, Nay-0.

11:18 a.m.

The meeting adjourned.


Shawn C. Wilt, RPh, President

Date:

9/11/19


Steven W. Schierholt, Executive Director

Date:

9/16/19