



MINUTES OF THE DECEMBER 4-6, 2023
MEETING OF THE STATE OF OHIO BOARD OF PHARMACY

Monday, December 4, 2023

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

Trina Buettner, RPh, *Presiding*; Mindy Ferris, RPh, *Vice President*; Anthony Buchta, Sr., RPh; Victor Goodman, *Public Member*; TJ Grimm, RPh; Jeff Huston, RPh; Rich Miller, RPh; and Christine Pfaff, RPh.

Absent: Jason George, RPh (military leave).

Also present were Steven Schierholt, *Executive Director*; Sharon Maerten-Moore, *Chief Legal Counsel*; Ashley Gilbert, *Senior Legal Counsel*; Kathryn Lewis, *Legal Administrator*; and Jen Nelson, *Legal Administrative Assistant*.

10:04 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 **Baltek Randhawa, Solon, Ohio**.

R-2024-0260 Ms. Ferris 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. Buchta and approved by the Board: Yes-7, No-0.

1:32 p.m. The deliberation ended and the hearing opened to the public.

R-2024-0261 After votes were taken in public session, the Board adopted the following order in the Matter of **Baltek Randhawa, Solon, Ohio**.

ORDER OF THE STATE BOARD OF PHARMACY

(Case Number A-2021-0573)

In The Matter Of:

Baltek Randhawa, RPh

35325 Spatterdock Lane

Solon, Ohio 44139

(License No. 03-323974)

INTRODUCTION

The Matter of Baltek Randhawa came for hearing on December 4, 2023, before the following members of the State of Ohio Board of Pharmacy (Board): Trina Buettner, RPh, *Presiding*; Mindy Ferris, RPh, *Vice President*; Anthony Buchta, Sr., RPh; Victor Goodman, *Public Member*; T.J. Grimm, RPh; Jeff Huston, RPh; Rich Miller, RPh; and Christine Pfaff, RPh.

Jason George, RPh; Absent.

Baltek Randhawa was not represented by an attorney and appeared pro se. The State of Ohio was represented by Henry Appel, Assistant Attorney General.

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

1. Baltek Randhawa, RPh – Respondent

Respondent's Witnesses:

1. None

State's Exhibits:

1. Notice Letter
2. Patient ID (Filed Under Seal)
3. Request for Hearing
4. Scheduling Order

5. Statement of Respondent
6. Files for Patient #1 (Filed Under Seal)
7. Second Statement of Lori Brand
8. Statement of Erik Lentowski

Respondent's Exhibits:

- A. Employer Feedback Form
- B. Review of Policies Email
- C. Text Message
- D. CEU Certificates of Completion

FINDINGS OF FACT

After hearing the testimony, observing the demeanor of the witnesses, considering the evidence, and weighing the credibility of each, the Board finds the following to be fact:

1. On or about December September 17, 2021, Baltek Randhawa was working at Giant Eagle Pharmacy, located at 36475 Euclid Avenue, Willoughby, Ohio, as a pharmacist. The following two incidents occurred and were reported to Giant Eagle management:
 - a. A patient arrived at the pharmacy's drive thru window to pick up a prescription. The technician informed her it was too soon to fill the prescription, but the patient stated she believed she may have been shorted or misplaced the prescription she had at home.
 - i. Mr. Randhawa went to the window to speak to the patient. The prescription in question was a "maintenance" non-controlled drug.
 - ii. Mr. Randhawa provided the patient approximately 33 tablets after reviewing the patient's profile and printing the label.
 - iii. Mr. Randhawa did not properly document the dispensing. He did not document the drug type, drug quantity, and/or patient's name and information.
 - iv. The patient was not charged and there was no internal shortage report filed with the pharmacy.

- b. Later that day, Mr. Randhawa spoke with a pharmacy technician. He stated he gave himself two different medications he felt he was shorted in the past.
 - i. Mr. Randhawa stated when he tried to tell pharmacies about being shorted, the pharmacy staff would not assist him.
 - ii. Mr. Randhawa stated since it was too soon to refill the prescriptions with insurance, he took the drug he felt he was shorted.
 - iii. There was nothing filed with the pharmacy.
 - iv. The technician could not recall the specific medications he refilled for himself, but recalled they were described as "maintenance meds."
- 2. On or about October 12, 2021, Mr. Randhawa spoke with an agent of the Board. He admitted:
 - a. Regarding the September 17, 2021 incident:
 - i. He assisted a female patient at the drive thru after she stated she was shorted her prescription. He reviewed the patient profile and she had a valid prescription. He believed there was a chance she was shorted the medication.
 - ii. He filled the maintenance drug for a 30-day supply.
 - iii. He does not recall the patient's name or the name of the drug. He did not document the fill correctly.
 - iv. The patient returned to the pharmacy after going home and locating the drug and attempted to return the 30-day supply but he refused to accept the drug.
 - b. Patient 1, a family member, is prescribed losartan 50mg. Patient 1 told Baltek Randhawa he/she was shorted his/her prescription of losartan 50 mg.
 - i. Mr. Randhawa told Patient 1 to go to the pharmacy and advise them of the shortage. Patient 1 did not want to go to the pharmacy so Mr. Randhawa took 30 tablets of losartan 50 mg from the pharmacy he was working at, which was not the same pharmacy the original prescription was filled at.
 - ii. He did not recall the day this occurred, but it was over a month before the interview.
 - iii. He could not recall the specific pharmacy this occurred at.
 - iv. He did not document the shortage in Patient 1's pharmacy profile.

CONCLUSIONS OF LAW

1. Such conduct as set forth in the Findings of Fact Section, constitutes a violation of the following divisions of (A) of section 4729.16 of the ORC effective as of April 8, 2019, and October 9, 2021:
 - a. 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
 - b. Engaged in any other conduct for which the board may impose 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 the Findings of Fact Section, each constitutes a violation of each of the following divisions of Rule 4729:1-4-01(B)(2) of the OAC as effective March 20, 2020:
 - a. 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)(e); and
 - b. Failed to conform to prevailing standards of care of similar pharmacists under the same or similar circumstances, whether or not actual injury to a patient is established, OAC Rule 4729:1-4-01(B)(2)(p).

DECISION OF THE BOARD

After consideration of the mitigating evidence, including, but not limited to, the fact there were no controlled substances involved and Respondent's employer handled the matter internally, the Board hereby closes the matter of Baltek Randhawa, RPh, Case No. A-2021-0573.

Further, the Board hereby grants the State's Motion to Seal the Record in this matter including, but not limited to, all confidential patient health information contained in the record, specifically State's Exhibits: 1b and 5.

Mr. Grimm moved for Findings of Fact; Mrs. Ferris seconded the motion. Motion passed (Yes-7/No-0).

Mr. Grimm moved for Conclusions of Law; Mrs. Ferris seconded the motion. Motion passed (Yes-7/No-0).

Mr. Grimm moved for Action of the Board; Mrs. Ferris seconded the motion. Motion passed (Yes-7/No-0).

SO ORDERED.

1:35 p.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 **Christopher Baker, Hopewell, Ohio.**

R-2024-0262

Ms. Ferris 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. Grimm and approved by the Board: Yes-7, No-0.

2:07 p.m.

The deliberation ended and the hearing opened to the public.

R-2024-0263

After votes were taken in public session, the Board adopted the following order in the Matter of **Christopher Baker, Hopewell, Ohio.**

ORDER OF THE STATE BOARD OF PHARMACY

Case Number 2014-1396

In The Matter Of:

Christopher D. Baker
9235 Coopermill Rd.
Hopewell, OH 43746
License no. 03-132263

INTRODUCTION

The Matter of Christopher D. Baker came for hearing on December 4, 2023, before the following members of the State of Ohio Board of Pharmacy (Board): Trina Buettner, RPh, *Presiding*; Mindy Ferris, RPh, Vice President; Anthony Buchta, Sr., RPh; Victor Goodman, *Public Member*; T.J. Grimm, RPh; Jeff Huston, RPh; Rich Miller, RPh; and Christine Pfaff, RPh.

Jason George, RPh; Absent.

Christopher D. Baker was not represented by counsel and appeared *pro se*. The State of Ohio was represented by Henry Appel, Assistant Attorney General.

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

1. None

Respondent's Witnesses:

1. Christopher D. Baker

State's Exhibits:

1. Original Notice Letter, with Proof of Service
2. Board Order

Respondent's Exhibits:

- A. Certified Addictionologist Letter
- B. Ohio Pharmacist Rehabilitation Organization (OHPRO) Contract
- C. OHPRO Urine Drug Screen Results
- D. OHPRO Participant Summary Report
- E. OHPRO Recommendation Letter
- F. OHPRO Quarterly Reports
- G. NAPLEX and MPJE Test Results
- H. Urine Drug Screen Chain of Custody Copies (Under Seal)
- I. NA Meeting Attendance Sheets
- J. Character Reference Letters

FINDINGS OF FACT & DECISION OF THE BOARD

After hearing the testimony, observing the demeanor of the witnesses, considering the evidence, and weighing the credibility of each, the Board finds that Christopher D. Baker has substantially complied with the terms set forth in the Board Order of the State of Ohio Board of Pharmacy, Case No. 2014-1396 dated November 12, 2014.

On the basis of the Finding of Fact set forth above, and after consideration of the record as a whole, the State of Ohio Board of Pharmacy hereby approves the reinstatement of the pharmacist license no. 03-132263, held by Christopher D. Baker to practice pharmacy in Ohio subject to a period of probation for five years beginning on the effective date of this Order, with the following conditions:

1. Christopher D. Baker must enter into and adhere to the terms of a **new** contract, signed within thirty days after the effective date of this Order, with a Board approved treatment monitor for a period of not less than five years and, upon signing, submit a copy of the contract to the Board office. Christopher D. Baker should also submit to the Board documentation demonstrating compliance with an Ohio Department of Mental Health and Addiction Services (ODMHAS) treatment provider, if applicable. Failure to adhere to the terms of the treatment contract and/or monitoring contract will be considered

a violation of the Board's Order and subject Christopher D. Baker to potential sanctions up to and including revocation of license. The monitoring contract must provide that:

- a. Random, observed urine drug screens shall be conducted at least once each month.
 - b. The urine sample must be given within twelve hours of notification. The urine drug screen must include testing for creatinine or specific gravity of the sample as the dilutional standard.
 - c. Alcohol and Ethyl Glucoronide (ETG) must be added to the standard urine drug screen.
 - d. Results of all drug screens must be negative. Refusal of a drug screen or a diluted drug screen is equivalent to a positive result. Any positive results, including those which may have resulted from ingestion of food, but excluding false positives which resulted from medication legitimately prescribed, indicates a violation of the contract.
 - e. In the event of a negative diluted screen, a hair sample test must be completed at the cost of Christopher D. Baker in a timeframe consistent with the drug lab's recommended policy, but in any event no later than 12 days after the negative diluted screen.
 - f. Christopher D. Baker must meet the daily check-in requirements of the testing center or check-in requirements as otherwise proscribed by the treatment monitor.
2. The intervener/sponsor shall submit reports to the Board, in a format acceptable to the Board, indicating drug screens and their results in a timely fashion. Actual copies of drug screens shall be made available to the Board upon request.

- a. Attendance is required a minimum of three times per calendar week (Sunday through Saturday) on separate days, at an Alcoholics Anonymous, Narcotics Anonymous, and/or similar support group meeting.
 - b. The program shall immediately report to the Board any violations of the contract and/or lack of cooperation.
3. Christopher D. Baker shall not refuse an employer provided drug or alcohol screen. If the Board becomes aware of any positive drug or alcohol screen results that were obtained in the course of employment or any mechanism other than via the signed contract with ODMHAS, the Board shall treat these results as a violation of the Board's Order and request Christopher D. Baker reappear before the Board for possible additional sanctions, including and up to revocation of license.
4. Christopher D. Baker shall not refuse a breathalyzer or other drug testing requested by law enforcement during the duration of probation. The Board shall treat any such refusal as a violation of the Board's Order and request Christopher D. Baker reappear before the Board for possible additional sanctions, including and up to revocation of license.
5. Christopher D. Baker must submit quarterly progress reports to the Board (due January 10, April 10, July 10, and October 10 of each year of probation) that include:
 - a. The written report and documentation provided by the treatment program pursuant to the contract, and
 - b. A written description of Christopher D. Baker's progress towards recovery and what Christopher D. Baker has been doing during the previous three months, and
 - c. Proof of compliance with all terms of probation, the monitoring contract, including all terms in OAC Rule 4729:4-1-04, and proof of compliance with treatment, if applicable.

6. Christopher D. Baker must provide copies of the board order or settlement agreement to all employers or prospective employers, all licensing authorities in which Christopher D. Baker holds a professional license or applies for a professional license, and all persons who provide Christopher D. Baker chemical dependency treatment or monitoring, during the effective period of this order or agreement.
7. Other terms of probation are as follows:
 - a. Christopher D. Baker must meet at least annually with the Board's Probation Committee, the first meeting to be held December 9, 2024. Additional periodic appearances may be requested.
 - b. The State of Ohio Board of Pharmacy hereby declares that Christopher D. Baker's pharmacist license is not in good standing and thereby denies the privilege of being a preceptor and training pharmacy interns pursuant to paragraphs (K) and (O) of Rule 4729:2-1-01 of the OAC.
 - c. Christopher D. Baker must obtain prior approval of the board or the board's probation committee of departures or absences in excess of ten days from the country. Periods of departure or absence shall not change the probationary term, unless otherwise determined by motion of the board or the board's probation committee. For absences of three months or longer, the board or its probation committee may toll the length of probation, other than in instances where the board or its probation committee can be assured that probationary monitoring is otherwise being performed.
 - d. Christopher D. Baker may not serve as a responsible pharmacist or a designated representative in a dispensary or for home medical equipment.
 - e. Christopher D. Baker may not engage in a consult agreement, unless approved by the board.
 - f. Christopher D. Baker may not destroy, assist in, or witness the destruction of controlled substances.

- g. Christopher D. Baker may not work in a pharmacy more than 40 hours per week or 80 hours over a two-week period.
 - h. Christopher D. Baker must not violate the drug laws of Ohio, any other state, or the federal government.
 - i. Christopher D. Baker must abide by the rules of the State of Ohio Board of Pharmacy.
 - j. Christopher D. Baker must comply with the terms of this Order.
 - k. Christopher D. Baker's license is deemed not in good standing until successful completion of the probationary period.
 - l. Christopher D. Baker must provide continuing authorization for disclosure by the monitor and treatment provider (when applicable) to the Board, to treating and monitoring physicians, and to others involved in the monitoring process, of information necessary for those individuals to fulfill their duties.
8. When deemed appropriate by the Board, Christopher D. Baker must submit to a psychiatric evaluation, and, where appropriate, continued treatment acceptable to the Board.
9. Christopher D. Baker may not request modifications to probationary terms for at least three years, however, limited, isolated deviations may be granted with approval by the Board, in exceptional circumstances.
10. Christopher D. Baker must immediately report any violation of the terms of this probation to the Board by contacting legal@pharmacy.ohio.gov. Failure to self-report any violation shall be treated as a violation of this Board's Order and will subject Christopher D. Baker to possible additional sanctions, including and up to revocation of license.
11. Any violation of probation or this Board's Order may result in a Board hearing to consider alternative or additional sanctions

under Section 4729.16 of the Ohio Revised Code, including and up to revocation of Christopher D. Baker's license.

12. Periods during which Christopher D. Baker is not in compliance with all probationary terms shall toll the length of time of probation, or the Board may implement additional disciplinary action in addition to or instead of tolling probation.

At the conclusion of the probationary period, the Board will issue a letter indicating whether probation has been successfully completed. If the Board determines probation has not been successfully completed, it will issue a notice of opportunity for hearing to Christopher D. Baker.

Further, upon stipulation of the parties, the Board hereby seals Exhibit H.

Mindy Ferris moved for Findings of Fact; Jeff Huston seconded the motion. Motion passed (Yes-7/No-0).

Mindy Ferris moved for the Decision of the Board; Jeff Huston seconded the motion. Motion passed (Yes-7/No-0).

SO ORDERED.

2:09 p.m. The Board took a brief recess.

2:17 p.m. The Board returned to Public Session.

R-2024-0264 After hearing Mr. Flaharty discuss the significant facts regarding the activities of Terminal Distributor of Dangerous Drugs (TDDD) Refresh Wellness, LLC, Cincinnati, Ohio, Mr. Miller moved that the Board summarily suspend the TDDD license belonging to Refresh Wellness, LLC, Cincinnati, Ohio. The motion was seconded by Mr. Grimm and approved by the Board: Yes-7, No-0.

R-2024-0265 After hearing Mr. Flaharty discuss the significant facts regarding the activities of Registered Pharmacy Technician Allexis Baker, Batavia, Ohio, Ms. Pfaff moved that the Board summarily suspend the Registered Pharmacy Technician license belonging to Allexis Baker, Batavia, Ohio.

The motion was seconded by Mr. Huston and approved by the Board: Yes-7, No-0.

R-2024-0266

Ms. Ferris 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. The motion was seconded by Mr. Huston and a roll-call vote was conducted *President* Buettner as follows: Buchta-yes; Ferris-yes, Goodman-yes; Grimm-yes; Huston-yes, Miller-yes, and Pfaff-yes.

4:50 p.m.

The Board adjourned for the day.

Tuesday, December 5, 2023**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, for a public meeting, with the following members present:

Trina Buettner, RPh, *Presiding*; Mindy Ferris, RPh, *Vice President*; Anthony Buchta, Sr., RPh; Victor Goodman, *Public Member*; Jeff Huston, RPh; and Rich Miller, RPh.

Absent: Christine Pfaff, RPh; TJ Grimm, RPh; and Jason George, RPh (military leave).

Also present were Steven Schierholt, *Executive Director*; Sharon Maerten-Moore, *Chief Legal Counsel*; and Kathryn Lewis, *Legal Administrator*.

R-2024-0267

Ms. Buettner announced the dismissal in the matter of Tatiana K. Armstrong (Case No. A-2023-0309).

R-2024-0268

Ms. Buettner announced the dismissal of the Notice of Opportunity for Hearing issued on April 26, 2023, in the matter of Timothy Miller (Case No. A-2022-0529).

R-2024-0269

Ms. Buettner announced the dismissal of the Notice of Opportunity for Hearing issued on September 28, 2023, in the matter of Najwa Chaaban-Kassem (Case No. A-2023-0189).

R-2024-0270

Ms. Buettner announced the dismissal of the Notice of Opportunity for Hearing issued on May 15, 2023, in the matter of Dr. Gurarau Sudarshan (Case No. A-2021-0409).

R-2024-0271

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

**IN THE MATTER OF:
CASE NO. A-2023-0086**

CVS Pharmacy #6954
License No. 02-2015300
c/o Lindsey Stiner, Responsible Person
820 South Breiel Blvd.
Middletown, OH 45044

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 CVS Pharmacy #6954 for the purpose of resolving all issues between the parties relating to the Board investigation of an employee performing duties of a pharmacy technician without maintaining appropriate registration with the Board. Together, the Board and CVS Pharmacy #6954 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, restrict, limit or refuse to grant or renew any license issued pursuant to Section 4729.54 of the Ohio Revised Code.
2. CVS Pharmacy #6954 is a licensed Terminal Distributor of Dangerous Drugs under license number 02-2015300.

FACTS

1. The Board initiated an investigation of CVS Pharmacy #6954, Terminal Distributor of Dangerous Drugs license number 02-2015300, related to an employee performing duties of a pharmacy technician without maintaining appropriate registration with the Board.
2. On or about October 24, 2023, the Board sent a Notice of Opportunity for Hearing to CVS Pharmacy #6954, 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 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. CVS Pharmacy #6954 neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated October 24, 2023; 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. CVS Pharmacy #6954 agrees to pay to the Board a monetary penalty the amount of \$250. This fine will be attached to your license record and must be paid no later than 180 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. The Board hereby imposes a written reprimand on CVS Pharmacy #6954's TDDD license, number 02-2015300.
5. CVS Pharmacy #6954 agrees and acknowledges that this Board disciplinary action must be disclosed to the proper licensing authority of any state or jurisdiction, as required by any such state or jurisdiction, in which it currently holds a professional license, including the Board on renewal applications or applications for a new license.
6. CVS Pharmacy #6954 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 CVS Pharmacy #6954 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 CVS Pharmacy #6954 by the Board and will NOT discharge CVS Pharmacy #6954 from any obligation under the terms of this Agreement.

7. CVS Pharmacy #6954 agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
8. CVS Pharmacy #6954 understands that it has the right to be represented by counsel for review and execution of this agreement.
9. This Agreement is binding upon any and all successors, assigns, affiliates, and subsidiaries of the parties or any other corporation through whom or with whom CVS Pharmacy #6954 will operate.
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. If any of the provisions, terms, or clauses of this Agreement are declared illegal, unenforceable, or ineffective by an authority of competent jurisdiction, those provisions, terms, and clauses shall be deemed severable, such that all other provisions, terms, and clauses of this Agreement shall remain valid and binding upon both Parties.
14. This Agreement shall become effective upon the date of the Board President's signature below.

R-2024-0272

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

**IN THE MATTER OF:
CASE NO. A-2023-0102**

**Kroger Pharmacy #522
License No. 02-1613600**
c/o Brooke McNally, RPh
300 S. Hamilton Rd.
Columbus, OH 43230

**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 Kroger Pharmacy #522 for the purpose of resolving all issues between the parties relating to the Board investigation of drug security. Together, the Board and Kroger Pharmacy #522 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, restrict, limit or refuse to grant or renew any license issued pursuant to Section 4729.54 of the Ohio Revised Code.
2. Kroger Pharmacy #522 is a licensed Terminal Distributor of Dangerous Drugs under license number 02-1613600.

FACTS

1. The Board initiated an investigation of Kroger Pharmacy #522, Terminal Distributor of Dangerous Drugs license number 02-1613600, related to Kroger Pharmacy #522's drug security.
2. On or about September 28, 2023, the Board sent a Notice of Opportunity for Hearing to Kroger Pharmacy #522, 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 October 18, 2023, Kroger Pharmacy #522, through counsel Mary McBride, timely requested an administrative hearing, which was subsequently scheduled for January 10, 2024.

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

TERMS

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

1. The recitals set forth above are incorporated in this Settlement Agreement as though fully set forth herein.
2. Kroger Pharmacy #522 neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated September 28, 2023; 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. Kroger Pharmacy #522 agrees to pay to the Board a monetary penalty the amount of \$1,000.00. This fine will be attached to your license record and must be paid no later than 180 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. Kroger Pharmacy #522 agrees that Responsible Person Brooke McNally, RPh, will attend the "Responsible Person Roundtable." The Roundtable must be completed within 180 days from the effective date of this Agreement. [The continued education credit may not also](#)

be used for license renewal. Copies of completed CEUs shall be e-mailed to legal@pharmacy.ohio.gov.

5. The Board hereby imposes a written reprimand on Kroger Pharmacy #522's TDDD license, number 02-1613600.
6. Kroger Pharmacy #522 agrees and acknowledges that this Board disciplinary action must be disclosed to the proper licensing authority of any state or jurisdiction, as required by any such state or jurisdiction, in which it currently holds a professional license, including the Board on renewal applications or applications for a new license.
7. Kroger Pharmacy #522 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 Kroger Pharmacy #522 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 Kroger Pharmacy #522 by the Board and will NOT discharge Kroger Pharmacy #522 from any obligation under the terms of this Agreement.
8. Kroger Pharmacy #522 agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
9. Kroger Pharmacy #522 understands that it has the right to be represented by counsel for review and execution of this agreement.
10. This Agreement is binding upon any and all successors, assigns, affiliates, and subsidiaries of the parties or any other corporation through whom or with whom Kroger Pharmacy #522 will operate.
11. Kroger Pharmacy #522 explicitly withdraws its request for a hearing, waives its right to a hearing and an opportunity to be heard pursuant

to Chapter 119. of the Ohio Revised Code, and waives any right to an appeal.

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

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

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

15. If any of the provisions, terms, or clauses of this Agreement are declared illegal, unenforceable, or ineffective by an authority of competent jurisdiction, those provisions, terms, and clauses shall be deemed severable, such that all other provisions, terms, and clauses of this Agreement shall remain valid and binding upon both Parties.

16. This Agreement shall become effective upon the date of the Board President's signature below.

R-2024-0273

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

**IN THE MATTER OF:
Case No. A-2022-0245**

**Merlin Collins, RPh
SURRENDERED License No. 03-114943**

79 Shadybrook Dr.
Centerville, OH 45459-1928

**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 Merlin Collins, RPh, for the purpose of resolving all issues between the parties relating to his practice of pharmacy. Together, the Board and Merlin Collins 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. Merlin Collins is an Ohio-licensed pharmacist under license number 03-114943.

FACTS

1. The Board initiated an investigation of Merlin Collins, pharmacist license number 03-114943, related to Merlin Collins' practice of pharmacy.
2. On or about September 28, 2023, the Board sent a Notice of Opportunity for Hearing to Merlin Collins, 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 October 17, 2023, Merlin Collins, through counsel Todd W. Newkirk, timely requested an administrative hearing, which was subsequently scheduled for April 10, 2024.

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. Merlin Collins neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated September 28, 2023; 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. **Merlin Collins agrees to voluntarily surrender to the State of Ohio Board of Pharmacy his license and registration to practice pharmacy, license no. 03-114943, with discipline pending.**
4. **Merlin Collins agrees to immediately return his license and wall certificate to the Board, if the Board is not already in possession of both.**
5. **Merlin Collins agrees not to petition for reinstatement, or submit an application, including a renewal or reinstatement application, 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. Merlin Collins agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
7. Merlin Collins understands that he has the right to be represented by counsel for review and execution of this agreement.
8. Merlin Collins 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. Merlin Collins 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.

IN WITNESS WHEREOF, the parties to this Agreement have executed it and/or cause it to be executed by their duly authorized representatives.

R-2024-0274

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

**IN THE MATTER OF:
CASE NO. A-2022-0594**

**Amy E. Pettaway, RPh
License No. 03-314435
732 W. Gramercy Ave.
Toledo, OH 43612-2418**

**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 Amy Pettaway, RPh, for the purpose of resolving all issues between the parties relating to the Board investigation of Amy Pettaway dispensing misbranded prescriptions for topical skin cream and failing to maintain accurate patient profiles. Together, the Board and Amy Pettaway 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, restrict, limit, 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. Amy Pettaway is a licensed pharmacist in the state of Ohio under license number 03-314435.
3. Amy Pettaway was previously listed as the Responsible Person of River Valley Pharmacy (TDDD 02-2770500), located at 5223 Hills Ave., Toledo, Ohio.

FACTS

1. The Board initiated an investigation of Amy Pettaway, pharmacist license number 03-314435, related to her dispensing misbranded prescriptions for topical skin cream and failing to maintain accurate patient profiles.
2. On or about June 7, 2023, the Board sent a Notice of Opportunity for Hearing to Amy Pettaway, 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.
3. On or about June 29, 2023, Amy Pettaway, through counsel Stephen D. Hartman, timely requested an administrative hearing, which was subsequently scheduled for January 9, 2024.

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. Amy Pettaway neither admits nor denies the allegations stated in the Notice of Opportunity for hearing letter dated June 7, 2023; 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. Amy Pettaway agrees to pay to the Board a monetary penalty in the amount of \$250.00. This fine will be attached to Amy Pettaway's license record and must be paid no later than 180 days from the effective date of this Order. To pay this fine, login to www.elicense.ohio.gov and process the items in the cart.
4. The Board hereby imposes a written reprimand on Amy Pettaway's pharmacist license, number 03-314435.
5. Amy Pettaway agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
6. Amy Pettaway understands that she has the right to be represented by counsel for review and execution of this agreement.
7. Amy Pettaway agrees and acknowledges that this Board disciplinary action must be disclosed to the proper licensing authority of any state or jurisdiction in which she currently holds a professional license, including to the Board on renewal applications or applications for a new license.

8. Amy Pettaway explicitly withdraws her request for a hearing, waives an opportunity to be heard pursuant to Chapter 119. of the Ohio Revised Code, and waives any right to an appeal.
9. This Agreement may be executed in counterparts or facsimiles, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.
10. All parties to this Agreement understand that this document is a public record pursuant to Ohio Revised Code Section 149.43.
11. This Agreement contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this Agreement.
12. If any of the provisions, terms, or clauses of this Agreement are declared illegal, unenforceable, or ineffective by an authority of competent jurisdiction, those provisions, terms, and clauses shall be deemed severable, such that all other provisions, terms, and clauses of this Agreement shall remain valid and binding upon both Parties.
13. This Agreement shall become effective upon the date of the Board President's signature below.

R-2024-0275

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

**IN THE MATTER OF:
CASE NO. A-2023-0186**

Reliance Oxygen and Equipment
License No. 01-0814000
c/o James McVicker
6037 Secor Road
Toledo, Ohio 43613

**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 Reliance Oxygen and Equipment, for the purpose of resolving all issues between the parties relating to the Board investigation of sales of medical grade oxygen while operating without a Board-issued license. Together, the Board and Reliance Oxygen and Equipment are referred to hereinafter as “the parties.”

JURISDICTION

1. Pursuant to Section 4729.56 of the Ohio Revised Code and the rules adopted thereunder, the Board has the authority to suspend, revoke, restrict, limit, or refuse to grant or renew any license issued pursuant to Section 4729.52 of the Ohio Revised Code.
2. Reliance Oxygen & Equipment has an active Distributor of Dangerous Drugs license with the Board under license number 01-0814000, which lists James McVicker as the Responsible Person and owner.

FACTS

1. The Board initiated an investigation of Reliance Oxygen and Equipment, Wholesaler Distributor of Dangerous Drugs License No. 01-0814000, related to Reliance Oxygen and Equipment's sales of medical grade oxygen, a dangerous drug, without obtaining a Board-issued license.
2. On or about June 1, 2023, the Board sent a Notice of Opportunity for Hearing to Reliance Oxygen and Equipment, 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 June 9, 2023, Reliance Oxygen and Equipment, through counsel Levi Tkach, timely requested an administrative hearing, which was subsequently scheduled for December 5, 2023.

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. Reliance Oxygen and Equipment neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated June 1, 2023; 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. Reliance Oxygen and Equipment agrees to pay to the Board a monetary penalty in the amount of \$2,500.00. This fine will be attached to your license record and must be paid no later than 180 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. The Board hereby imposes a written reprimand on Reliance Oxygen and Equipment's WDDD license, number 01-0814000.
5. Reliance Oxygen and Equipment agrees and acknowledges that this Board disciplinary action must be disclosed to the proper licensing authority of any state or jurisdiction, as required by any such state or jurisdiction, in which it currently holds a professional license, including the Board on renewal applications or applications for a new license.
6. Reliance Oxygen and Equipment agrees to comply with all federal and state requirements related to Wholesale Distributors of Dangerous Drugs, including but not limited to, Ohio Revised Code Chapter 4729. and the Rules adopted thereunder, Chapter 3719. and the Rules adopted thereunder, Chapter 3715. and the Rules adopted thereunder as well as the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301 and Chapter 21, Section 360 of the United States Code, and Section 207.20 of the Code of Federal Regulations. Any violation by Reliance Oxygen and Equipment 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 Reliance Oxygen and Equipment by the Board

and will NOT discharge Reliance Oxygen and Equipment from any obligation under the terms of this Agreement.

7. Reliance Oxygen and Equipment agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
8. Reliance Oxygen and Equipment understands that it has the right to be represented by counsel for review and execution of this agreement.
9. This Agreement is binding upon any and all successors, assigns, affiliates, and subsidiaries of the parties or any other corporation through whom or with whom Reliance Oxygen and Equipment will operate.
10. Reliance Oxygen and Equipment explicitly withdraws its request for hearing, waives its right to a hearing and an opportunity to be heard pursuant to Chapter 119. of the Ohio Revised Code and waives any right to an appeal.
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. If any of the provisions, terms, or clauses of this Agreement are declared illegal, unenforceable, or ineffective by an authority of competent jurisdiction, those provisions, terms, and clauses shall be deemed severable, such that all other provisions, terms, and clauses of this Agreement shall remain valid and binding upon both Parties.
15. This Agreement shall become effective upon the date of the Board President's signature below.

R-2024-0276

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

**IN THE MATTER OF:
CASE NO. A-2022-0261**

David Joseph
License No. 03-310578
3112 Erskine Drive
Orlando, FL 32825

**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 Joseph, RPh, for the purpose of resolving all issues between the parties relating to the Board investigation of the pharmacy shipping dangerous drugs, including compounds, into Ohio. Together, the Board and David Joseph 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, restrict, limit, 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 Joseph is a licensed pharmacist in the state of Ohio under license number 03-310578 and is listed as the Responsible Person of Absolute Pharmacy, located at 16011 N. Nebraska Ave., #103 Lutz, FL.

FACTS

1. The Board initiated an investigation of David Joseph, pharmacist license number 03-310578, and Absolute Pharmacy, related to the

pharmacy shipping dangerous drugs, including compounds, into Ohio.

2. On or about June 9, 2023, the Board sent a Notice of Opportunity for Hearing to David Joseph, 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 July 7, 2023, David Joseph, through counsel Joshua Leckrone, timely requested an administrative hearing, which was subsequently scheduled for January 8, 2024. This matter was settled via this Agreement prior to hearing.

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 Joseph neither admits nor denies the allegations stated in the Notice of Opportunity for hearing letter dated June 9, 2023; 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 Joseph agrees to pay to the Board a monetary penalty in the amount of \$1,000.00. This fine will be attached to David Joseph's license record and must be paid no later than 180 days from the effective date of this Order. To pay this fine, login to www.elicense.ohio.gov and process the items in the cart.
4. The Board hereby imposes a written reprimand on David Joseph's pharmacist license, number 03-310578.

5. David Joseph agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
 6. David Joseph understands that he has the right to be represented by counsel for review and execution of this agreement.
 7. David Joseph agrees and acknowledges that this Board disciplinary action must be disclosed to the proper licensing authority of any state or jurisdiction in which he currently holds a professional license, including to the Board on renewal applications or applications for a new license.
 8. David Joseph explicitly withdraws his request for a hearing, waives an opportunity to be heard pursuant to Chapter 119. of the Ohio Revised Code, and waives any right to an appeal.
 9. This Agreement may be executed in counterparts or facsimiles, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.
 10. All parties to this Agreement understand that this document is a public record pursuant to Ohio Revised Code Section 149.43.
 11. This Agreement contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this Agreement.
 12. If any of the provisions, terms, or clauses of this Agreement are declared illegal, unenforceable, or ineffective by an authority of competent jurisdiction, those provisions, terms, and clauses shall be deemed severable, such that all other provisions, terms, and clauses of this Agreement shall remain valid and binding upon both Parties.
 13. This Agreement shall become effective upon the date of the Board President's signature below.
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R-2024-0277

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

**IN THE MATTER OF:
CASE NO. 2021-0386**

Cincinnati Pain Physicians
LICENSE: 02-2347100
c/o Dr. Gururau Sudarshan, Responsible Person
8261 Cornell Road #630
Cincinnati, OH 45249

**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 Cincinnati Pain Physicians, for the purpose of resolving all issues between the parties relating to the Board investigation of allowing improper access to the OARRS database. Together, the Board and Cincinnati Pain Physicians, LLC are referred to hereinafter as “the parties.”

JURISDICTION

1. Pursuant to Section 4729.56 of the Ohio Revised Code and the rules adopted thereunder, the Board has the authority to suspend, revoke, restrict, limit, or refuse to grant or renew any license issued pursuant to Section 4729.52 of the Ohio Revised Code.
2. Cincinnati Pain Physicians, LLC, is a licensed Wholesaler Distributor of Dangerous Drug, License No. 02-2347100, which lists Gururau Sudarshan, as the Responsible Person.

FACTS

1. The Board initiated an investigation of Cincinnati Pain Physicians, LLC, Wholesaler Distributor of Dangerous Drugs License No. 02-2347100, related to Cincinnati Pain Physicians, LLC’s allowing improper access to the OARRS database.

2. On or about May 15, 2023, the Board sent a Notice of Opportunity for Hearing to Cincinnati Pain Physicians, LLC, 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 May 31, 2023, Cincinnati Pain Physicians, LLC, through counsel Zachary M. Swisher, timely requested an administrative hearing, which was subsequently scheduled for December 5, 2023.

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. Cincinnati Pain Physicians, LLC neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated May 15, 2023; 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. Cincinnati Pain Physicians, LLC agrees to pay to the Board a monetary penalty in the amount of \$2,000.00. This fine will be attached to your license record and must be paid no later than 180 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. The Board hereby imposes a written reprimand on Cincinnati Pain Physicians, LLC's license, number 02-2347100.
5. Cincinnati Pain Physicians, LLC agrees and acknowledges that this Board disciplinary action must be disclosed to the proper licensing authority of any state or jurisdiction, as required by any such state or jurisdiction, in which it currently holds a professional license,

including the Board on renewal applications or applications for a new license.

6. Cincinnati Pain Physicians, LLC agrees to comply with all federal and state requirements related to Wholesale Distributors of Dangerous Drugs, including but not limited to, Ohio Revised Code Chapter 4729. and the Rules adopted thereunder, Chapter 3719. and the Rules adopted thereunder, Chapter 3715. and the Rules adopted thereunder as well as the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301 and Chapter 21, Section 360 of the United States Code, and Section 207.20 of the Code of Federal Regulations. Any violation by Cincinnati Pain Physicians, LLC 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 Cincinnati Pain Physicians, LLC by the Board and will NOT discharge Cincinnati Pain Physicians, LLC from any obligation under the terms of this Agreement.
7. Cincinnati Pain Physicians, LLC agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
8. Cincinnati Pain Physicians, LLC understands that it has the right to be represented by counsel for review and execution of this agreement.
9. This Agreement is binding upon any and all successors, assigns, affiliates, and subsidiaries of the parties or any other corporation through whom or with whom Cincinnati Pain Physicians, LLC will operate.
10. Cincinnati Pain Physicians, LLC explicitly withdraws its request for hearing, waives its right to a hearing and an opportunity to be heard pursuant to Chapter 119. of the Ohio Revised Code and waives any right to an appeal.
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. If any of the provisions, terms, or clauses of this Agreement are declared illegal, unenforceable, or ineffective by an authority of competent jurisdiction, those provisions, terms, and clauses shall be deemed severable, such that all other provisions, terms, and clauses of this Agreement shall remain valid and binding upon both Parties.

This Agreement shall become effective upon the date of the Board President's signature below.

9:02 a.m.

Ms. Pfaff joined the Board Meeting.

9:02 a.m.

Ms. Ferris presented a resolution titled *A Resolution for Ashley N. Hood*.

R-2024-0278

Mr. Buchta moved that the Board approve the Resolution. The motion was seconded by Mr. Huston and approved by the Board: Yes-6, No-0. The following resolution was adopted by the Board:

A Resolution for Ashley N. Hood

WHEREAS, the administrative efforts of Ashley N. Hood, Administrative Professional with the State of Ohio Board of Pharmacy, has directly led to the successful and thoughtful measures to aid in the fulfillment of the Mission of the Board; and

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

BE IT RESOLVED, that the State of Ohio Board of Pharmacy hereby commends Ashley N. Hood for over 13 years of exemplary service and performance to the Board and to the people of Ohio in carrying out the responsibilities of her position, and

BE IT ALSO RESOLVED, that we, the members of the State of Ohio Board of Pharmacy, in its one hundred thirty-ninth year, so express our profound appreciation to Ashley N. Hood for her dedication and service to the Board and the citizens of Ohio, and

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

9:05 a.m. The Board took a brief recess.

9:09 a.m. The Board returned to Public Session and Ms. Southard provided the Licensing Report.

9:19 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 **Robert Herberger, Canfield, Ohio.**

R-2024-0279 Ms. Ferris 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. Huston and approved by the Board: Yes-6, No-0.

9:42 a.m. The deliberation ended and the hearing opened to the public.

R-2024-0280 After votes were taken in public session, the Board adopted the following order in the Matter of **Robert Herberger, Canfield, Ohio.**

ORDER OF THE STATE BOARD OF PHARMACY

Case Number A-2022-0436

In The Matter Of:

Robert Herberger
6156 Chidester Drive
Canfield, OH 44406
License no. 03-236632

INTRODUCTION

The Matter of Robert Herberger came for hearing on December 5, 2023, before the following members of the State of Ohio Board of Pharmacy (Board): Trina Buettner, RPh, *Presiding*; Mindy Ferris, RPh, Vice President; Anthony Buchta, Sr., RPh; Victor Goodman, *Public Member*; Jeff Huston, RPh; Rich Miller, RPh; and Christine Pfaff, RPh.

T.J. Grimm, RPh; Jason George, RPh; Absent.

Robert Herberger was represented by Robert Garrity. The State of Ohio was represented by Henry Appel, Assistant Attorney General.

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

1. None

Respondent's Witnesses:

1. Robert Herberger

State's Exhibits:

1. Original Notice Letter
2. Board Order
3. Columbiana County Indictment
4. Entry Approving ILC
5. Docket

Respondent's Exhibits:

- A. Current PRO contract and UDS results
- B. Chemical dependency treatment documentation
- C. 12 Step meeting attendance
- D. Résumé
- E. Continuing education documentation
- F. Letters of support

FINDINGS OF FACT & DECISION OF THE BOARD

After hearing the testimony, observing the demeanor of the witnesses, considering the evidence, and weighing the credibility of each, the Board finds that Robert Herberger has substantially complied with the terms set forth in the Board Order of the State of Ohio Board of Pharmacy, Case No. A-2022-0436 dated July 21, 2022

On the basis of the Finding of Fact set forth above, and after consideration of the record as a whole, the State of Ohio Board of Pharmacy hereby approves the reinstatement of the pharmacist license no. 03-236632, held by Robert Herberger to practice pharmacy in Ohio subject to a period of probation for five years beginning on the effective date of this Order, with the following conditions:

13. Robert Herberger must enter into and adhere to the terms of a **new** contract, signed within thirty days after the effective date of this Order, with a Board approved treatment monitor for a period of not less than five years and, upon signing, submit a copy of the contract to the Board office. Robert Herberger should also submit to the Board documentation demonstrating compliance with an Ohio Department of Mental Health and Addiction Services (ODMHAS) treatment provider, if applicable. Failure to adhere to the terms of the treatment contract and/or monitoring contract will be considered a violation of the Board's Order and subject Robert Herberger to potential sanctions up to and including revocation of license. The monitoring contract must provide that:

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

- h. The urine sample must be given within twelve hours of notification. The urine drug screen must include testing for creatinine or specific gravity of the sample as the dilutional standard.
 - i. Alcohol and Ethyl Glucoronide (ETG) must be added to the standard urine drug screen.
 - j. Results of all drug screens must be negative. Refusal of a drug screen or a diluted drug screen is equivalent to a positive result. Any positive results, including those which may have resulted from ingestion of food, but excluding false positives which resulted from medication legitimately prescribed, indicates a violation of the contract.
 - k. In the event of a negative diluted screen, a hair sample test must be completed at the cost of the Robert Herberger in a timeframe consistent with the drug lab's recommended policy, but in any event no later than 12 days after the negative diluted screen.
 - l. Robert Herberger must meet the daily check-in requirements of the testing center or check-in requirements as otherwise proscribed by the treatment monitor.
14. The intervener/sponsor shall submit reports to the Board, in a format acceptable to the Board, indicating drug screens and their results in a timely fashion. Actual copies of drug screens shall be made available to the Board upon request.
- c. Attendance is required a minimum of three times per calendar week (Sunday through Saturday) on separate days, at an Alcoholics Anonymous, Narcotics Anonymous, and/or similar support group meeting.
 - d. The program shall immediately report to the Board any violations of the contract and/or lack of cooperation.

15. Robert Herberger shall not refuse an employer provided drug or alcohol screen. If the Board becomes aware of any positive drug or alcohol screen results that were obtained in the course of employment or any mechanism other than via the signed contract with ODMHAS, the Board shall treat these results as a violation of the Board's Order and request Robert Herberger reappear before the Board for possible additional sanctions, including and up to revocation of license.
16. Robert Herberger shall not refuse a breathalyzer or other drug testing requested by law enforcement during the duration of probation. The Board shall treat any such refusal as a violation of the Board's Order and request Robert Herberger reappear before the Board for possible additional sanctions, including and up to revocation of license.
17. Robert Herberger, due to his felony conviction relating to a controlled substance, may not be employed by a terminal distributor of dangerous drugs, unless a waiver has been obtained by a licensee pursuant to 21 C.F.R. 1307.03.
18. Robert Herberger's license shall remain on probation until such time as any criminal intervention in lieu of conviction has been successfully completed.
19. Robert Herberger must submit quarterly progress reports to the Board (due January 10, April 10, July 10, and October 10 of each year of probation) that include:
 - d. The written report and documentation provided by the treatment program pursuant to the contract, and
 - e. A written description of Robert Herberger's progress towards recovery and what Robert Herberger has been doing during the previous three months, and
 - f. Proof of compliance with all terms of probation, the monitoring contract, including all terms in OAC Rule 4729:4-1-04, and proof of compliance with treatment, if applicable.

20. Robert Herberger must provide copies of the board order or settlement agreement to all employers or prospective employers, all licensing authorities in which Robert Herberger holds a professional license or applies for a professional license, and all persons who provide Robert Herberger chemical dependency treatment or monitoring, during the effective period of this order or agreement.

21. Other terms of probation are as follows:

- m. Robert Herberger must meet at least annually with the Board's Probation Committee, the first meeting to be held Monday, December 9, 2024. Additional periodic appearances may be requested.
- n. The State of Ohio Board of Pharmacy hereby declares that Robert Herberger's pharmacist license is not in good standing and thereby denies the privilege of being a preceptor and training pharmacy interns pursuant to paragraphs (K) and (O) of Rule 4729:2-1-01 of the OAC.
- o. Robert Herberger must obtain prior approval of the board or the board's probation committee of departures or absences in excess of ten days from the country. Periods of departure or absence shall not change the probationary term, unless otherwise determined by motion of the board or the board's probation committee. For absences of three months or longer, the board or its probation committee may toll the length of probation, other than in instances where the board or its probation committee can be assured that probationary monitoring is otherwise being performed.
- p. Robert Herberger may not serve as a responsible pharmacist or a designated representative in a dispensary or for home medical equipment.
- q. Robert Herberger may not engage in a consult agreement, unless approved by the board.

- r. Robert Herberger may not destroy, assist in, or witness the destruction of controlled substances.
 - s. Robert Herberger may not work in a pharmacy more than 40 hours per week or 80 hours over a two-week period.
 - t. Robert Herberger must not violate the drug laws of Ohio, any other state, or the federal government.
 - u. Robert Herberger must abide by the rules of the State of Ohio Board of Pharmacy.
 - v. Robert Herberger must comply with the terms of this Order.
 - w. Robert Herberger's license is deemed not in good standing until successful completion of the probationary period.
 - x. Robert Herberger must provide continuing authorization for disclosure by the monitor and treatment provider (when applicable) to the Board, to treating and monitoring physicians, and to others involved in the monitoring process, of information necessary for those individuals to fulfill their duties.
22. When deemed appropriate by the Board, Robert Herberger must submit to a psychiatric evaluation, and, where appropriate, continued treatment acceptable to the Board.
23. Robert Herberger may not request modifications to probationary terms for at least three years, however, limited, isolated deviations may be granted with approval by the Board, in exceptional circumstances.
24. Robert Herberger must immediately report any violation of the terms of this probation to the Board by contacting legal@pharmacy.ohio.gov. Failure to self-report any violation shall be treated as a violation of this Board's Order and will subject Robert Herberger to possible additional sanctions, including and up to revocation of license.

25. Any violation of probation or this Board's Order may result in a Board hearing to consider alternative or additional sanctions under Section 4729.16 of the Ohio Revised Code, including and up to revocation of Robert Herberger's license.

26. Periods during which Robert Herberger is not in compliance with all probationary terms shall toll the length of time of probation, or the Board may implement additional disciplinary action in addition to or instead of tolling probation.

At the conclusion of the probationary period, the Board will issue a letter indicating whether probation has been successfully completed. If the Board determines probation has not been successfully completed, it will issue a notice of opportunity for hearing to Robert Herberger.

Mindy Ferris moved for Findings of Fact; Jeff Huston seconded the motion. Motion passed (Yes-6/No-0).

Mindy Ferris moved for the Decision of the Board; Jeff Huston seconded the motion. Motion passed (Yes-6/No-0).

SO ORDERED.

9:46 a.m. The Board took a brief recess.

9:49 a.m. The Board returned to Public Session.

9:49 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 **Adam Rossbach, Columbus, Ohio.**

R-2024-0281 Ms. Ferris 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. Huston and approved by the Board: Yes-6, No-0.

10:32 a.m. Mr. Grimm joined the Board Meeting.

10:41 a.m. The deliberation ended and the hearing opened to the public.

R-2024-0282 After votes were taken in public session, the Board adopted the following order in the Matter of **Adam Rossbach, Columbus, Ohio.**

ORDER OF THE STATE BOARD OF PHARMACY

Case Number A-2021-0425

In The Matter Of:

Adam Rossbach
240 Liberty Street, Apt. 1311
Columbus, OH 43215
License no. 03-335034

INTRODUCTION

The Matter of Adam Rossbach came for hearing on December 5, 2023, before the following members of the State of Ohio Board of Pharmacy (Board): Trina Buettner, RPh, Presiding; Mindy Ferris, RPh, Vice President; Anthony Buchta, Sr., RPh; Victor Goodman, Public Member; Jeff Huston, RPh; Rich Miller, RPh; and Christine Pfaff, RPh.

T.J. Grimm, RPh; Jason George, RPh; Absent.

Adam Rossbach was not represented by counsel. The State of Ohio was represented by Henry Appel, Assistant Attorney General.

SUMMARY OF EVIDENCEState's Witnesses:

1. None

Respondent's Witnesses:

1. Adam Rossbach
2. Matthew Knisely

State's Exhibits:

1. Original Notice Letter
2. Board Order
3. Request for Reinstatement

Respondent's Exhibits:

- A. PRO Contract
- B. Urine drug screen history
- C. Psychiatric evaluation
- D. RPH Continuing Education
- E. AA Meeting Attendance Records
- F. Pharmacy Prescription Record
- G. Letters of Support
- H. PRO Compliance Documents

FINDINGS OF FACT & DECISION OF THE BOARD

After hearing the testimony, observing the demeanor of the witnesses, considering the evidence, and weighing the credibility of each, the Board finds that Adam Rossbach has substantially complied with the terms set forth in the Board Order of the State of Ohio Board of Pharmacy, Case No. A-2021-0425 dated April 6, 2023.

On the basis of the Finding of Fact set forth above, and after consideration of the record as a whole, the State of Ohio Board of Pharmacy hereby approves the reinstatement of the pharmacist license

no. 03-335034, held by Adam Rossbach to practice pharmacy in Ohio subject to a period of probation for five years beginning on the effective date of this Order, with the following conditions:

1. Adam Rossbach must enter into and adhere to the terms of a **new** contract, signed within thirty days after the effective date of this Order, with a Board approved treatment monitor for a period of not less than five years and, upon signing, submit a copy of the contract to the Board office. Adam Rossbach should also submit to the Board documentation demonstrating compliance with an Ohio Department of Mental Health and Addiction Services (ODMHAS) treatment provider, if applicable. Failure to adhere to the terms of the treatment contract and/or monitoring contract will be considered a violation of the Board's Order and subject Adam Rossbach to potential sanctions up to and including revocation of license. The monitoring contract must provide that:
 - a. Random, observed urine drug screens shall be conducted at least once each month.
 - b. The urine sample must be given within twelve hours of notification. The urine drug screen must include testing for creatinine or specific gravity of the sample as the dilutional standard.
 - c. Alcohol and Ethyl Glucuronide (ETG) must be added to the standard urine drug screen.
 - d. Results of all drug screens must be negative. Refusal of a drug screen or a diluted drug screen is equivalent to a positive result. Any positive results, including those which may have resulted from ingestion of food, but excluding false positives which resulted from medication legitimately prescribed, indicates a violation of the contract.
 - e. In the event of a negative diluted screen, a hair sample test must be completed at the cost of the Adam Rossbach in a timeframe consistent with the drug lab's recommended policy, but in any event no later than 12 days after the negative diluted screen.

- f. Adam Rossbach must meet the daily check-in requirements of the testing center or check-in requirements as otherwise proscribed by the treatment monitor.
- 2. The intervener/sponsor shall submit reports to the Board, in a format acceptable to the Board, indicating drug screens and their results in a timely fashion. Actual copies of drug screens shall be made available to the Board upon request.
 - a. Attendance is required a minimum of three times per calendar week (Sunday through Saturday) on separate days, at an Alcoholics Anonymous, Narcotics Anonymous, and/or similar support group meeting.
 - b. The program shall immediately report to the Board any violations of the contract and/or lack of cooperation.
- 3. Adam Rossbach shall not refuse an employer provided drug or alcohol screen. If the Board becomes aware of any positive drug or alcohol screen results that were obtained in the course of employment or any mechanism other than via the signed contract with ODMHAS, the Board shall treat these results as a violation of the Board's Order and request Adam Rossbach reappear before the Board for possible additional sanctions, including and up to revocation of license.
- 4. Adam Rossbach shall not refuse a breathalyzer or other drug testing requested by law enforcement during the duration of probation. The Board shall treat any such refusal as a violation of the Board's Order and request Adam Rossbach reappear before the Board for possible additional sanctions, including and up to revocation of license.
- 5. Adam Rossbach must submit quarterly progress reports to the Board (due January 10, April 10, July 10, and October 10 of each year of probation) that include:

- a. The written report and documentation provided by the treatment program pursuant to the contract, and
 - b. A written description of Adam Rossbach's progress towards recovery and what Adam Rossbach has been doing during the previous three months, and
 - c. Proof of compliance with all terms of probation, the monitoring contract, including all terms in OAC Rule 4729:4-1-04, and proof of compliance with treatment, if applicable.
6. Adam Rossbach must provide copies of the board order or settlement agreement to all employers or prospective employers, all licensing authorities in which Adam Rossbach holds a professional license or applies for a professional license, and all persons who provide Adam Rossbach chemical dependency treatment or monitoring, during the effective period of this order or agreement.
7. Other terms of probation are as follows:
 - a. Adam Rossbach must meet at least annually with the Board's Probation Committee, the first meeting to be held Monday, December 9, 2024. Additional periodic appearances may be requested.
 - b. The State of Ohio Board of Pharmacy hereby declares that Adam Rossbach's pharmacist license is not in good standing and thereby denies the privilege of being a preceptor and training pharmacy interns pursuant to paragraphs (K) and (O) of Rule 4729:2-1-01 of the OAC.
 - c. Adam Rossbach must obtain prior approval of the board or the board's probation committee of departures or absences in excess of ten days from the country. Periods of departure or absence shall not change the probationary term, unless otherwise determined by motion of the board or the board's probation committee. For absences of three months or longer, the board or its probation committee may toll the length of probation, other than in instances where the board or its probation committee can

be assured that probationary monitoring is otherwise being performed.

- d. Adam Rossbach may not serve as a responsible pharmacist or a designated representative in a dispensary or for home medical equipment.
 - e. Adam Rossbach may not engage in a consult agreement, unless approved by the board.
 - f. Adam Rossbach may not destroy, assist in, or witness the destruction of controlled substances.
 - g. Adam Rossbach may not work in a pharmacy more than 40 hours per week or 80 hours over a two-week period.
 - h. Adam Rossbach must not violate the drug laws of Ohio, any other state, or the federal government.
 - i. Adam Rossbach must abide by the rules of the State of Ohio Board of Pharmacy.
 - j. Adam Rossbach must comply with the terms of this Order.
 - k. Adam Rossbach's license is deemed not in good standing until successful completion of the probationary period.
 - l. Adam Rossbach must provide continuing authorization for disclosure by the monitor and treatment provider (when applicable) to the Board, to treating and monitoring physicians, and to others involved in the monitoring process, of information necessary for those individuals to fulfill their duties.
- 8. When deemed appropriate by the Board, Adam Rossbach must submit to a psychiatric evaluation, and, where appropriate, continued treatment acceptable to the Board.
 - 9. Adam Rossbach may not request modifications to probationary terms for at least three years, however, limited, isolated

deviations may be granted with approval by the Board, in exceptional circumstances.

10. Adam Rossbach must immediately report any violation of the terms of this probation to the Board by contacting legal@pharmacy.ohio.gov. Failure to self-report any violation shall be treated as a violation of this Board's Order and will subject Adam Rossbach to possible additional sanctions, including and up to revocation of license.
11. Any violation of probation or this Board's Order may result in a Board hearing to consider alternative or additional sanctions under Section 4729.16 of the Ohio Revised Code, including and up to revocation of Adam Rossbach's license.
12. Periods during which Adam Rossbach is not in compliance with all probationary terms shall toll the length of time of probation, or the Board may implement additional disciplinary action in addition to or instead of tolling probation.

At the conclusion of the probationary period, the Board will issue a letter indicating whether probation has been successfully completed. If the Board determines probation has not been successfully completed, it will issue a notice of opportunity for hearing to Adam Rossbach.

Mindy Ferris moved for Findings of Fact; Jeff Huston seconded the motion. Motion passed (Aye-6/Nay-0).

Mindy Ferris moved for the Decision of the Board; Jeff Huston seconded the motion. Motion passed (Aye-6/Nay-0).

SO ORDERED.

10:43 a.m. The Board took a brief recess.

10:51 a.m. The Board returned to Public Session.

- 10:51 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 **Naza Anens, Cleveland, Ohio**. Mr. Grimm recused from the Matter of Naza Anens.
- R-2024-0283** Ms. Ferris 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. Buchta and approved by the Board: Yes-6, No-0.
- 1:42 p.m.** The deliberation ended and the hearing opened to the public.
- R-2024-0284** After votes were taken in public session, the Board adopted the following order in the Matter of **Naza Anens, Cleveland, Ohio (Case Number A-2023-0410)**.

ORDER OF THE STATE BOARD OF PHARMACY

Case Number A-2023-0410

In The Matter Of:

Naza Anens

3101 Euclid Avenue, Apt 310
Cleveland, Ohio 44115
(Application No. APP-000765700)

INTRODUCTION

The Matter of Naza Anens came for hearing on December 5, 2023 before the following members of the State of Ohio Board of Pharmacy (Board): Trina Buettner, RPh, *Presiding*; Mindy Ferris, RPh, *Vice President*; Anthony Buchta, Sr., RPh; Victor Goodman, *Public Member*; Jeff Huston, RPh; Rich Miller, RPh; and Christine Pfaff, RPh.

Jason George, RPh; Absent and T.J. Grimm, RPh; Recusal.

Naza Anens was not represented by counsel and appeared pro se. The State of Ohio was represented by Henry Appel, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses:

1. Naza Anens, Respondent

Respondent's Witnesses:

1. None

State's Exhibits:

- 1a. Notice Letter
- 1b. Confidential Addendum
- 1c. Notice Letter
- 1d. Confidential Addendum
2. Request for Hearing
3. Scheduling Order
4. Application
5. Michigan Documents
6. Written Statement of Respondent
7. Georgia Documents (Under Seal)
8. Georgia Documents (Under Seal)
9. Georgia Documents (Under Seal)

Respondent's Exhibits:

- A. None

FINDINGS OF FACT

After hearing the testimony, observing the demeanor of the witnesses, considering the evidence, and weighing the credibility of each, the Board finds the following to be fact:

1. On the application submitted by Naza Anens on or about May 19, 2023, and completed on or about July 25, 2023, she answered “Yes” to the question inquiring whether she has ever been the subject of, or are there allegations pending for, disciplinary action by any state or federal agency; even if subsequently dismissed or resolved without formal discipline. Ms. Anens disclosed the following information:
 - a. On or about March 7, 2018, the Michigan Department of Licensing and Regulatory Affairs issued an Administrative Complaint and Order of Summary Suspension against her license to practice as a pharmacy technician. The underlying conduct involved her diverting controlled substances from her employer while she was working as a pharmacy technician.
 - i. On or about October 10, 2018, she entered a Consent Order and Stipulation. Per the terms of the Order, her license to practice as a pharmacy technician was suspended for a minimum of one day and would be automatically reinstated if, within six months, the Department received verification from the Health Professional Recovery Program (HPRP) that you had undergone an evaluation, entered a monitoring agreement and found by HPRP to be safe to practice, or HPRP determined she did not require monitoring. If six months passed, reinstatement would not be automatic. Additionally, if reinstated, her license would be placed on probation with terms and conditions, for a period of not more than three years. She was ordered to pay a fine of \$500 prior to reinstatement of her license. File No. 53-18-149498.
 - b. Additional factual allegations in this matter are contained in the attached confidential Addendum A.
2. Additional factual allegations in this matter are contained in the attached confidential Addendum A.

CONCLUSIONS OF LAW

1. Such conduct as set forth in the Findings of Fact Section, constitutes a violation of the following divisions of (A) of section 4729.16 of the ORC effective as of April 6, 2023:
 - 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. Engaged in any other conduct for which the board may impose 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 the Findings of Fact Section, each constitutes a violation of each of the following divisions of Rule 4729:1-4-01(B)(2) of the OAC as effective April 25, 2022:
 - 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, OAC Rule 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)(d); and

- d. 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)(k); and
- e. Has been the subject of any of the following by the drug enforcement administration or licensing agency of any state or jurisdiction:
 - i. A disciplinary action that resulted in the suspension, probation, surrender or revocation of the person's license or registration, OAC Rule 4729:1-4-01(B)(2)(m)(i); and
 - ii. A disciplinary action that was based, in whole or in part, on the person's inappropriate prescribing, dispensing, diverting, administering, storing, securing, personally furnishing, compounding, supplying or selling a controlled substance or other dangerous drug, OAC Rule 4729:1-4-01(B)(2)(m)(ii).

DECISION OF THE BOARD

This matter came before the Board pursuant to Section 4729.16 of the Ohio Revised Code and Rule 4729:1-4-01 of the Ohio Administrative Code. After consideration of the record as a whole, the State Board of Pharmacy hereby **denies** the application for a license to practice pharmacy as a pharmacist by examination in the State of Ohio, APP-000765700.

Further, after one year from the issuance of this Order, the Board will consider any application for licensure or registration over which the Board has jurisdiction. Upon application for licensure or registration, Naza Anens must appear for hearing before the Board. The Board will only consider issuance of a license to practice pharmacy in Ohio, or any license or registration over which the Board has jurisdiction, if the following conditions have been met:

1. Naza Anens must demonstrate in her application she has complied with all terms and conditions as stated in Term 2 of this Order (below).
2. Naza Anens must enter into and adhere to the terms of a contract, signed within thirty days after the effective date of this Order, with a Board approved treatment monitor for a period of not less than five years and, upon signing, submit a copy of the contract to the Board office. Naza Anens should also submit to the Board documentation demonstrating compliance with an Ohio Department of Mental Health and Addiction Services (ODMHAS) treatment provider, if applicable. Failure to adhere to the terms of the treatment contract and/or monitoring contract will be considered a violation of the Board's Order. The monitoring contract must provide that:
 - a. Random, **observed** urine drug screens shall be conducted at least once each month.
 - b. The urine sample must be given within twelve hours of notification. The urine drug screen must include testing for creatinine or specific gravity of the sample as the dilutional standard.
 - c. Alcohol and Ethyl Glucuronide (ETG) must be added to the standard urine drug screen.
 - d. Results of all drug screens must be negative. Refusal of a drug screen or a diluted drug screen is equivalent to a positive result. Any positive results, including those which may have resulted from ingestion of food, but excluding false positives which resulted from medication legitimately prescribed, indicates a violation of the contract.
 - e. In the event of a negative diluted screen, a hair sample test must be completed at the cost of the Naza Anens in a timeframe consistent with the drug lab's recommended policy, but in any event no later than 12 days after the negative diluted screen.

- f. Naza Anens must meet the daily check-in requirements of the testing center or check-in requirements as otherwise proscribed by the treatment monitor.
 - g. The intervener/sponsor shall submit reports to the Board, in a format acceptable to the Board, indicating drug screens and their results in a timely fashion. Actual copies of drug screens shall be made available to the Board upon request.
 - h. Attendance is required a minimum of three times per calendar week (Sunday through Saturday) on separate days, at an Alcoholics Anonymous, Narcotics Anonymous, and/or similar support group meeting.
 - i. The program shall immediately report to the Board any violations of the contract and/or lack of cooperation.
- 3. Naza Anens shall not refuse an employer provided drug or alcohol screen. If the Board becomes aware of any positive drug or alcohol screen results that were obtained in the course of employment or any mechanism other than via the signed contract with ODMHAS, the Board shall treat these results as a violation of the Board's Order.
- 4. Naza Anens shall not refuse a breathalyzer or other drug testing requested by law enforcement prior to application for licensure. The Board shall treat any such refusal as a violation of the Board's Order.
- 5. Naza Anens must demonstrate satisfactory proof to the Board that she is no longer addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render her unfit to practice pharmacy.
- 6. Naza Anens must provide, in the application petition, documentation of the following:
 - a. Compliance with the contract required above (e.g.-proof of giving the sample within twelve hours of notification

and copies of all drug and alcohol screen reports, meeting attendance records, treatment program reports, etc.);

b. Compliance with the terms of this Order.

7. Naza Anens must provide continuing authorization for disclosure by the monitor and treatment provider (when applicable) to the Board, to treating and monitoring physicians, and to others involved in the monitoring process, of information necessary for those individuals to fulfill their duties.
8. Violation of any term, including but not limited to any violation of the contract signed with the treatment monitor and/or ODMHAS or other approved treatment provider may result in denial of the application for licensure.
9. Any violation of Chapters 2925., 3715., 3719., 4729., of the Ohio Revised Code, any administrative code violation or a violation of any other state, federal, or local law will be considered a violation of this Order.

Further, the Board hereby grants the State's Motion to Seal the Record in this matter including, but not limited to, all confidential patient health information contained in the record, specifically State's exhibits: 1b, 1d, 7, 8, 9.

Mindy Ferris moved for Findings of Fact; Anthony Buchta, Sr. seconded the motion. Motion passed (Yes-6/No-0).

Mindy Ferris moved for Conclusions of Law; Anthony Buchta, Sr. seconded the motion. Motion passed (Yes-6/No-0).

Mindy Ferris moved for Action of the Board; Anthony Buchta, Sr. seconded the motion. Motion passed (Yes-6/No-0).

SO ORDERED.

R-2024-0285

After votes were taken in public session, the Board adopted the following order in the Matter of **Naza Anens, Cleveland, Ohio (Case Number**

A-2023-0361).

ORDER OF THE STATE BOARD OF PHARMACY

Case Number A-2023-0361

In The Matter Of:

Naza Anens

3101 Euclid Avenue, Apt 310
Cleveland, Ohio 44115
(Application No. APP-000727002)

INTRODUCTION

The Matter of Naza Anens came for hearing on December 5, 2023 before the following members of the State of Ohio Board of Pharmacy (Board): Trina Buettner, RPh, *Presiding*; Mindy Ferris, RPh, *Vice President*; Anthony Buchta, Sr., RPh; Victor Goodman, *Public Member*; Jeff Huston, RPh; Rich Miller, RPh; and Christine Pfaff, RPh.

Jason George, RPh; Absent and T.J. Grimm, RPh; Recusal.

Naza Anens was not represented by counsel and appeared pro se. The State of Ohio was represented by Henry Appel, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses:

1. Naza Anens, Respondent

Respondent's Witnesses:

1. None

State's Exhibits:

- 1a. Notice Letter
- 1b. Confidential Addendum
- 1c. Notice Letter

- 1d. Confidential Addendum
2. Request for Hearing
3. Scheduling Order
4. Application
5. Michigan Documents
6. Written Statement of Respondent
7. Georgia Documents (Under Seal)
8. Georgia Documents (Under Seal)
9. Georgia Documents (Under Seal)

Respondent's Exhibits:

- A. None

FINDINGS OF FACT

After hearing the testimony, observing the demeanor of the witnesses, considering the evidence, and weighing the credibility of each, the Board finds the following to be fact:

1. On the application submitted by Naza Anens on or about May 19, 2023, and completed on or about July 25, 2023, she answered "Yes" to the question inquiring whether she has ever been the subject of, or are there allegations pending for, disciplinary action by any state or federal agency; even if subsequently dismissed or resolved without formal discipline. Ms. Anens disclosed the following information:
 - a. On or about March 7, 2018, the Michigan Department of Licensing and Regulatory Affairs issued an Administrative Complaint and Order of Summary Suspension against her license to practice as a pharmacy technician. The underlying conduct involved her diverting controlled substances from her employer while she was working as a pharmacy technician.
 - i. On or about October 10, 2018, she entered a Consent Order and Stipulation. Per the terms of the Order, her license to practice as a pharmacy technician was suspended for a

minimum of one day and would be automatically reinstated if, within six months, the Department received verification from the Health Professional Recovery Program (HPRP) that you had undergone an evaluation, entered a monitoring agreement and found by HPRP to be safe to practice, or HPRP determined she did not require monitoring. If six months passed, reinstatement would not be automatic. Additionally, if reinstated, her license would be placed on probation with terms and conditions, for a period of not more than three years. She was ordered to pay a fine of \$500 prior to reinstatement of her license. File No. 53-18-149498.

- b. Additional factual allegations in this matter are contained in the attached confidential Addendum A.
2. Additional factual allegations in this matter are contained in the attached confidential Addendum A.

CONCLUSIONS OF LAW

1. Such conduct as set forth in the Findings of Fact Section, constitutes a violation of the following divisions of (A) of section 4729.16 of the ORC effective as of April 6, 2023:
 - 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. Engaged in any other conduct for which the board may impose 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 the Findings of Fact Section, each constitutes a violation of each of the following divisions of Rule 4729:2-4-01(B)(2) of the OAC as effective April 25, 2022:
- a. Engaged in dishonesty or unprofessional conduct in the practice of pharmacy, OAC Rule 4729:2-4-01(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, OAC Rule 4729:2-4-01(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 4729:2-4-01(B)(2)(d); and
 - d. 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 4729:2-4-01(B)(2)(i); and
 - e. Has been the subject of any of the following by the drug enforcement administration or licensing agency of any state or jurisdiction:

- i. A disciplinary action that resulted in the suspension, probation, surrender or revocation of the person's license or registration, OAC Rule 4729:2-4-01(B)(2)(k)(i); and
- ii. A disciplinary action that was based, in whole or in part, on the person's inappropriate prescribing, dispensing, diverting, administering, storing, securing, personally furnishing, compounding, supplying or selling a controlled substance or other dangerous drug, OAC Rule 4729:2-4-01(B)(2)(k)(ii).

DECISION OF THE BOARD

This matter came before the Board pursuant to Section 4729.16 of the Ohio Revised Code and Rule 4729:2-4-01 of the Ohio Administrative Code. After consideration of the record as a whole, the State Board of Pharmacy hereby **denies** the application for a license to practice pharmacy as an intern in the State of Ohio, APP-000727002.

Further, after one year from the issuance of this Order, the Board will consider any application for licensure or registration over which the Board has jurisdiction. Upon application for licensure or registration, Naza Anens must appear for hearing before the Board. The Board will only consider issuance of a license to practice pharmacy as an intern in Ohio, or any license or registration over which the Board has jurisdiction, if the following conditions have been met:

1. Naza Anens must demonstrate in her application she has complied with all terms and conditions as stated in Term 2 of this Order (below).
2. Naza Anens must enter into and adhere to the terms of a contract, signed within thirty days after the effective date of this Order, with a Board approved treatment monitor for a period of not less than five years and, upon signing, submit a copy of the contract to the Board office. Naza Anens should also submit to the Board documentation demonstrating compliance with an Ohio Department of Mental Health and Addiction Services (ODMHAS) treatment provider, if applicable. Failure to adhere to the terms of the treatment contract and/or monitoring contract will be considered a violation of the Board's Order. The monitoring contract must provide that:

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

- i. The program shall immediately report to the Board any violations of the contract and/or lack of cooperation.
- 3. Naza Anens shall not refuse an employer provided drug or alcohol screen. If the Board becomes aware of any positive drug or alcohol screen results that were obtained in the course of employment or any mechanism other than via the signed contract with ODMHAS, the Board shall treat these results as a violation of the Board's Order.
- 4. Naza Anens shall not refuse a breathalyzer or other drug testing requested by law enforcement prior to application for licensure. The Board shall treat any such refusal as a violation of the Board's Order.
- 5. Naza Anens must demonstrate satisfactory proof to the Board that she is no longer addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render her unfit to practice pharmacy.
- 6. Naza Anens must provide, in the application petition, documentation of the following:
 - a. Compliance with the contract required above (e.g.-proof of giving the sample within twelve hours of notification and copies of all drug and alcohol screen reports, meeting attendance records, treatment program reports, etc.);
 - b. Compliance with the terms of this Order.
- 7. Naza Anens must provide continuing authorization for disclosure by the monitor and treatment provider (when applicable) to the Board, to treating and monitoring physicians, and to others involved in the monitoring process, of information necessary for those individuals to fulfill their duties.
- 8. Violation of any term, including but not limited to any violation of the contract signed with the treatment monitor and/or ODMHAS or other approved treatment provider may result in denial of the application for licensure.

9. Any violation of Chapters 2925., 3715., 3719., 4729., of the Ohio Revised Code, any administrative code violation or a violation of any other state, federal, or local law will be considered a violation of this Order.

Further, the Board hereby grants the State's Motion to Seal the Record in this matter including, but not limited to, all confidential patient health information contained in the record, specifically State's exhibits: 1b, 1d, 7, 8, 9.

Mindy Ferris moved for Findings of Fact; Anthony Buchta, Sr. seconded the motion. Motion passed (Yes-6/No-0).

Mindy Ferris moved for Conclusions of Law; Anthony Buchta, Sr. seconded the motion. Motion passed (Yes-6/No-0).

Mindy Ferris moved for Action of the Board; Anthony Buchta, Sr. seconded the motion. Motion passed (Yes-6/No-0).

SO ORDERED.

1:43 p.m.	The Board took a brief recess.
1:54 p.m.	The Board returned to public session, and Ms. Defiore-Hyrmer provided the OARRS Report.
1:59 p.m.	Mr. Griffin provided the Compliance and Enforcement Report.
2:01 p.m.	Mr. Schierholt provided the Medical Marijuana Report.
2:02 p.m.	Ms. Southard presented the Pharmacy Technician Trainee Extension Request from Samantha Sayage – Parma, OH (09118724) to the Board for consideration.
<u>R-2024-0286</u>	Mr. Miller moved that the Board grant Samantha Sayage a one (1) year extension. The motion was seconded by Mr. Huston and approved by the Board: Yes-7, No-0.

- 2:02 p.m.** Ms. Southard presented the Pharmacy Technician Trainee Extension Request from Tony Duckworth – Euclid, OH (09117876) to the Board for consideration.
- R-2024-0287** Mr. Miller moved that the Board grant Tony Duckworth a one (1) year extension. The motion was seconded by Mr. Huston and approved by the Board: Yes-7, No-0.
- 2:03 p.m.** Ms. Southard presented the Pharmacy Technician Trainee Extension Request from Jared Cantrell – Maineville, OH (09107561) to the Board for consideration.
- R-2024-0288** Mr. Miller moved that the Board grant Jared Cantrell a one (1) year extension. The motion was seconded by Mr. Huston and approved by the Board: Yes-7, No-0.
- 2:05 p.m.** Ms. Southard presented the Pharmacy Technician Trainee Extension Request from Kaylee Hadinger - Portsmouth, Ohio (09118436) to the Board for consideration.
- R-2024-0289** Mr. Miller moved that the Board grant Kaylee Hadinger a sixty (60) day extension. The motion was seconded by Mr. Huston and approved by the Board: Yes-7, No-0.
- 2:07 p.m.** Mr. McNamee and Ms. Wai presented a resolution titled *Ohio Department of Health – Wholesale Distributor of Dangerous Drugs Extension*.
- R-2024-0290** Ms. Pfaff moved that the Board approve the Resolution. The motion was seconded by Mr. Huston and approved by the Board: Yes-7, No-0. The following resolution was adopted by the Board:

**Ohio Department of Health – Wholesale Distributor of
Dangerous Drugs Extension**

*In order to address storage capacity at its existing warehouse, the
State of Ohio Board of Pharmacy temporarily authorizes the Ohio
Department of Health to store non-controlled dangerous drugs*

maintained at its Board of Pharmacy-licensed locations at its storage facility at 6480 Adelaide Ct., Groveport, Ohio 43125 (e.g., Adelaide Facility).

In authorizing the temporary storage of dangerous drugs at this location, the Ohio Department of Health shall ensure that the Adelaide Facility complies with all applicable requirements for wholesale distributors set forth in chapter 4729 of the Revised Code and chapters 4729:6-5 and 4729:6-3 of the Ohio Administrative Code.

This authorization shall remain in effect until December 31, 2024.

2:09 p.m.

Mr. McNamee and Ms. Wai presented a resolution titled *Enforcement of USP 795 and USP 797*.

R-2024-0291

Ms. Pfaff moved that the Board approve the Resolution. The motion was seconded by Mr. Huston and approved by the Board: Yes-7, No-0. The following resolution was adopted by the Board:

Enforcement of USP 795 and USP 797

To permit licensees to begin the transition to the newly published Chapters of USP 795 and USP 797 (effective November 1, 2023), the Board will not take administrative action against a licensee if the licensee is found to be in compliance with the latest version of USP 795 and USP 797.

This authorization shall remain in effect until the rules enforcing these new chapters are made effective.

2:10 p.m. Mr. McNamee presented rules 4729:7-1-01 - *Compounding references and 4729:7-3-04 - Immediate-Use, Sterile Non-Hazardous Drugs Compounded by a Prescriber* to the Board for approval.

R-2024-0292 Mr. Buchta moved that the Board approve rules 4729:7-1-01 - *Compounding references and 4729:7-3-04 - Immediate-Use, Sterile Non-Hazardous Drugs Compounded by a Prescriber* for filing with CSI. The motion was seconded by Ms. Ferris and approved by the Board: Yes-7, No-0.

2:29 p.m. Mr. McNamee presented rule 4729:5-3-22 - *Notification of Accessible Pharmacy Services* to the Board for Public Comment.

2:35 p.m. Mr. McNamee presented rules 4729:5-5-02 - *Minimum Standards for the Operation of an Outpatient Pharmacy*, 4729:5-5-02.1 - *Provision of Ancillary Services in an Outpatient Pharmacy*, 4729:5-5-02.2 - *Mandatory Rest Breaks for Pharmacy Personnel*, 4729:5-5-02.3 - *Staffing Requests or Concerns in an Outpatient Pharmacy*, 4729:5-5-02.4 - *Significant Delays in the Provision of Pharmacy Services*, and 4729:5-5-02.5 - *Outpatient Pharmacy Access Points* to the Board for approval.

R-2024-0293 Ms. Ferris moved that the Board approve rules 4729:5-5-02 - *Minimum Standards for the Operation of an Outpatient Pharmacy*, 4729:5-5-02.1 - *Provision of Ancillary Services in an Outpatient Pharmacy*, 4729:5-5-02.2 - *Mandatory Rest Breaks for Pharmacy Personnel*, 4729:5-5-02.3 - *Staffing Requests or Concerns in an Outpatient Pharmacy*, 4729:5-5-02.4 - *Significant Delays in the Provision of Pharmacy Services*, and 4729:5-5-02.5 - *Outpatient Pharmacy Access Points* for filing with CSI and JCARR. The motion was seconded by Mr. Huston and approved by the Board: Yes-7, No-0.

2:51 p.m. Mr. Schierholt provided the Executive Director Report.

R-2024-0294 After votes were taken in public session, the Board adopted the following order in the Matter of **Ariana Clark, Dayton, Ohio**.

ORDER OF THE STATE OF OHIO BOARD OF PHARMACY
CONFIRMING AND APPROVING IN PART AND MODIFYING IN
PART
REPORT AND RECOMMENDATION OF HEARING EXAMINER
(Case No. A-2023-0263)

In the Matter of Ariana Clark:

Ariana Clark
1503 Tacoma St.
Dayton, OH 45419
Pharmacy Technician Trainee, No. 09-120595

INTRODUCTION

Ariana Clark (Respondent) was issued a Pharmacy Technician Trainee Registration (No. 09-120595) on September 24, 2021. The Board issued a Summary Suspension/Notice of Opportunity for Hearing on June 28, 2023. Respondent timely requested a hearing, and the Matter of Ariana Clark came for hearing before Hearing Examiner Linda Mosbacher on October 3, 2023. Respondent was present at the hearing and was not represented by an attorney, and the State of Ohio was represented by Henry Appel, Assistant Attorney General. The Hearing Examiner's Report and Recommendation was issued to Respondent via electronic mail, with confirmation of receipt required, on or about November 13, 2023. The matter subsequently came for consideration by the Board on December 4, 2023, before the following members: Trina Buettner, RPh, *Presiding*; Anthony Buchta, Sr., RPh; Victor Goodman, *Public Member*; Mindy Ferris, RPh; T.J. Grimm, RPh; Jeff Huston, RPh; and Rich Miller, RPh; and Christine Pfaff, RPh.

Absent: Jason George, 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: the State's Exhibits, the Respondent's Exhibits, the hearing transcript, and Hearing Examiner Mosbacher's Report and Recommendation.

DECISION OF THE BOARD

1. Based on a thorough review of the entire administrative record in this matter, the Board hereby adopts in part the Findings of Fact contained in Hearing Examiner Mosbacher's Report and Recommendation and modifies Hearing Examiner Mosbacher's Report and Recommendation Finding of Fact (2) as set forth below, and further modifies the Findings of Fact to include and adopt the allegations, in their entirety, as set forth in the Summary Suspension dated June 28, 2023. Finding of Fact (2) is modified and adopted as part of the Findings of Fact, as follows:
 - A. Ms. Clark used Fentanyl before beginning her shift. Her supervisor at CVS observed that she was under the influence of a substance and confronted her.
2. Based on a thorough review of the entire administrative record in this matter, the Board hereby modifies Hearing Examiner Mosbacher's Report and Recommendation to include the following violations of law as set forth in the Summary Suspension dated June 28, 2023, with the exception that "dishonesty" is removed from the violations of law, and adopts, as its Conclusion of Law, the following:
 - A. Such conduct as set forth in the Allegations Section, constitutes a violation of the following divisions of (A) of section 4729.96 of the ORC, as effective October 9, 2021:
 - i. Engaged in unprofessional conduct, as prescribed in rules adopted by the board under section 4729.94 of the Revised Code, ORC 4729.96 Section (A)(2)(b); and
 - ii. Is addicted to or abusing alcohol or drugs or impaired physically or mentally to such a degree as to render the individual unable to perform the individual's duties, ORC 4729.96 Section (A)(2)(c); and
 - iii. 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 4729.96 Section (A)(2)(d); and

- iv. Engaged in any other conduct for which the board may impose discipline as set forth in rules adopted by the board under section 4729.94 of the Revised Code, ORC Section 4729.96(A)(2)(g).
- B. Such conduct as set forth in the Allegations section, constitutes a violation of each of the following divisions of Rule 4729:3-4-01 of the OAC, as effective April 25, 2022:
- i. 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(C)(1); and
 - ii. Violated any state or federal law or rule regardless of the jurisdiction in which the acts were committed, except for minor traffic violations such as parking violations, speeding tickets and violations such as failure to obey a red light, failure to use a turn signal or expired registration, OAC Rule 4729:3-4-01(C)(2); and
 - iii. Engaged in unprofessional conduct, OAC Rule 4729:3-4-01(C)(8).

Based on a thorough review of the administrative record, and the findings of fact (Paragraph (1) above) and conclusions of law (Paragraph (2) above) made by the Board in this matter, the Board hereby modifies Hearing Examiner Mosbacher's Report and Recommendation and removes the summary suspension and suspends indefinitely Ariana Clark's Pharmacy Technician Trainee registration number 09-120595 as of the mailing of this Order. Any petition for reinstatement for licensure or registration will not be considered for 15 months from the date of Ariana Clark's summary suspension.

Ariana Clark, pursuant to Rule 4729:3-1-01(BB) of the 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.

Further, Ariana Clark may only apply 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, if she provides satisfactory proof to the Board that she is no longer addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render her unfit to perform the duties of a pharmacy technician, to include at minimum, unless otherwise approved by the Board:

- a. Successful completion of a Board-approved or court-ordered treatment program; and
- b. Continuous participation in a Board-approved monitoring program for no less than 24 months, or granted reinstatement, to include all components set forth in OAC 4729:4-1-04.

Mr. Grimm moved to confirm and adopt the Hearing Examiner's Findings of Fact, as described above; Ms. Ferris seconded the motion. Motion passed (Yes-7/No-0).

Mr. Grimm moved to confirm and adopt the Hearing Examiner's Conclusions of Law, as described above; Ms. Ferris seconded the motion. Motion passed (Yes-7/No-0).

Mr. Grimm moved to modify the Hearing Examiner's recommendation, as described above; Ms. Ferris seconded the motion. Motion passed (Yes-7/No-0).

SO ORDERED.

R-2024-0295

After votes were taken in public session, the Board adopted the following order in the Matter of **Kelly Weaver, Euclid, Ohio**.

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

(Case No. A-2023-0334)

In the Matter of Kelly Weaver:

Kelly Weaver
84 East 207th St.
Euclid, OH 44123
Certified Pharmacy Technician, No. 09-309941

INTRODUCTION

Kelly Weaver (Respondent) was issued a Certified Pharmacy Technician Registration (No. 09-301234) on May 14, 2018. The Board issued a Summary Suspension/Notice of Opportunity for Hearing on August 8, 2023. Respondent timely requested a hearing, and the Matter of Kelly Weaver came for hearing before Hearing Examiner Margaret A. Brewer on October 16, 2023. Respondent was present at the hearing and was represented by attorney Robert Garrity, and the State of Ohio was represented by Henry Appel, Assistant Attorney General. The Hearing Examiner's Report and Recommendation was issued to Respondent via electronic mail, with confirmation of receipt required, on or about November 14, 2023. The matter subsequently came for consideration by the Board on December 4, 2023, before the following members: Trina Buettner, RPh, *Presiding*; Anthony Buchta, Sr., RPh; Victor Goodman, *Public Member*; Mindy Ferris, RPh; T.J. Grimm, RPh; Jeff Huston, RPh; and Rich Miller, RPh; and Christine Pfaff, RPh.

Absent: Jason George, 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: the State's Exhibits, the Respondent's Exhibits, the hearing transcript, and Hearing Examiner Brewer's Report and Recommendation.

DECISION OF THE BOARD

1. Based on a thorough review of the entire administrative record in this matter, the Board hereby confirms and approves the Findings of

Fact as set forth in Hearing Examiner Brewer's Report and Recommendation.

2. Based on a thorough review of the entire administrative record in this matter, the Board hereby confirms and approves the Conclusions of Law as set forth in Hearing Examiner Brewer's Report and Recommendation and modifies the Conclusions of Law to include the following violations of law as set forth in the Summary Suspension dated August 8, 2023 and as stipulated to by the parties, with the exception that "dishonesty" is removed from the violations of law, and adopts, as its Conclusion of Law, the following:
 - B. Such conduct as set forth in the Allegations Section, constitutes a violation of the following divisions of (A) of section 4729.96 of the ORC, as effective April 4, 2023:
 - a. Engaged in unprofessional conduct, as prescribed in rules adopted by the board under section 4729.94 of the Revised Code, ORC 4729.96 Section (A)(2)(b); and
 - b. Is addicted to or abusing alcohol or drugs or impaired physically or mentally to such a degree as to render the individual unable to perform the individual's duties, ORC 4729.96 Section (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 4729.96 Section (A)(2)(d); and
 - d. Engaged in any other conduct for which the board may impose discipline as set forth in rules adopted by the board under section 4729.94 of the Revised Code, ORC Section 4729.96(A)(2)(g).
 - C. Such conduct as set forth in the Allegations section, constitutes a violation of each of the following divisions of Rule 4729:3-4-01 of the OAC, as effective April 25, 2022:

- 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(C)(1); and
- b. Violated any state or federal law or rule regardless of the jurisdiction in which the acts were committed, except for minor traffic violations such as parking violations, speeding tickets and violations such as failure to obey a red light, failure to use a turn signal or expired registration, OAC Rule 4729:3-4-01(C)(2); and
- c. Engaged in unprofessional conduct, OAC Rule 4729:3-4-01(C)(8).

Based on a thorough review of the administrative record, and the findings of fact (Paragraph (1) above) and conclusions of law (Paragraph (2) above) made by the Board in this matter, the Board hereby modifies Hearing Examiner Brewer's Report and Recommendation and removes the summary suspension and suspends indefinitely Kelly Weaver's Certified Pharmacy Technician registration number 09-309941 as of the date of this order. Any petition for reinstatement for licensure or registration will not be considered for 12 months from the date of Kelly Weaver's summary suspension.

Kelly Weaver, pursuant to Rule 4729:3-1-01(BB) of the 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.

Further, Kelly Weaver may only apply 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, if she provides satisfactory proof to the Board that she is no longer addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render her unfit to perform the duties of a pharmacy technician, to include at minimum, unless otherwise approved by the Board:

- a. Successful completion of a Board-approved or court-ordered treatment program; and

- b. Continuous participation in a Board-approved monitoring program for no less than 24 months, or granted reinstatement, to include all components set forth in OAC 4729:4-1-04.

Mr. Grimm moved to confirm and adopt the Hearing Examiner's Findings of Fact; Ms. Ferris seconded the motion. Motion passed (Yes-7/No-0).

Mr. Grimm moved to confirm and adopt the Hearing Examiner's Conclusions of Law, as described above; Ms. Ferris seconded the motion. Motion passed (Yes-7/No-0).

Mr. Grimm moved to modify the Hearing Examiner's recommendation, as described above; Ms. Ferris seconded the motion. Motion passed (Yes-7/No-0).

SO ORDERED.

R-2024-0296

After votes were taken in public session, the Board adopted the following order in the Matter of **Trinity Horst, Kettering, Ohio**.

ORDER OF THE STATE OF OHIO BOARD OF PHARMACY
CONFIRMING AND APPROVING IN PART AND MODIFYING IN
PART
REPORT AND RECOMMENDATION OF HEARING EXAMINER
(Case No. A-2023-0196)

In the Matter of Trinity Horst:

Trinity Horst
151 Sheringham Court, Apt. P
Kettering, Ohio 45429
Certified Pharmacy Technician, No. 09-315565

INTRODUCTION

Trinity Host (Respondent) was issued a Certified Pharmacy Technician Registration (No. 09-315565) on March 10, 2021. The Board issued a Notice of Opportunity for Hearing on July 25, 2023. Respondent timely requested a hearing, and the Matter of Trinity Host came for hearing before Hearing Examiner Michelle Riske-Morris on October 2, 2023. Respondent was present at the hearing and appeared pro se. The State of Ohio was represented by Henry Appel, Assistant Attorney General. On November 6, 2023, the Hearing Examiner's Report and Recommendation was issued to Respondent via electronic mail. On November 16, 2023, Respondent accepted service for the Report and Recommendation electronically. The matter subsequently came for consideration by the Board on December 4, 2023, before the following members: Trina Buettner, RPh, *Presiding*; Anthony Buchta, Sr., RPh; Victor Goodman, *Public Member*; Mindy Ferris, RPh; T.J. Grimm, RPh; Jeff Huston, RPh; and Rich Miller, RPh; and Christine Pfaff, RPh. Jason George, RPh, was absent.

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: the State's Exhibits, Respondent's Exhibits, the hearing transcript, and Hearing Examiner Riske-Morris' Report and Recommendation.

DECISION OF THE BOARD

1. Based on a thorough review of the entire administrative record in this matter, the Board hereby confirms and approves the Findings of Fact as set forth in Hearing Examiner Riske-Morris' Report and Recommendation.
2. Based on a thorough review of the entire administrative record in this matter, the Board hereby confirms and approves the Conclusions of Law as set forth in Hearing Examiner Riske-Morris' Report and Recommendation, including Conclusion of Law (1)(a), petty theft, in violation of Ohio Revised Code Section 2913.02(A), as set forth in the Report and Recommendation.

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 as a whole, the Board hereby confirms and adopts the

recommendation of the Hearing Examiner, with modification, and orders the following:

1. The State Board of Pharmacy hereby suspends indefinitely the Certified Technician Registration, No. 09-315565, held by Trinity Horst, and such suspension is effective as of the date of the mailing of this Order.
2. Further, after 12 months from the effective date of this Order, the Board will consider any petition filed by Trinity Horst for a hearing, pursuant to Ohio Revised Code Chapter 119., for reinstatement. The Board will only consider reinstatement of the technician registration if the following conditions have been met:
 - a. Respondent must provide proof of successful completion of ILC in the reinstatement petition; and
 - b. Respondent must undergo a substance use examination with a Board Approved evaluator, such as OhioPHP, with results being provided to the Board.
 - i. Respondent must comply with all recommendations of the evaluator; and
 - ii. If the results indicate a chemical dependency or substance use disorder diagnosis, Respondent must sign an agreement with a Board-approved treatment monitor and follow all standard terms and conditions imposed in chemical dependency cases of this type, including, but not limited to, substance use monitoring, drug testing, and all other related requirements determined to be necessary by the monitor.
 - c. Further, Respondent must provide a copy of the Board's Order to her physician.

Mr. Grimm moved to confirm and adopt the Hearing Examiner's Findings of Fact; Ms. Ferris seconded the motion. Motion passed (Yes-7/No-0).

Mr. Grimm moved to confirm and adopt the Hearing Examiner's Conclusions of Law, as described above; Ms. Ferris seconded the motion. Motion passed (Yes-7/No-0).

Mr. Grimm moved to modify the Hearing Examiner's recommendation, as described above; Ms. Ferris seconded the motion. Motion passed (Yes-7/No-0).

SO ORDERED.

R-2024-0297

After votes were taken in public session, the Board adopted the following order in the Matter of **Deayjah Bean's, Cleveland, Ohio.**

ORDER OF THE STATE OF OHIO BOARD OF PHARMACY
CONFIRMING AND APPROVING IN PART AND MODIFYING IN
PART
REPORT AND RECOMMENDATION OF HEARING EXAMINER
(Case No. A-2021-0465)

In the Matter of Deayjah Bean'e:

Deayjah Bean'e
2980 Nursery Ave. Upper
Cleveland, Ohio 44127
Inactive Pharmacy Technician Trainee, No. 09-117279

INTRODUCTION

Deayjah Bean'e (Respondent) was issued a Pharmacy Technician Trainee Registration (No. 09-117279) on February 26, 2021. The Board issued a Notice of Opportunity for Hearing on June 3, 2022. Respondent timely requested a hearing, and the Matter of Deayjah Bean'e came for hearing before Hearing Examiner Linda Mosbacher on September 9, 2022. Respondent was present at the hearing and appeared pro se. The State of Ohio was represented by Henry Appel, Assistant Attorney General. On November 9, 2022, the Hearing Examiner's Report and Recommendation was issued to Respondent via certified mail and was returned to the Board due to an insufficient address. On January 26, 2023, Respondent accepted service for the Report and Recommendation electronically. The matter subsequently came for consideration by the Board on December 4, 2023, before the following members: Trina

Buettner, RPh, *Presiding*; Anthony Buchta, Sr., RPh; Victor Goodman, *Public Member*; Mindy Ferris, RPh; T.J. Grimm, RPh; Jeff Huston, RPh; and Rich Miller, RPh; and Christine Pfaff, RPh. Jason George, RPh, was absent.

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: the State's Exhibits, Respondent's Letter, the hearing transcript, and Hearing Examiner Mosbacher's Report and Recommendation.

DECISION OF THE BOARD

1. Based on a thorough review of the entire administrative record in this matter, the Board hereby confirms and approves the Findings of Fact as set forth in Hearing Examiner Mosbacher's Report and Recommendation.
2. Based on a thorough review of the entire administrative record in this matter, the Board hereby confirms and approves the Conclusions of Law as set forth in Hearing Examiner Mosbacher's Report and Recommendation and modifies the Conclusions of Law to include Violations of Law (1) through (3), inclusive, as set forth in the June 3, 2022 Notice Letter.

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 as a whole, the Board hereby adopts the recommendation of the Hearing Examiner and orders the following:

1. The Board hereby imposes a written reprimand on the inactive Pharmacy Technician Trainee Registration, No. 09-117279, held by Respondent.
2. Should Respondent apply for a license or registration over which the Board has jurisdiction, Respondent shall pay restitution in full to Respondent's former employer, CVS Pharmacy, prior to application.
3. This Board disciplinary action must be disclosed to the proper licensing authority of any state or jurisdiction in which Respondent

currently holds a professional license, including to the Board on renewal applications or applications for a new license or registration.

Mr. Grimm moved to confirm and adopt the Hearing Examiner's Findings of Fact; Ms. Ferris seconded the motion. Motion passed (Yes-7/No-0).

Mr. Grimm moved to confirm and adopt the Hearing Examiner's Conclusions of Law, as described above; Ms. Ferris seconded the motion. Motion passed (Yes-7/No-0).

Mr. Grimm moved to modify the Hearing Examiner's recommendation, as described above; Ms. Ferris seconded the motion. Motion passed (Yes-7/No-0).

SO ORDERED.

R-2024-0298

Ms. Ferris moved that the November 6, 2023, Probation Committee Meeting Minutes be approved as written. The motion was seconded by Mr. Grimm and approved by the Board: Yes-7, No-0.

R-2024-0299

Ms. Ferris moved that the November 6-8, 2023, Board Meeting Minutes be approved as written. The motion was seconded by Mr. Grimm and approved by the Board: Yes-7, No-0.

3:01 p.m.

The Board recessed for the day.

Wednesday, December 6, 2023

9:06 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, for a public meeting, with the following members present:

Trina Buettner, RPh, *Presiding*; Mindy Ferris, RPh, *Vice President*; Anthony Buchta, Sr., RPh; Victor Goodman, *Public Member*; TJ Grimm, RPh; Jeff Huston, RPh; Rich Miller, RPh; and Christine Pfaff, RPh.

Absent: Jason George, RPh (military leave).

Also present were Steven Schierholt, *Executive Director*; Sharon Maerten-Moore, *Chief Legal Counsel*; Zoe Saadey, *Senior Legal Counsel*; and Kathryn Lewis, *Legal Administrator*.

9:06 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 **Matthew Knisley, Chillicothe, Ohio**.

R-2024-0300 Ms. Ferris 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. Buchta and approved by the Board: Yes-7, No-0.

10:10 a.m. The deliberation ended and the hearing opened to the public.

R-2024-0301 After votes were taken in public session, the Board adopted the following order in the Matter of **Matthew Knisley, Chillicothe, Ohio**.

ORDER OF THE STATE BOARD OF PHARMACY

(Case Number A-2021-0275)

In The Matter Of:

Matthew Knisley, RPh

114 Quail Rd.

Chillicothe, OH 45601

(License No. 03-327185)

INTRODUCTION

The Matter of Matthew Knisley came for hearing on December 6, 2023, before the following members of the State of Ohio Board of Pharmacy (Board): Trina Buettner, RPh, *Presiding*; Anthony Buchta, Sr., RPh; Mindy Ferris, RPh, *Vice President*; Victor Goodman, *Public Member*; T.J. Grimm, RPh; Jeff Huston, RPh; Rich Miller, RPh; and Christine Pfaff, RPh.

Absent: Jason George, RPh.

Matthew Knisley was 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. Matthew Knisley

Respondent's Witnesses:

1. Matthew Knisley
2. Andy Pierron, Executive Director, Ohio PRO

State's Exhibits:

1. Original Notice Letter
2. Board Order
3. Documents

Respondent's Exhibits:

- A. Ohio Pharmacists Rehabilitation Organization (Ohio PRO) Contract
- B. Ohio PRO Patient Summary (Vault Health & GenoTox Reports)
- C. Clinical/Psychiatric Assessment & Evaluation
- D. AA/NA Meeting Attendance Records
- E. RPh. Continuing Education Records
- F. Letters of Reference and Support
- G. Documents
- H. Documents

FINDINGS OF FACT & DECISION OF THE BOARD

After having heard the testimony, observed the demeanor of the witnesses, considered the evidence, and weighed the credibility of each, the Board finds that Matthew Knisley has substantially complied with the terms set forth in the Board Order of the State of Ohio Board of Pharmacy, Case No. A-2021-0275 dated November 16, 2021.

On the basis of the Finding of Fact set forth above, and after consideration of the record as a whole, the State of Ohio Board of Pharmacy hereby approves the reinstatement of the pharmacist license no. 03-327185, held by Matthew Knisley to practice pharmacy in Ohio subject to a period of probation for five years beginning on the effective date of this Order, with the following conditions:

1. Matthew Knisley must enter into and adhere to the terms of a **new** contract, signed within thirty days after the effective date of this Order, with a Board approved treatment monitor for a period of not less than five years and, upon signing, submit a copy of the contract to the Board office. Matthew Knisley should also submit to the Board documentation demonstrating compliance with an Ohio Department of Mental Health and Addiction Services (ODMHAS) treatment provider, if applicable. Failure to adhere to the terms of the treatment contract and/or monitoring contract will be considered a violation of the Board's Order and subject Matthew Knisley to

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

- a. Random, **observed** urine drug screens shall be conducted at least once each month.
 - b. The urine sample must be given within twelve hours of notification. The urine drug screen must include testing for creatinine or specific gravity of the sample as the dilutional standard.
 - c. Alcohol and Ethyl Glucoronide (ETG) must be added to the standard urine drug screen.
 - d. Results of all drug screens must be negative. Refusal of a drug screen or a diluted drug screen is equivalent to a positive result. Any positive results, including those which may have resulted from ingestion of food, but excluding false positives which resulted from medication legitimately prescribed, indicates a violation of the contract.
 - e. In the event of a negative diluted screen, a hair sample test must be completed at the cost of Matthew Knisley in a timeframe consistent with the drug lab's recommended policy, but in any event no later than 12 days after the negative diluted screen.
 - f. Matthew Knisley must meet the daily check-in requirements of the testing center or check-in requirements as otherwise proscribed by the treatment monitor.
2. The intervener/sponsor shall submit reports to the Board, in a format acceptable to the Board, indicating drug screens and their results in a timely fashion. Actual copies of drug screens shall be made available to the Board upon request.
 - a. Attendance is required a minimum of three times per calendar week (Sunday through Saturday) on separate

days, at an Alcoholics Anonymous, Narcotics Anonymous, and/or similar support group meeting.

- b. The program shall immediately report to the Board any violations of the contract and/or lack of cooperation.
3. Matthew Knisley shall not refuse an employer provided drug or alcohol screen. If the Board becomes aware of any positive drug or alcohol screen results that were obtained in the course of employment or any mechanism other than via the signed contract with ODMHAS, the Board shall treat these results as a violation of the Board's Order and request Matthew Knisley reappear before the Board for possible additional sanctions, including and up to revocation of license.
4. Matthew Knisley shall not refuse a breathalyzer or other drug testing requested by law enforcement during the duration of probation. The Board shall treat any such refusal as a violation of the Board's Order and request Matthew Knisley reappear before the Board for possible additional sanctions, including and up to revocation of license.
5. Matthew Knisley must submit quarterly progress reports to the Board (due January 10, April 10, July 10, and October 10 of each year of probation) that include:
 - a. The written report and documentation provided by the treatment program pursuant to the contract, and
 - b. A written description of Matthew Knisley's progress towards recovery and what Matthew Knisley has been doing during the previous three months, and
 - c. Proof of compliance with all terms of probation, the monitoring contract, including all terms in OAC Rule 4729:4-1-04, and proof of compliance with treatment, if applicable.
6. Matthew Knisley must provide copies of the board order or settlement agreement to all employers or prospective employers, all licensing authorities in which Matthew Knisley holds a

professional license or applies for a professional license, and all persons who provide Matthew Knisley chemical dependency treatment or monitoring, during the effective period of this order or agreement.

7. Other terms of probation are as follows:

- a. Matthew Knisley must meet at least annually with the Board's Probation Committee, the first meeting to be held December 9, 2024. Additional periodic appearances may be requested.
- b. The State of Ohio Board of Pharmacy hereby declares that Matthew Knisley's pharmacist license is not in good standing and thereby denies the privilege of being a preceptor and training pharmacy interns pursuant to paragraphs (K) and (O) of Rule 4729:2-1-01 of the OAC.
- c. Matthew Knisley must obtain prior approval of the board or the board's probation committee of departures or absences in excess of ten days from the country. Periods of departure or absence shall not change the probationary term, unless otherwise determined by motion of the board or the board's probation committee. For absences of three months or longer, the board or its probation committee may toll the length of probation, other than in instances where the board or its probation committee can be assured that probationary monitoring is otherwise being performed.
- d. Matthew Knisley may not serve as a responsible pharmacist or a designated representative in a dispensary or for home medical equipment.
- e. Matthew Knisley may not engage in a consult agreement, unless approved by the board.
- f. Matthew Knisley may not destroy, assist in, or witness the destruction of controlled substances.
- g. Matthew Knisley may not work in a pharmacy more than 40 hours per week or 80 hours over a two week period.

- h. Matthew Knisley must not violate the drug laws of Ohio, any other state, or the federal government.
 - i. Matthew Knisley must abide by the rules of the State of Ohio Board of Pharmacy.
 - j. Matthew Knisley must comply with the terms of this Order.
 - k. Matthew Knisley's license is deemed not in good standing until successful completion of the probationary period.
 - l. Matthew Knisley must provide continuing authorization for disclosure by the monitor and treatment provider (when applicable) to the Board, to treating and monitoring physicians, and to others involved in the monitoring process, of information necessary for those individuals to fulfill their duties.
8. When deemed appropriate by the Board, Matthew Knisley must submit to a psychiatric evaluation, and, where appropriate, continued treatment acceptable to the Board.
9. Matthew Knisley may not request modifications to probationary terms for at least three years, however, limited, isolated deviations may be granted with approval by the Board, in exceptional circumstances.
10. Matthew Knisley must immediately report any violation of the terms of this probation to the Board by contacting legal@pharmacy.ohio.gov. Failure to self-report any violation shall be treated as a violation of this Board's Order and will subject Matthew Knisley to possible additional sanctions, including and up to revocation of license.
11. Any violation of probation or this Board's Order may result in a Board hearing to consider alternative or additional sanctions

under Section 4729.16 of the Ohio Revised Code, including and up to revocation of Matthew Knisley's license.

12. Periods during which Matthew Knisley is not in compliance with all probationary terms shall toll the length of time of probation, or the Board may implement additional disciplinary action in addition to or instead of tolling probation.

At the conclusion of the probationary period, the Board will issue a letter indicating whether probation has been successfully completed. If the Board determines probation has not been successfully completed, it will issue a notice of opportunity for hearing to Matthew Knisley.

Further, the Board hereby grants the parties' Motions to Seal the Record in this matter including, but not limited to, all confidential patient health information contained in the record, specifically State's Exhibit: 3 and Matthew Knisley's Exhibits: G and H.

Mr. Huston moved for Findings of Fact and Decision of the Board; Ms. Pfaff seconded the motion. Motion passed (Yes - 7/No - 0).

SO ORDERED.

10:18 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 **Charles Scachette, Maineville, Ohio.**

10:30 a.m. Ms. Ferris left the Board Meeting.

R-2024-0302 Mr. Huston 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 Ms. Pfaff and approved by the Board: Yes-6, No-0.

10:52 a.m. The deliberation ended and the hearing opened to the public.

R-2024-0303

After votes were taken in public session, the Board adopted the following order in the Matter of **Charles Scachette, Maineville, Ohio.**

ORDER OF THE STATE BOARD OF PHARMACY

(Case Number A-2020-0047)

In The Matter Of:

Charles Scachette, RPh

3387 Chestnut Landing Dr.

Maineville, OH 45039

(License No. 03-129663)

INTRODUCTION

On January 5, 2022, the State of Ohio Board of Pharmacy (Board) issued a Notice of Opportunity for Hearing (Notice) to Charles Scachette, RPh (Respondent) via certified mail, return receipt requested to Respondent's address of record. Pursuant to Ohio Revised Code Section 119.07, Respondent had a right to a hearing if requested within thirty days of the mailing. Respondent failed to request a hearing by the thirtieth and final day. Accordingly, as no hearing was requested, the matter came before the Board under the authority of *Goldman v. State Med. Bd. of Ohio*, 110 Ohio App.3d 124, 129 (10th Dist.1996) on December 6, 2023, before the following members: Trina Buettner, RPh, *Presiding*; Anthony Buchta, Sr., RPh; Victor Goodman, *Public Member*; T.J. Grimm, RPh; Jeff Huston, RPh; Christine Pfaff, RPh; and Rich Miller, RPh.

Jason George, RPh; and Mindy Ferris, RPh, Vice President; Absent.

Respondent was not present. The State of Ohio was represented by Henry Appel, Assistant Attorney General.

SUMMARY OF EVIDENCEState's Witnesses:

1. Teresa Meyer, Board Regional Agent in Charge

Respondent's Witnesses:

1. None

State's Exhibits:

1. Notice Letter and Proof of Service
2. Statement of Respondent
3. Report from Kroger

Respondent's Exhibits:

- A. None

FINDINGS OF FACT

After hearing the testimony, observing the demeanor of the witnesses, considering the evidence, and weighing the credibility of each, the Board finds the following to be fact:

1. On or between March 1, 2017 and September 16, 2019, you purchased items using the "Ibotta" application on your cell phone at the Landon Square Kroger Pharmacy, 2900 W. US 22, Maineville Ohio, where you were employed. You then returned the items, but as a result of your purchases, you accumulated approximately \$700 in monetary rewards through the application, as you self-reported. The total value of items refunded as determined by Kroger was approximately \$3,631.78. This conduct occurred on the following occasions:

2017	2018	2019	Refund Amount 2019
March 1	March 3	July 16	\$29.00
March 11	May 8 (x2)	July 16	\$6.00
June 13	May 10	July 22	\$22.00
June 14	May 13	July 25	\$18.00
June 15	May 23	July 26	\$10.00
June 28	June 21	July 27	\$32.00
June 29	June 28	August 3	\$22.74
November 14	August 6	August 4	\$2.50
December 21	August 7 (2)	August 5	\$13.25
December 30	August 10	August 6	\$1.00
		August 7	\$24.00
		August 11	\$36.25
		August 12	\$16.00
		August 15	\$1.25
		August 16	\$28.00
		August 27	\$43.20
		August 27	\$8.00
		August 30	\$0.20
		August 30	\$32.00
		September 1	\$40.00
		September 2	\$10.20
		September 3	\$1.50
		September 9	\$18.60
		September 13	\$19.00
		September 15	\$30.10
		September 16	\$6.25

2. In an interview with Loss Prevention from Kroger and an agent of the Board as well as in a written statement you admitted to engaging in this conduct and also admitted to leaving the pharmacy unsecured after the pharmacy closed in order to retrieve items from store shelves and reenter the unsecured pharmacy to ring out the items on the drive-thru pharmacy register. You paid Kroger restitution in the amount of \$3,631.78.

CONCLUSIONS OF LAW

1. Such conduct as set forth in the Findings of Fact constitutes a violation of the following divisions of (A) of section 4729.16 of the ORC effective as of September 29, 2017, April 8, 2019, and October 9, 2021:

- a. Engaged in dishonesty and/or unprofessional conduct in the practice of pharmacy, ORC 4729.16 Section (A)(2)(b); and
 - b. Violated...any of the provisions of this chapter...or any rule adopted by the board under those provisions, ORC 4729.16(A)(2)(e); and
 - c. Engaged in any other conduct for which the board may impose discipline as set forth in rules adopted under section 4729.16 of the Revised Code, ORC Section 4729.16(A)(2)(l).
- 2. Such conduct as set forth in the Findings of Fact constitutes a violation of the following divisions of (A)(2) of section 4729.16 of the ORC, as effective July 16, 2015:
 - a. Guilty of dishonesty or unprofessional conduct in the practice of pharmacy, ORC Section 4729.16(A)(2); and
 - b. Guilty of willfully violating...any of the provisions of this chapter...or any rule adopted by the board under those provisions, ORC Section 4729.16(A)(5).
- 3. Such conduct as set forth in the Findings of Fact each constitutes a violation of each of the following divisions of Rule 4729:1-4-01(B)(2) of the OAC as effective May 1, 2018 and March 20, 2020:
 - a. Engaged in dishonesty or unprofessional conduct in the practice of pharmacy, OAC Rule 4729:1-4-01(B)(2)(b); and
 - b. Violated...the provisions of Chapter 4729. of the Revised Code...or any rule adopted by the board under those provisions, OAC Rule 4729:1-4-01(B)(2)(e); and
 - c. 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).

4. Such conduct as set forth in the Findings of Fact constitutes a violation of each of the following divisions of Rule 4729-5-04 of the OAC, as effective April 28, 2016:
 - a. Violated any state or federal law or rule regardless of the jurisdiction in which the acts were committed, OAC Rule 4729-5-04(A); and
 - b. Violated...any of the provisions of Chapter 4729...of the Revised Code, or any rule adopted by the board under those provisions, OAC Rule 4729-5-04(B).

DECISION OF THE BOARD

Pursuant to Section 4729.16 of the Ohio Revised Code, the State of Ohio Board of Pharmacy imposes a written reprimand and a monetary penalty in the amount of \$1,000.00 on Charles Scachette, RPh's license. This fine will be attached to Charles Scachette, RPh's license record and must be paid no later than six months from the effective date of this Order. To pay this fine Charles Scachette, RPh must login to www.elicense.ohio.gov and process the items in the cart.

Mr. Miller moved for Findings of Fact; Mr. Houston seconded the motion. Motion passed (Yes- 6/No- 0).

Mr. Miller moved for Conclusions of Law; Mr. Houston seconded the motion. Motion passed (Yes- 6/No- 0).

Mr. Miller moved for Action of the Board; Mr. Houston seconded the motion. Motion passed (Yes- 6/No- 0).

SO ORDERED.

R-2024-0304

Mr. Grimm moved to adjourn the December 2023 State of Ohio Board of Pharmacy Meeting. The motion was seconded by Mr. Buchta and approved by the Board: Yes-6, No-0.

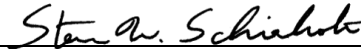
10:53 a.m.

The Board Meeting Adjourned.



Trina Buettner, RPh, President

Date: 01.09.2024



Steven W. Schierholt, Executive Director

Date: 01.09.2024