



MINUTES OF THE FEBRUARY 5, 6, AND 7, 2024
MEETING OF THE STATE OF OHIO BOARD OF PHARMACY

Monday, February 5, 2024

10:00 a.m.

The State of Ohio Board of Pharmacy convened in the Hearing Room, 17th Floor, of the Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio, 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*; and Kathryn Lewis, *Legal Administrator*.

R-2024-0338

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

11:34 a.m.

The Board returned to public session and 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 Matters of **Eric T. Juergens, Yellow Springs, Ohio and Madison Avenue Pharmacy, Springfield, Ohio.**

R-2024-0339

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.

5:45 p.m.

The Board recessed for the day.

Tuesday, February 6, 2024**9:04 a.m.**

The State of Ohio Board of Pharmacy convened in the Hearing Room, 17th Floor, of the Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio, 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; Rich Miller, RPh; and Christine Pfaff, RPh.

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

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

R-2024-0340

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. Buchta and a roll-call vote was conducted *President* Buettner as follows: Buchta-yes; Ferris-yes, Goodman-yes; Huston-yes, Miller-yes, and Pfaff-yes.

9:22 a.m.

The Board returned to public session.

R-2024-0341

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. Buchta and a roll-call vote was conducted *President* Buettner as follows: Buchta-yes; Ferris-yes, Goodman-yes; Huston-yes, Miller-yes, and Pfaff-yes.

9:50 a.m.

The Board returned to public session and Mr. Grimm joined the Board Meeting.

R-2024-0342

After votes were taken in public session, the Board adopted the following order in the Matter of **CVS #2063, Canton, Ohio**.

ORDER OF THE STATE BOARD OF PHARMACY

Case Number A-2021-0567

In The Matter Of:

CVS #2063
7292 Fulton Drive, NW

Canton, OH 44718
License No. 02-2120950

INTRODUCTION

The Matter of CVS #2063 came for hearing on November 7, 2023, November 8, 2023, and January 11, 2024, 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;¹ and Christine Pfaff, RPh.

Jason George, RPh; Absent.

CVS #2063 was represented by Kristina Dahmann and Lydia Reback. The State of Ohio was represented by Henry Appel and Caitlyn Johnson, Assistant Attorneys General.

SUMMARY OF EVIDENCE

State's Witnesses:

1. Nicole Lewis
2. Haille Stanick
3. Elaina Martauz
4. Kim Hollingshead
5. Lisa Dietsche
6. Giovanna Arvizu

Respondent's Witnesses:

1. Andrew Volcheck
2. Dennis K. McAllister

State's Exhibits:

- 1a. Notice Letter
- 1b. Amended Notice Letter
2. Request for Hearing
3. Initial Scheduling Letter
4. Current Scheduling Letter
5. Inspection 9/13/2021
6. Photos Taken 9/13/2021
7. Temp Alert Status
8. Response to 9/13/2021 Inspection
9. Inspection 9/20/2021
10. Photos Taken 9/20/2021
12. Inspection 11/19/2021

¹ Mr. Miller was not present on November 7 and November 8, 2023. However, pursuant to *Kremer v. State Medical Bd.*, 10th Dist. App. No. 95APE09-1247 (Mar. 12, 1996), 1996 Ohio App. LEXIS 949, 1996 WL 112665, he reviewed all testimony and evidence presented on those dates.

13. Pharmacists Workload Survey (2020)
14. Pharmacists Workload Survey (2021)
15. Pharmacy Technician Workload Survey (2021)

Respondent's Exhibits:

- A. Ohio Board of Pharmacy Executive Director Reports September 2021 & November 2021
- B. Ohio Board of Pharmacy Annual Reports RY 2020, 2021 & 2022
- C. Ohio Board of Pharmacy Inspection Reports (December 7, 2021 & September 12, 2023)
- D. CVS Pharmacy #2063 Compliance Report Data
- E. CVS Pharmacy #2063 AvD Report Excerpt
- F. CVS Pharmacy #2063 COVID Testing Information
- G. CVS Pharmacy #2063 Surrounding Area Maps and Nearby Sites
- H. State of Ohio & Ohio Department of Health COVID-19 Documents
- I. Dennis K. McAllister, R.Ph., FASHP Curriculum Vitae
- J. Pharmacy School Applications Data 2002-2023
- K. 2022 National Pharmacist Workforce Study Executive Summary May 31, 2023
- L. National Association of Board of Pharmacy Licensure Examination Passing Rates for 2020-2022 Graduates

FINDINGS OF FACT²

After having heard the testimony, observed the demeanor of the witnesses, considered the evidence, and weighed the credibility of each, the Board finds the evidence submitted and testimony presented by CVS #2063 did not refute, or adequately mitigate, the allegations presented in the August 2, 2023 Amended Notice of Opportunity for Hearing. Specifically, the Board finds Elaina Martauz's testimony on November 7, 2023, not to be credible, in part, due to her lack of recollection of the overall conditions and operations of CVS #2063, and due to the fact that she is currently employed as a Responsible Person at CVS. With respect to the testimony of Dennis K. McAllister, he did not testify to (or have knowledge of) the daily operations of CVS #2063 or CVS management response to the failed inspections. Instead, he attempted to attribute the operational failures to unavailable staffing, which the Board did not find persuasive. His most credible testimony was that as an educator, he would not place a pharmacy student in a practice setting like the condition of CVS #2063 in September and October of 2021.

Pursuant to the Board's authority to make de novo findings of fact, the Board finds CVS #2063's reliance on the manual temperature log to refute the allegations in the Notice letter to be unpersuasive, particularly given that it was not produced at the time of inspection. Further, CVS #2063 did not adequately explain the parameters of any electronic temperature monitoring system to in

² The Board considered only the testimony and exhibits admitted during the hearing in determining its findings.

order to refute the findings made during the inspection. The Board also finds CVS #2063's security and storage of dangerous drugs deficient.

The Board ultimately finds that the operational deficiencies present at CVS #2063 created a public health risk and further, that the management response was wholly inadequate.

Additionally, the Board finds the following to be fact:

1. On or about September 13, 2021, agents of the Board arrived at CVS #2063 (Respondent), located at 7292 Fulton Drive, NW, Canton, Ohio to conduct an inspection. The following issues were found:
 - a. Approximately ten vehicles were observed in the drive-thru lane.
 - b. A sign at the front door of the pharmacy stating the lobby of the pharmacy was closed and everyone must go through the drive thru.
 - c. The pharmacy barricade was observed to be closed except for one window. The open window had a sign which read "Vaccines Only" for patients to walk-up or schedule vaccinations.
 - d. It took pharmacy staff approximately 20 minutes to acknowledge Board staff at the vaccine window.
 - e. Board staff noticed two open totes from a Wholesale Distributor on the counter next to the window which were accessible from outside the pharmacy barricade.
 - f. Board staff found the pharmacy was not secure. There was a magnet inside the door jamb to keep the door open from the vaccination room into the pharmacy.
 - g. The pharmacy was staffed with one pharmacist, one registered technician, and one care concierge. The pharmacist was assisting customers on the phone, taking transfers, and verifying prescriptions. The registered technician was assisting customers with COVID self-testing in the drive-thru. The care concierge was assisting customers in the drive-thru picking up prescriptions.
 - h. The dispensing software showed the following at approximately 4:17pm:
 1. 64 pages of prescriptions (15 prescriptions per page) in QP (production) which date back to 9-1-2021 (for a total of 960 prescriptions).
 2. 5 pages of prescriptions (15 prescriptions per page) in QV (verification) totaling 75 prescriptions.
 3. 7 prescriptions (total) in QT (triage).
 - a. An unlocked freezer containing Moderna COVID-19 vaccine was found outside the pharmacy barricade.
 - b. j. Medications were being stored on the floor of the pharmacy.
 - c. k. There were 48 totes from Wholesale Distributors stored inside the pharmacy.

- d. l. There were also opened and unopened boxes on floor in front of pharmacist workstation.
 - e. m. There were multiple refrigerated and frozen medications that were still within the pharmacy as pharmacy staff was too short staffed to remove it.
 - f. n. Pharmacy staff states they are short staffed because they lost seven pharmacy staff members (1 pharmacist and 6 pharmacy technicians) within a short time. They state they knew the staff members were leaving but did not know they were all going to leave at the same time.
 - g. o. On September 11, 2021, the pharmacy closed the lobby of the pharmacy and started servicing patients through the drive thru. Pharmacy staff called their district leader and pharmacist scheduler to approve the closing of the inside barricade. The request to close the inside barricade was made because the pharmacy had been staffed with one pharmacist and one pharmacy technician. The pharmacy technician would be split between the front counter and the drive thru.
 - h. p. Pharmacy staff and an assistant store manager stated they have asked district leaders to close the store down temporarily to get caught up filling prescriptions as well as clean and organize the pharmacy, but this request was denied.
 - i. q. Pharmacy staff asked for assistance from a pharmacist and pharmacy technician to fill prescriptions after hours to get caught up. They were denied stating there is no staffing available to do so.
 - j. r. The pharmacy felt very hot, and staff stated the AC unit was broken. The pharmacy staff have fans running inside the pharmacy to attempt to keep them cool. The pharmacy did not have a thermometer that could be seen inside the pharmacy capturing the ambient temperature. The thermometer was located by the end of the inspection. It was located at the top of pharmacy shelving inside the pharmacy, but the thermometer's display was not working.
 - k. s. Pharmacy staff were able to log into their wireless temperature monitoring system, TempAlert. During the review of TempAlert, RX Cooler 1 was reporting 46.4 degrees Fahrenheit at 4:32pm and there was no alert inside the pharmacy the temperature was out of range. RX Cooler 3 has not reported temperatures since 949am on July 30, 2021. RX Cooler 4 has not reported temperatures since 3:53 pm on March 29, 2021.
 - l. t. Pharmacy phones were not working properly.
 - m. u. The pharmacy technician has to go out to the drive thru at 7:30pm and remind patients the pharmacy closes at 9pm and tell them they would not be able to sell the medications after 9pm as their system shuts down and will not allow them to sell anything.
2. On or about September 14, 2021, an agent of the Board spoke with CVS Pharmacy's District Leader Pharmacist Dan Sidwell by phone. He made the following statements:
- a. Sidwell became district leader in charge of CVS #2063 (Respondent) in July 2021.

- b. The pharmacy was short-staffed before he became district leader.
 - c. Sidwell stated this was the worst he had seen the staff shortage.
 - d. Sidwell stated he has been attempting to get help from other districts but has been unsuccessful.
 - e. CVS #2063 (Respondent) was in the process of hiring six new pharmacy technicians, but it is a long, slow process.
 - f. Sidwell stated there are no pharmacists or technicians available to assist this pharmacy.
 - g. Sidwell stated he agreed to allow CVS #2063 (Respondent) to close the inside barricade, but not the whole barricade. CVS #2063 (Respondent) was only supposed to close the drop off window.
3. On or about September 20, 2021, an agent of the Board arrived at CVS #2063 (Respondent) to conduct a follow-up inspection. The following issues were found:
- a. The pharmacy was staffed with one pharmacist, one registered pharmacy technician, and one pharmacy technician trainee. The pharmacist was transferring prescriptions by phone. The registered pharmacy technician was assisting with COVID self-testing in the drive-thru. The pharmacy technician trainee was assisting customers at the front window.
 - b. There were 30 bins ready to be verified by the pharmacist.
 - c. There were eight prescriptions (total) in QT (triage), ten pages of prescriptions (15 prescriptions per page) in QV (verification), and 19 pages of prescriptions (15 prescriptions per page) in QP (production).
 - d. There were 11 totes of medications to put away from a delivery that came in that day.
 - e. The phone system was not working properly.
4. On or about October 29, 2021, an agent of the Board spoke with a pharmacist on duty at CVS #2063 (Respondent). The Board representative was on hold for over 20 minutes before the pharmacy answered the phone. The following statements were made:
- a. All pharmacy staff that was present for the September 2021 inspection quit or transferred out of CVS #2063 (Respondent).
 - b. The pharmacy was over a month behind in filling prescriptions.
 - c. At the time of the call, there were three pages of (15 prescriptions per page) in QT (triage), ten pages of prescriptions (15 prescriptions per page) in QV (verification), and 152 pages of prescriptions (15 prescriptions per page) in QP (production).
 - d. The pharmacy is attempting to triage lifesaving, life-sustaining medications especially antibiotics, pain medications and birth control.

5. On or about October 29, 2021, an agent of the Board spoke with CVS Pharmacy's new District Leader Pharmacist Kenneth Cook by phone. He made the following statements:
 - a. Kenneth Cook is the new district leader for CVS #2063 (Respondent) effective October 31, 2021.
 - b. Kenneth Cook was assembling a team to go into CVS #2063 (Respondent) to clean up and fill prescriptions.
 - c. Kenneth Cook said the pharmacy is in the process of hiring new pharmacy staff as well as transferring staff from an overstaffed CVS location.

CONCLUSIONS OF LAW

1. Such conduct as set forth in Findings of Fact Section, constitutes a violation of each of the following divisions of Section 4729.55 of the ORC, as effective March 31, 2021:
 - a. The applicant is equipped as to land, buildings, and equipment to properly carry on the business of a terminal distributor of dangerous drugs within the category of licensure approved by the board, ORC 4729.55(A); and
 - b. A pharmacist, licensed health professional authorized to prescribe drugs, or other person authorized by the board, animal shelter or county dog warden licensed under section 4729.531 of the Revised Code, or a laboratory will maintain supervision and control over the possession and custody of dangerous drugs that may be acquired by or on behalf of the applicant, ORC 4729.55(B); and
 - c. Adequate safeguards are assured to prevent the sale or other distribution of dangerous drugs by any person other than a pharmacist or licensed health professional authorized to prescribe drugs, ORC 4729.55(C); and
 - d. Adequate safeguards are assured that the applicant will carry on the business of a terminal distributor of dangerous drugs in a manner that allows pharmacists and pharmacy interns employed by the terminal distributor to practice pharmacy in a safe and effective manner, ORC 4729.55(D).
2. Such conduct as set forth in Findings of Fact Section, constitutes a violation of each of the following divisions of Section 4729.57(B) of the ORC, as effective September 29, 2017:
 - a. Violating any rule of the board, ORC Section 4729.57(B)(2); and
 - b. Violating any provision of this chapter, ORC Section 4729.57(B)(3); and
 - c. Ceasing to satisfy the qualifications of a terminal distributor of dangerous drugs set forth in section 4729.55 of the Revised Code, ORC Section 4729.57(B)(7); and
 - d. Any other cause for which the board may impose discipline as set forth in rules adopted under section 4729.26 of the Revised Code, ORC Section 4729.57(B)(10).

3. Such conduct as set forth in Findings of Fact Section, each constitutes a violation of the following sections of Rule 4729:5-4-01 of the OAC, as effective March 1, 2019:
 - a. Violating any rule of the board, OAC Rule 4729:5-4-01(B)(2); and
 - b. Violating any provision of Chapter 4729. of the Revised Code, OAC Rule 4729:5-4-01(B)(3); and
 - c. Ceasing to satisfy the qualifications of a terminal distributor of dangerous drugs set forth in section 4729.55 of the Revised Code, OAC Rule 4729:5-4-01(B)(7); and
 - d. The method used by the terminal distributor to store, possess, or distribute dangerous drugs poses serious harm to others, OAC Rule 4729:5-4-01(B)(25).
4. Such conduct as set forth in the Findings of Fact Section, each constitutes a violation of Rule 4729:5-5-02(G)(1) of the OAC, Minimum Standards for an outpatient pharmacy, Personnel, the pharmacy shall be appropriately staffed to operate in a safe and effective manner pursuant to section 4729.55 of the Revised Code, as effective December 1, 2020.
5. Such conduct as set forth in paragraphs (1)(e), (1)(j), (1)(k), (1)(l), (1)(m), (1)(r), (1)(s), and (3)(e) of the Findings of Fact Section, each constitutes a violation of Rule 4729:5-5-02(E)(2) of the OAC, Minimum Standards for an outpatient pharmacy, all areas where drugs and devices are stored and prepared shall be dry, well-lit, well-ventilated, and maintained in a clean, sanitary and orderly condition. Storage areas shall be maintained at temperatures and conditions which will ensure the integrity of the drugs prior to their dispensing or administering as stipulated by the USP/NF and/or the manufacturer's or distributor's labeling, as effective December 1, 2020.
6. Such conduct as set forth in paragraphs (1)(e), (1)(f), (1)(i), (1)(j), (1)(k), (1)(m), (1)(s) and (3)(e) of the Findings of Fact Section, each constitutes a violation of the following sections of Rule 4729:5-5-23 of the OAC, Security, control and storage of dangerous drugs in an outpatient pharmacy, as effective December 1, 2020:
 - a. If the pharmacy is located within a store or business, the pharmacist shall ensure that all dangerous drugs, controlled substances, and hypodermics that are delivered onto the premises of the store or business are immediately placed and secured in the pharmacy under the physical control of the pharmacist or pharmacist on duty or secured in a designated area in accordance with paragraph (A)(6)(i) of this rule, OAC Rule 4729:5-5-23(A)(3)(b); and
 - b. Only a pharmacist may have access to the pharmacy or stock of dangerous drugs or assume responsibility for the security of dangerous drugs, hypodermics, and any other item or product that requires the supervision or sale by a pharmacist, OAC Rule 4729:5-5-23(A)(6)(f); and

- c. Refrigerators and freezers used for the storage of dangerous drugs shall maintain a temperature log with, at a minimum, daily observations, to ensure proper refrigeration and/or freezer temperatures are maintained, OAC Rule 4729:5-5-23(B)(1)(a); and
 - d. Refrigerators and freezers used for the storage of dangerous drugs shall maintain a temperature monitoring system capable of detecting and alerting staff of a temperature excursion to ensure proper refrigeration and/or freezer temperatures are maintained, OAC Rule 4729:5-5-23(B)(1)(b); and
 - e. The terminal distributor shall develop and implement policies and procedures to respond to any out of range individual temperature readings or excursions to ensure the integrity of stored drugs, OAC Rule 4729:5-5-23(B)(2).
7. Such conduct as set forth in the Findings of Fact Section, each constitutes a violation of the following sections of Rule 4729:5-2-01 of the OAC, Responsible Person of a Terminal Distributor, as effective March 1, 2019:
- a. The responsible person shall be responsible for the practice of the profession of pharmacy, including, but not limited to, the supervision and control of dangerous drugs as required in division (B) of section 4729.55 of the Revised Code, adequate safeguards as required in division (C) of section 4729.55 of the Revised Code, security and control of dangerous drugs and maintaining all drug records otherwise required, OAC Rule 4729:5-2-01(A)(2); and
 - b. The person to whom the terminal distributor of dangerous drugs license has been issued and all pharmacists on duty are responsible for compliance with all state and federal laws, regulations, and rules governing the distribution of drugs and the practice of pharmacy, OAC Rule 4729:5-2-01(A)(3); and
 - c. The responsible person to whom the terminal distributor of dangerous drugs license has been issued and all licensed health professionals on duty are responsible for compliance with all state and federal laws, regulations, and rules governing the distribution of dangerous drugs, OAC 4729:5-2-01(E)(4); and
 - d. The responsible person shall be responsible for ensuring the terminal distributor of dangerous drugs requirements are met, including, but not limited to, the supervision and control of dangerous drugs as required in division (B) of section 4729.55 of the Revised Code, adequate safeguards as required in division (C) of section 4729.55 of the Revised Code, security and control of dangerous drugs and maintaining all drug records otherwise required, OAC 4729:5-2-01(E)(6).
8. Such conduct as set forth in the Findings of Fact Section, each constitutes a violation of the following sections of Rule 4729:5-3-14(A) of the OAC, General Security Requirements, as effective March 1, 2020:
- a. All terminal distributors of dangerous drugs shall provide effective controls and procedures to deter and detect the theft and diversion of dangerous drugs, OAC Rule 4729:5-3-14(A)(1); and

- b. All terminal distributors of dangerous drugs shall provide effective controls and procedures to ensure supervision and control of dangerous drugs, as required in division (B) of section 4729.55 of the Revised Code, and adequate safeguards to ensure that dangerous drugs are being distributed in accordance with all state and federal laws, as required in section 4729.55 of the Revised Code, OAC Rule 4729:5-3-14(A)(2).

DECISION OF THE BOARD

Pursuant to Section 4729.57 of the Ohio Revised Code, and after consideration of the record as a whole, CVS #2063 is subject to an indefinite probationary period, effective as of the date of this Order. Upon demonstration of compliance with the terms of this Order, but no sooner than three years from the date of this Order, CVS #2063 may request – in writing – that it be released from probation. During the probationary period, CVS #2063 must demonstrate that it has remedied all violations identified in the Amended Notice of Opportunity for Hearing dated August 2, 2023, and is in compliance with Pharmacy Board rules and regulations as well as the terms of this Order. In lieu of requiring that CVS #2063 hire a Board-approved monitoring pharmacist, CVS #2063 will be subject to enhanced monitoring by the Board, at its discretion.

1. CVS #2063's Responsible Person and/or Board-approved designated representative of CVS Health LLC, shall appear before the Probation Committee upon request.
2. CVS #2063 must ensure that sufficient personnel are scheduled at all times in order to minimize fatigue, distraction, or other conditions which interfere with a pharmacist's ability to practice with requisite judgment, skill, competence, and safety to the public. Staffing levels shall not be solely based on prescription volume but, in determining the need for staff, CVS #2063 shall consider any other requirements of the practice of pharmacy by pharmacy personnel during working hours.
3. CVS #2063 must develop a process for its pharmacy staff to communicate requests for additional staff or reports of staffing concerns. Requests for additional staff or reports of staffing concerns shall be communicated and documented in writing by the responsible person or pharmacist on duty to their supervisor. These requests shall also be forwarded to or carbon copied to the Board at legal@pharmacy.ohio.gov, unless otherwise instructed by the Probation Committee.
4. CVS #2063 shall not retaliate against or discipline a pharmacist, pharmacy technician, pharmacy technician trainee, intern, or any other employee who communicates a request for additional staff or reports staffing concerns in accordance with paragraph (b), above, or reports concerns related to working conditions or non-compliance with this Order to supervisor(s), CVS management, and/or the Board. Retaliation or discipline includes, but is not limited to:
 - a. Removing or suspending the employee from employment;
 - b. Withholding from the employee salary increases or employee benefits to which the employee is otherwise entitled;
 - c. Transferring or reassigning the employee;
 - d. Denying the employee a promotion that otherwise would have been received; and
 - e. Reducing the employee in pay or position.

5. CVS #2063 must process (have completed final verification and be ready for patient pick-up) all new and refill (not generated by an auto-refill program) prescriptions within no more than three (3) business days of receiving the prescription. CVS #2063 must process (have completed final verification and be ready for patient pick-up) all refill prescriptions generated by an auto-refill program within no more than five (5) business days of receiving the prescription or the auto-refill notice.

“Business day” means any day, excluding holidays, where the pharmacy is open for business. Receipt of a new prescription occurs on the day when the prescription is transmitted or submitted to the pharmacy. Receipt of a refill prescription occurs on the day the refill request is submitted to the pharmacy by a patient, caregiver, or prescriber or when a refill request is generated as part of the auto-refill program.

- a. Time when there is a documented drug shortage or CVS #2063 documents the drug is not available from the drug distributor; when the prescription has been submitted to CVS #2063 but requires clarification or consultation by the issuing prescriber; and when the prescription requires prior authorization or is otherwise delayed because of the patient's prescription insurance coverage, shall not be included in the three (3) or five (5) day time frames noted in the previous paragraph.
 - b. Compounded drug products; prescriptions with “do not fill until” dates or similar designations; prescriptions that the pharmacist - using their professional judgment - determines are of questionable, doubtful, or suspicious origin or cannot be safely provided or may negatively impact patient care; and prescriptions where the patient, caregiver, or issuing prescriber has requested transfer to another pharmacy are also not subject to these time frames.
 - c. Prescriptions where CVS #2063 has experienced: (a) a natural disaster (fire, flood, etc.), civil unrest, or human made disaster; (b) an outbreak of a pandemic illness or the declaration of a state or federal public health emergency; (c) a loss of power; or (d) an unplanned information technology system outage, shall not be included in the three (3) or five (5) day time frames.
 - d. The responsible person or pharmacist on duty shall communicate and document any prescription fills or refills that exceed the time limits set forth herein to their supervisor. These notifications shall also be forwarded to or carbon copied to the Board at legal@pharmacy.ohio.gov, unless otherwise instructed by the Probation Committee.
6. Pharmacists, pharmacy technicians, and interns shall not be required to administer vaccines when only a single pharmacist is on duty, and in that pharmacist's professional judgment, the vaccine cannot be administered safely.
 7. CVS #2063 shall bear any costs associated with the terms and conditions of this Order.
 8. CVS #2063 shall comply with all laws and regulations governing the practice of pharmacy in the State of Ohio. Any violation of the foregoing terms and conditions of this Order, or any statute or regulation governing the practice of pharmacy in the State of Ohio, shall constitute grounds for further discipline or issuance of a notice of opportunity for hearing to consider additional disciplinary action, including and up to revocation of Respondent's license.

9. This Order shall remain in effect until the Board has notified CVS Pharmacy #2063 in writing that it is released from probation.
10. Pursuant to Section 4729.57 of the Ohio Revised Code, the State of Ohio Board of Pharmacy imposes a monetary penalty in the amount of \$250,000. This fine will be attached to your license record and must be paid no later than 90 days from the effective date of this Order. To pay this fine you must login to www.elicense.ohio.gov and process the items in your cart.

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

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

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

SO ORDERED.

10:04 a.m. The Board took a brief recess.

10:17 a.m. The Board was joined by Assistant Attorney General Henry Appel to continue the adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. In the Matters of **Eric T. Juergens, Yellow Springs, Ohio and Madison Avenue Pharmacy, Springfield, Ohio.**

R-2024-0343 Mr. Grimm 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. Ferris and approved by the Board: Yes-7, No-0.

3:29 p.m. The deliberation ended and the hearing opened to the public.

R-2024-0344 After votes were taken in public session, the Board adopted the following order in the Matter of **Madison Avenue Pharmacy, Springfield, Ohio.**

ORDER OF THE STATE BOARD OF PHARMACY
(Case Number A-2022-0577)

In The Matter Of:

Madison Avenue Pharmacy
640 N. Fountain Avenue
Springfield, Ohio 45504
(License No. 02-2269200)

INTRODUCTION

The Matter of Madison Avenue Pharmacy came for hearing on February 5, 2024, and February 6, 2024 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.

Madison Avenue Pharmacy was represented by Samuel Lauricia and Scott Lucas. The State of Ohio was represented by Henry Appel, Assistant Attorney General.

SUMMARY OF EVIDENCEState's Witnesses:

1. Kelly Monce – Agent of the Board
2. LeAnn Myers – Board Inspector

Respondent's Witnesses:

1. Eric Juergens, RPh

State's Exhibits:

- 1a. Notice Letter – Madison Avenue Pharmacy
- 1b. Notice Letter – Eric Juergens
- 2a. Request for Hearing – Madison Avenue Pharmacy
- 2b. Request for Hearing – Eric Juergens
- 3a. Initial Scheduling Order – Madison Avenue Pharmacy
- 3b. Initial Scheduling Order – Eric Juergens
- 4a. Current Scheduling Order – Madison Avenue Pharmacy
- 4b. Current Scheduling Order – Eric Juergens
5. Inspection – 2021-10-04
6. Inspection – Property Receipt – 2021-10-04
7. Response to 2021-10-04 Inspection
8. Audit Report from 2021-10-04 Inspection
9. Inspection – 2022-01-05
13. DEA 106 Form
14. Discipline of Joshua Keslar, RPh
15. Discipline of Penny Coons, RPh
16. Response to 2022 Inspection
17. Corrected Audit Report from 2021-10-04 Inspection
18. Corrected Audit Report (part 1) from 2022-01-05 Inspection
19. Corrected Audit Report (part 2) from 2022-01-05 Inspection
20. Corrected Audit Report from 2022-9-01 Inspection
21. Corrected Audit Report from 2023-11-30 Inspection

- 22. Controlled Substances Inventory Log from 2018-12-01
- 23. Controlled Substances Inventory Log from 2019-19-02
- 24. Controlled Substances Inventory Log undated
- 25. E-mail chain dated 1-5-2021 through 10-13-2021
- 26. E-mail chain dated 1-4-2022 through 1-20-2022
- 27. E-mail chain dated 1-13-2022 through 1-28-2022

Respondent's Exhibits:

- A. Subpoena Request to Board dated January 22, 2024
- C. Board Audit Report, 1-12-2018 initial inventory date
- D. McKesson Ordering, October 1, 2022 - July 31, 2023
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- M. Prescription Register – Daily Log 10-4-2021
- N. Prescription Register – Daily Log 1-5-2022
- O. Prescription Register – Daily Log 11-30-2023
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- Q. Prescription Register – Daily Log 9-1-2022
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- S. Amerisource Bergen Ordering, January 12, 2018 – June 21, 2019
- T. Smith Drug Company Ordering October 4, 2021 – January 5, 2022
- U. Smith Drug Company Ordering January 12, 2018 – October 4, 2021

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 October 4, 2021, agents of the Board conducted an inspection of Madison Avenue Pharmacy, located at 640 N Fountain Avenue, Springfield, Ohio. During the inspection, agents performed counts of forty-six specific drugs for audit purposes for the date range of January 12, 2018, through October 4, 2021. The following was revealed:
 - a. There were multiple discrepancies, including overages and shortages of Schedule II and Schedule IV controlled substances. The shortages included, but were not limited to:
 - i. hydrocodone/APAP 5/325 mg, 564 tablets, schedule II-controlled substance
 - ii. hydrocodone/APAP 10/325 mg, 380 tablets, schedule II-controlled substance

- iii. Hysingla ER 20 mg, 30 tablets, schedule II-controlled substance
 - iv. oxycodone 15 mg, 217 tablets, schedule II-controlled substance
 - v. oxycodone 30 mg, 428 tablets, schedule II-controlled substance
 - vi. oxycodone ER 20 mg, 79 tablets, schedule II-controlled substance
 - vii. Oxycontin 15 mg, 16 tablets, schedule II-controlled substance
 - viii. Oxycontin 30 mg, 1 tablet, schedule II-controlled substance
 - ix. oxycodone/APAP 5/325 mg, 220 tablets, schedule II-controlled substance
 - x. oxycodone/APAP 7.35/325 mg, 2505 tablets, schedule II-controlled substance
 - xi. oxycodone/APAP 10/325 mg, 6627 tablets, schedule II-controlled substance
 - xii. alprazolam 0.5 mg, 13 tablets, schedule IV-controlled substance
 - xiii. clonazepam 0.5 mg, 119 tablets, schedule IV-controlled substance
 - xiv. clonazepam 2 mg, 1288 tablets, schedule IV-controlled substance
 - xv. diazepam 2 mg, 137 tablets, schedule IV-controlled substance
 - xvi. lorazepam 2mg, 157 tablets, schedule IV-controlled substance
 - xvii. temazepam 15 mg, 185 tablets, schedule IV-controlled substance
 - xviii. temazepam 30 mg, 153 tablets, schedule IV-controlled substance
 - xix. triazolam 0.25 mg, 2 tablets, schedule IV-controlled substance
- b. Audits typically cover a one-year period; however, this date range was not possible because Madison Avenue Pharmacy had not conducted a complete annual inventory since 2018.
- c. The shortages were never reported to the Board or the proper authorities.
2. On or about October 4, 2021, a Terminal Distributor of Dangerous Drugs Inspection (TDDD) Inspection Report was issued. The report contained several warnings requiring a written response, including, in part:
- a. Failure to conduct an annual inventory of controlled substances and failure to monitor inventory of controlled substances.
 - i. There was a record of a partially completed "annual inventory" with no date, and no indication of whether the inventory was completed at the opening or closing of business.
 - b. The method used to monitor the pharmacy's inventory of controlled substances was not in compliance with OAC 4729:5-3-14.
 - i. The Responsible Person stated he visually monitors the drug stock and he would notice if something was missing.
 - ii. They do not have a perpetual inventory, nor do they reconcile the ordering vs dispensing.
 - c. Non-compliance with positive identification (positive ID) requirements for verification, drug utilization review (DUR), and dispensing.
 - i. On the end of day reports, the pharmacist responsible for performing final product verification and positive ID is identified as

"PV2". The end of day reports were not signed by all pharmacists identified in the reports, as required.

- d. Non-compliance with Drug Security requirements.
 - i. Bulk hydrocodone powder, a Schedule II controlled substance, was observed in the compounding area. It was not stored in a locked cabinet.
3. On or about October 28, 2021, Madison Avenue Pharmacy filed a written response to the inspection report completed on October 4, 2021. It stated:
 - a. On October 10, 2021, a complete inventory of all controlled substances had been conducted and the pharmacy had implemented a perpetual inventory process for all controlled substances.
 - b. A process to sample several inventories on an on-going basis for accuracy would be performed several times weekly.
 - c. Controlled substance guidelines were created. The guidelines included that any discovered shortages, loss, theft, or otherwise of a controlled substance shall be reported to all proper authorities, to include the owner, the wholesaler, the local police, the State Board of Pharmacy and/or the DEA as deemed appropriate.
4. On or about January 5, 2022, agents of the Board conducted a second inspection as well as additional audit counts for the date range of October 4, 2021, through January 5, 2022. The audit results again showed multiple discrepancies in the form of both overages and shortages of Schedule II and Schedule IV controlled substances. The shortages included, but were not limited to:
 - i. oxycodone 5 mg, 83 tablets, schedule II-controlled substance
 - ii. oxycodone 10 mg, 3 tablets, schedule II-controlled substance
 - iii. oxycodone 30 mg, 2 tablets, schedule II-controlled substance
 - iv. oxycodone/APAP 5/325 mg, 22 tablets, schedule II-controlled substance
 - v. oxycodone/APAP 10/325 mg, 2 tablets, schedule II-controlled substance
 - vi. alprazolam 1 mg, 12 tablets, schedule IV-controlled substance
 - vii. alprazolam 2 mg, 4 tablets, schedule IV-controlled substance
 - viii. clonazepam 0.5 mg, 11 tablets, schedule IV-controlled substance
 - ix. clonazepam 1 mg, 9 tablets, schedule IV-controlled substance
 - x. clonazepam 2 mg, 94 tablets, schedule IV-controlled substance
 - xi. lorazepam 1 mg, 361 tablets, schedule IV-controlled substance
 - xii. lorazepam 2mg, 25 tablets, schedule IV-controlled substance
5. On or about January 5, 2022, a TDDD Inspection Report was issued. The report contained several warnings requiring a written response, including, in part:
 - a. Non-compliance with hypodermic security.
 - i. The pharmacy sells syringes to customers who state they are diabetic but are not purchasing/being dispensed or prescribed insulin.
 - b. Non-compliance with Drug Security requirements.

- i. A full, expired sealed bottle of 100 tablets of mixed amphetamine salts 20 mg (NDC 0555-0973-02) was observed in the drawer directly under a workstation. The tablets expired 4/2021.
 - c. Non-compliance with Drug Security requirements, specifically detection and notification (to the Board) of drug loss.
 - d. Non-compliance with hard copy prescription receipt requirements
 - i. Original hard copies of prescriptions for Schedule II controlled substances were observed without any notation of receipt, required to help prevent the unauthorized duplication of the prescription.
 - e. Non-compliance with prescription repackaging requirements. No beyond use date was included.
 - f. Non-compliance with expired/adulterated drug requirements.
 - ii. Dangerous drugs, including controlled substances, were located in the basement with expiration dates ranging from 1984 to 2008.
 - g. Non-compliance with rules preventing pharmaceutical returns.
 - iii. A box of partially filled prescription vials was observed. Many of the drugs had dispensing dates within the last month. It was explained that these were prescriptions from Clark County Mental Health Behavioral Health Services patients, and they needed refills. The behavioral health clinic stocked patient med boxes, and when they were running low on a patient's medication, they would send the bottle back to the pharmacy to communicate a refill was needed. A refill of the prescription would then be completed, and both the new Rx bottle and the old partial bottle would be sent back to the clinic.
6. On or about January 5, 2022, Eric Juergens, RPh was interviewed by an agent of the Board. He stated that he was sure he provided all the records to the agents of the Board and was surprised to learn there were such large discrepancies for the date range of January 2018 to October 2021. He was not aware of any theft or significant loss of drugs, so no loss report was filed. He believed the data in the report was deficient due to unavailable records or software errors.
7. On or about September 1, 2022, agents of the Board conducted a third audit of Madison Avenue Pharmacy for the date range of January 5, 2022 through September 1, 2022. The audit results showed multiple discrepancies in the form of both overages and shortages of Schedule II through Schedule IV controlled substances. The shortages included, but were not limited to:
- ii. oxycodone 10 mg, 1112 tablets, schedule II-controlled substance
 - iii. oxycodone 30 mg, 2 tablets, schedule II-controlled substance
 - iv. oxycodone ER 15 mg, 2 tablets, schedule II-controlled substance
 - v. oxycodone ER 60 mg, 31 tablets, schedule II-controlled substance
 - vi. Oxycontin 15 mg, 1 tablet, schedule II-controlled substance
 - vii. oxycodone/APAP 7.35/325 mg, 31 tablets, schedule II-controlled substance
 - i. oxycodone/APAP 10/325 mg, 7 tablets, schedule II-controlled substance

- viii. clonazepam 1 mg, 10 tablets, schedule IV-controlled substance
 - ix. clonazepam 2 mg, 210 tablets, schedule IV-controlled substance
 - x. temazepam 30 mg, 10 tablets, schedule IV-controlled substance
 - xi. buprenorphine/naloxone 8/2 mg, 16 films, a schedule III-controlled substance
 - xii. buprenorphine/naloxone 2/0.5 mg, 8 SL tablets, a schedule III-controlled substance
 - xiii. buprenorphine/naloxone 8/2 mg, 138 SL tablets, a schedule III-controlled substance
 - xiv. Adderall XR 30 mg, 30 tablets, a schedule II-controlled substance
 - xv. Hysingla ER 20 mg, 32 tablets, schedule II-controlled substance
 - xvi. Dextro/Amphetamine ER 5 mg, 9 capsules, schedule II-controlled substance
 - xvii. Dextro/Amphetamine ER 30 mg, 10 capsules, schedule II-controlled substance
 - xviii. Dextro/Amphetamine salts 15 mg, 1 tablet, schedule II-controlled substance
 - xix. Methylphenidate 10 mg, 71 tablets, a schedule II-controlled substance
8. On or about September 1, 2022, the Responsible Person, Mr. Juergens, RPh spoke with an agent of the Board. He stated the discrepancies were acceptable in the operation of the type and size of Madison Avenue Pharmacy.

CONCLUSIONS OF LAW

1. Such conduct as set forth in the Findings of Fact, each constitutes a violation of Section 4729.55 of the ORC, effective March 31, 2021:
 - a. A pharmacist... will maintain supervision and control over the possession and custody of dangerous drugs that may be acquired by or on behalf of the applicant, ORC Section 4729.55(B); and
 - b. Adequate safeguards are assured to prevent the sale or other distribution of dangerous drugs by any person other than a pharmacist or licensed health professional authorized to prescribe drugs, ORC Section 4729.55(C); and
 - c. Adequate safeguards are assured to carry on the business of a terminal distributor of dangerous drugs in a manner that allows pharmacists and pharmacy interns employed by the terminal distributor to practice pharmacy in a safe and effective manner, ORC Section 4729.55(D).
2. Such conduct as set forth in the Findings of Fact, each constitutes a violation of the following sections of Rule 4729:5-2-01 of the OAC, as effective March 1, 2019:
 - a. The responsible person shall be responsible for the practice of the profession of pharmacy, including, but not limited to, the supervision and control of dangerous drugs as required in division (B) of section 4729.55 of the Revised Code, adequate safeguards as required in division (C) of section 4729.55 of the Revised Code, security and control of dangerous drugs and maintaining all drug records otherwise required, OAC Rule 4729:5-2-01(A)(2); and
 - b. The person to whom the terminal distributor of dangerous drugs license has been issued and all pharmacists on duty are responsible for

- compliance with all state and federal laws, regulations, and rules governing the distribution of drugs and the practice of pharmacy, OAC Rule 4729:5-2-01(A)(3); and
- c. The responsible person to whom the terminal distributor of dangerous drugs license has been issued and all licensed health professionals on duty are responsible for compliance with all state and federal laws, regulations, and rules governing the distribution of dangerous drugs, OAC Rule 4729:5-2-01(E)(4); and
 - d. The responsible person shall be responsible for ensuring the terminal distributor of dangerous drugs requirements are met, including, but not limited to, the supervision and control of dangerous drugs as required in division (B) of section 4729.55 of the Revised Code, adequate safeguards as required in division (C) of section 4729.55 of the Revised Code, security and control of dangerous drugs and maintaining all drug records otherwise required, OAC Rule 4729:5-2-01(E)(6).
3. Such conduct as set forth in the Findings of Fact, each constitutes a violation of each of the following divisions of Rule 4729:5-3-14 of the OAC as effective March 1, 2020:
- a. All terminal distributors of dangerous drugs shall provide effective controls and procedures to:
 - i. Deter and detect the theft and diversion of dangerous drugs, OAC Rule 4729:5-3-14(A)(1); and/or
 - ii. Ensure supervision and control of dangerous drugs, as required in division (B) of section 4729.55 of the Revised Code, and adequate safeguards to ensure that dangerous drugs are being distributed in accordance with all state and federal laws, as required in section 4729.55 of the Revised Code, OAC Rule 4729:5-3-14(A)(2).
4. Such conduct as set forth in Findings of Fact, constitutes a violation of each of the following divisions of Section 4729.57(B) of the ORC, as effective September 29, 2017:
- a. Violating any rule of the board, ORC Section 4729.57(B)(2); and/or
 - b. Violating any provision of this chapter, ORC Section 4729.57(B)(3); and/or
 - c. Ceasing to satisfy the qualifications of a TDDD set forth in section 4729.55 of the Revised Code, ORC Section 4729.57(B)(7); and/or
 - d. Any other cause for which the board may impose discipline as set forth in rules adopted under section 4729.26 of the Revised Code, ORC Section 4729.57(B)(10).
5. Such conduct as set forth in Findings of Fact, each constitutes a violation of the following sections of Rule 4729:5-4-01 of the OAC, as effective April 25, 2022:
- a. Violating any rule of the board, OAC Rule 4729:5-4-01(B)(2); and
 - b. Violating any provision of Chapter 4729. of the Revised Code, OAC Rule 4729:5-4-01(B)(3); and

- c. Violating any provision of the federal drug abuse control laws or Chapter 2925. or 3719. of the Revised Code, OAC Rule 4729:5-4-01(B)(5); and
 - d. Ceasing to satisfy the qualifications of a terminal distributor of dangerous drugs set forth in section 4729.55 of the Revised Code, OAC Rule 4729:5-4-01(B)(7).
6. Such conduct as set forth in Findings of Fact, each constitutes a violation of the following sections of Rule 4729:5-4-01 of the OAC, as effective March 1, 2019:
- a. Violating any rule of the board, OAC Rule 4729:5-4-01(B)(2); and
 - b. Violating any provision of Chapter 4729. of the Revised Code, OAC Rule 4729:5-4-01(B)(3); and
 - c. Ceasing to satisfy the qualifications of a terminal distributor of dangerous drugs set forth in section 4729.55 of the Revised Code, OAC Rule 4729:5-4-01(B)(7).

DECISION OF THE BOARD

Pursuant to Section 4729.57 of the Ohio Revised Code, and after consideration of the record as a whole, Madison Avenue Pharmacy shall designate a new Responsible Person; Eric Juergens may not serve as Responsible Person. The pharmacy must submit a Change of Responsible Person form to the Board within 30 days from the issuance of this Order. The new Responsible Person must be approved by the Board and may not be a family member of the current owner.

Madison Avenue Pharmacy is subject to an indefinite probationary period, effective as of the date of this Order. Upon demonstration of compliance with the terms of this Order, but no sooner than two-years from the date of this Order, Madison Avenue Pharmacy may request- in writing- that it be released from probation. During the probationary period, the following terms and conditions apply:

1. The Responsible Person and/or owner of Madison Avenue Pharmacy must appear before the Probation Committee upon request.
2. Any current and/or subsequent Responsible Person must attend a Board-sponsored "Responsible Person Roundtable," each year during the term of probation, and provide proof of completion to the Board within 30 days of attendance.
3. The pharmacy shall hire a Board-approved consulting pharmacist who is not a current or former employee of Madison Avenue Pharmacy. The consultant pharmacist must submit a report to the Board within 90 days of the issuance of this Order. The initial report shall include, at a minimum:
 - a. The method(s) used by the pharmacy to account for and monitor inventory of controlled substances. The method(s) used must be in compliance with Chapter 4729 of the Ohio Administrative Code.
 - b. The method(s) implemented by the pharmacy to detect and deter drug loss.

- c. The results of a full audit, to include all controlled substances. The audit must be completed in compliance with Chapter 4729 of the Ohio Administrative Code.
 - d. Confirmation that all violations identified in the Board's inspections conducted from October 4, 2021 until the issuance of this Order, including-but not limited to- all violations as outlined in the Findings of Fact, above, have been remedied.
 - e. Confirmation of Madison Avenue's compliance with: Ohio Revised Code Chapter 4729. and the Rules adopted thereunder, Chapter 3719. and the Rules adopted thereunder, Chapter 3715. and the rules adopted thereunder, and Chapter 4729 of the Ohio Administrative Code.
 - f. Confirmation of compliance with the terms of this Order.
4. The consulting pharmacist, after submitting the initial report to the Board, will submit quarterly reports no later than the last day of March, June, September, and December for one year after the date of this Order. If no violations of the Board Order or the Pharmacy Board rules and regulations are found, the reports may be filed every six months thereafter. Reports must be emailed to legal@pharmacy.ohio.gov.

Pursuant to Section 4729.57 of the Ohio Revised Code, the State of Ohio Board of Pharmacy imposes a monetary penalty in the amount of \$5,000.00. This fine will be attached to the license record for Madison Avenue Pharmacy and must be paid no later than 180 days from the effective date of this Order. To pay this fine a representative of Madison Avenue Pharmacy must log in to www.elicense.ohio.gov and process the items in the cart.

The Board denied Madison Avenue's request to admit Respondent's proposed Exhibit B, the Affidavit of William D. Evans, polygraph report dated September 18, 2023, and Mr. Evans' curriculum vitae based on the reasoning of *Ross v. Ross*, 2006-Ohio-5274, 2006 WL 2846327, ¶30 (4th Dist. 2006); however, the Board permitted Madison Avenue Pharmacy to make an offer of proof for purposes of appeal. The offer of proof was accepted by the Board at hearing.

Further, the Board hereby grants the State's Motion to Seal all portions of the record containing confidential patient health information, including but not limited to State's Exhibit 27.

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

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

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

SO ORDERED.

ORDER OF THE STATE BOARD OF PHARMACY

(Case Number A-2022-0578)

In The Matter Of:

Eric T. Juergens, RPh319 Allen Street
Yellow Springs, Ohio 45387
(License No. 03-316077)**INTRODUCTION**

The Matter of Eric T. Juergens, RPh came for hearing on February 5, 2024 and February 6, 2024 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.

Eric Juergens, RPh was represented by Samuel Lauricia and Scott Lucas. The State of Ohio was represented by Henry Appel, Assistant Attorney General.

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drugs for audit purposes for the date range of January 12, 2018, through October 4, 2021. The following was revealed:

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 - b. A process to sample several inventories on an on-going basis for accuracy would be performed several times weekly.
 - c. Controlled substance guidelines were created. The guidelines included that any discovered shortages, loss, theft, or otherwise of a controlled substance shall be reported to all proper authorities, to include the owner, the wholesaler, the local police, the State Board of Pharmacy and/or the DEA as deemed appropriate.
4. On or about January 5, 2022, agents of the Board conducted a second inspection as well as additional audit counts for the date range of October 4, 2021, through January 5, 2022. The audit results again showed multiple discrepancies in the form of both overages and shortages of Schedule II and Schedule IV controlled substances. The shortages included, but were not limited to:
- i. oxycodone 5 mg, 83 tablets, schedule II-controlled substance
 - ii. oxycodone 10 mg, 3 tablets, schedule II-controlled substance
 - iii. oxycodone 30 mg, 2 tablets, schedule II-controlled substance
 - iv. oxycodone/APAP 5/325 mg, 22 tablets, schedule II-controlled substance
 - v. oxycodone/APAP 10/325 mg, 2 tablets, schedule II-controlled substance
 - vi. alprazolam 1 mg, 12 tablets, schedule IV-controlled substance
 - vii. alprazolam 2 mg, 4 tablets, schedule IV-controlled substance
 - viii. clonazepam 0.5 mg, 11 tablets, schedule IV-controlled substance
 - ix. clonazepam 1 mg, 9 tablets, schedule IV-controlled substance
 - x. clonazepam 2 mg, 94 tablets, schedule IV-controlled substance
 - xi. lorazepam 1 mg, 361 tablets, schedule IV-controlled substance
 - xii. lorazepam 2mg, 25 tablets, schedule IV-controlled substance
5. On or about January 5, 2022, a TDDD Inspection Report was issued. The report contained several warnings requiring a written response, including, in part:
- a. Non-compliance with hypodermic security.

- i. The pharmacy sells syringes to customers who state they are diabetic but are not purchasing/being dispensed or prescribed insulin.
 - b. Non-compliance with Drug Security requirements.
 - i. A full, expired sealed bottle of 100 tablets of mixed amphetamine salts 20 mg (NDC 0555-0973-02) was observed in the drawer directly under a workstation. The tablets expired 4/2021.
 - c. Non-compliance with Drug Security requirements, specifically detection and notification (to the Board) of drug loss.
 - d. Non-compliance with hard copy prescription receipt requirements
 - i. Original hard copies of prescriptions for Schedule II controlled substances were observed without any notation of receipt, required to help prevent the unauthorized duplication of the prescription.
 - e. Non-compliance with prescription repackaging requirements. No beyond use date was included.
 - f. Non-compliance with expired/adulterated drug requirements.
 - i. Dangerous drugs, including controlled substances, were located in the basement with expiration dates ranging from 1984 to 2008.
 - g. Non-compliance with rules preventing pharmaceutical returns.
 - i. A box of partially filled prescription vials was observed. Many of the drugs had dispensing dates within the last month. It was explained that these were prescriptions from Clark County Mental Health Behavioral Health Services patients, and they needed refills. The behavioral health clinic stocked patient med boxes, and when they were running low on a patient's medication, they would send the bottle back to the pharmacy to communicate a refill was needed. A refill of the prescription would then be completed, and both the new Rx bottle and the old partial bottle would be sent back to the clinic.
6. On or about January 5, 2022, Eric Juergens, RPh was interviewed by an agent of the Board. He stated that he was sure he provided all the records to the agents of the Board and was surprised to learn there were such large discrepancies for the date range of January 2018 to October 2021. He was not aware of any theft or significant loss of drugs, so no loss report was filed. He believed the data in the report was deficient due to unavailable records or software errors.
7. On or about September 1, 2022, agents of the Board conducted a third audit of Madison Avenue Pharmacy for the date range of January 5, 2022 through September 1, 2022. The audit results showed multiple discrepancies in the form of both overages and shortages of Schedule II through Schedule IV controlled substances. The shortages included, but were not limited to:
- i. oxycodone 10 mg, 1112 tablets, schedule II-controlled substance

- ii. oxycodone 30 mg, 2 tablets, schedule II-controlled substance
 - iii. oxycodone ER 15 mg, 2 tablets, schedule II-controlled substance
 - iv. oxycodone ER 60 mg, 31 tablets, schedule II-controlled substance
 - v. Oxycontin 15 mg, 1 tablet, schedule II-controlled substance
 - vi. oxycodone/APAP 7.35/325 mg, 31 tablets, schedule II-controlled substance
 - vii. oxycodone/APAP 10/325 mg, 7 tablets, schedule II-controlled substance
 - viii. clonazepam 1 mg, 10 tablets, schedule IV-controlled substance
 - ix. clonazepam 2 mg, 210 tablets, schedule IV-controlled substance
 - x. temazepam 30 mg, 10 tablets, schedule IV-controlled substance
 - xi. buprenorphine/naloxone 8/2 mg, 16 films, a schedule III-controlled substance
 - xii. buprenorphine/naloxone 2/0.5 mg, 8 SL tablets, a schedule III-controlled substance
 - xiii. buprenorphine/naloxone 8/2 mg, 138 SL tablets, a schedule III-controlled substance
 - xiv. Adderall XR 30 mg, 30 tablets, a schedule II-controlled substance
 - xv. Hysingla ER 20 mg, 32 tablets, schedule II-controlled substance
 - xvi. Dextro/Amphetamine ER 5 mg, 9 capsules, schedule II-controlled substance
 - xvii. Dextro/Amphetamine ER 30 mg, 10 capsules, schedule II-controlled substance
 - xviii. Dextro/Amphetamine salts 15 mg, 1 tablet, schedule II-controlled substance
 - xix. Methylphenidate 10 mg, 71 tablets, a schedule II-controlled substance
8. On or about September 1, 2022, the Responsible Person, Mr. Juergens, RPh spoke with an agent of the Board. He stated the discrepancies were acceptable in the operation of the type and size of Madison Avenue Pharmacy.

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 April 8, 2019, and October 9, 2021:
 - a. Engaged in ... unprofessional conduct in the practice of pharmacy, ORC 4729.16 Section (A)(2)(b); and
 - b. Violated, conspired to violate, attempted to violate, or aided and abetted the violation of any of the provisions of this chapter 3715.52 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
 - c. 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 4729.16(A)(2)(l).
2. Such conduct as set forth in the Findings of Fact, each constitutes a violation of Section 4729.55 of the ORC, effective March 31, 2021:
 - a. A pharmacist... will maintain supervision and control over the possession and custody of dangerous drugs that may be acquired by or on behalf of the applicant, ORC Section 4729.55(B); and

- b. Adequate safeguards are assured to prevent the sale or other distribution of dangerous drugs by any person other than a pharmacist or licensed health professional authorized to prescribe drugs, ORC Section 4729.55(C); and
 - c. Adequate safeguards are assured to carry on the business of a terminal distributor of dangerous drugs in a manner that allows pharmacists and pharmacy interns employed by the terminal distributor to practice pharmacy in a safe and effective manner, ORC Section 4729.55(D).
- 3. Such conduct as set forth in the Findings of Fact, each constitutes a violation of the following sections of Rule 4729:5-2-01 of the OAC, as effective March 1, 2019:
 - a. The responsible person shall be responsible for the practice of the profession of pharmacy, including, but not limited to, the supervision and control of dangerous drugs as required in division (B) of section 4729.55 of the Revised Code, adequate safeguards as required in division (C) of section 4729.55 of the Revised Code, security and control of dangerous drugs and maintaining all drug records otherwise required, OAC Rule 4729:5-2-01(A)(2); and
 - b. The person to whom the terminal distributor of dangerous drugs license has been issued and all pharmacists on duty are responsible for compliance with all state and federal laws, regulations, and rules governing the distribution of drugs and the practice of pharmacy, OAC Rule 4729:5-2-01(A)(3); and
 - c. The responsible person to whom the terminal distributor of dangerous drugs license has been issued and all licensed health professionals on duty are responsible for compliance with all state and federal laws, regulations, and rules governing the distribution of dangerous drugs, OAC Rule 4729:5-2-01(E)(4); and
 - d. The responsible person shall be responsible for ensuring the terminal distributor of dangerous drugs requirements are met, including, but not limited to, the supervision and control of dangerous drugs as required in division (B) of section 4729.55 of the Revised Code, adequate safeguards as required in division (C) of section 4729.55 of the Revised Code, security and control of dangerous drugs and maintaining all drug records otherwise required, OAC Rule 4729:5-2-01(E)(6).
- 4. 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 April 25, 2022:
 - a. Engaged in ... unprofessional conduct in the practice of pharmacy, OAC Rule 4729:1-4-01(B)(2)(b); and
 - b. Violated, conspired to violate, attempted to violate, or aided and abetted the violation of any of the provisions of 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
 - 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)(k); and

- d. 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)(n).
5. 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 March 20, 2020:
- a. Engaged in ... unprofessional conduct in the practice of pharmacy, OAC Rule 4729:1-4-01(B)(2)(b); and
 - b. Violated, conspired to violate, attempted to violate, or aided and abetted the violation of any of the provisions of 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
 - 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..., OAC Rule 4729:1-4-01(B)(2)(m); and
 - d. 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

Pursuant to Section 4729.16 of the Ohio Revised Code, and after consideration of the record as a whole, the Board of Pharmacy hereby imposes a reprimand on Eric Juergen's license to practice pharmacy in the State of Ohio, license no. 03-316077.

Mr. Juergens must complete six hours of approved continuing pharmacy education (0.6 CEUs), in the topic areas of state and/or federal pharmacy law, which may not also be used for license renewal. The 0.6 CEUs must be completed within six months from the effective date of this Order. Copies of completed CEUs must be e-mailed to legal@pharmacy.ohio.gov.

Further, Mr. Juergens may not serve as the Responsible Person at a Board-licensed entity for a period of two years from the effective date of this Order. Prior to becoming a Responsible Person at a Board-licensed entity again, Mr. Juergens must attend a Board-sponsored "Responsible Person Roundtable" and provide proof of completion to legal@pharmacy.ohio.gov. After the two-year period and completion of the Responsible Person Roundtable, the Board will consider any petition filed by Eric Juergens to serve as a Responsible Person.

The Board denied Madison Avenue's request to admit Respondent's proposed Exhibit B, the Affidavit of William D. Evans, polygraph report dated September 18, 2023, and Mr. Evans' curriculum vitae based on the reasoning of *Ross v. Ross*, 2006-Ohio-5274, 2006 WL 2846327, ¶30 (4th Dist. 2006); however, the Board permitted Mr. Juergens to make an offer of proof for purposes of appeal. The offer of proof was accepted by the Board at hearing.

Further, the Board hereby grants the State's Motion to Seal all portions of the record containing confidential patient health information, including but not limited to State's Exhibit 27.

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

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

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

SO ORDERED.

R-2024-0346

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. Buchta 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.

3:55 p.m.

The Board recessed for the day.

Wednesday, February 7, 2024

9:02 a.m. The State of Ohio Board of Pharmacy convened in the Hearing Room, 17th Floor, of the Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio, 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*; Joe Koltak, *Senior Legal Counsel*; and Kathryn Lewis, *Legal Administrator*.

9:03 a.m. Ms. Defiore-Hyrmer provided the OARRS Report.

9:08 a.m. Mr. Griffin provided the Compliance and Enforcement Report.

9:13 a.m. Ms. Southard provided the Licensing Report.

9:17 a.m. Ms. Southard presented the Pharmacy Technician Trainee Extension Request from Deborah Turnipseed – Cleveland, OH (09112688) to the Board for consideration.

R-2024-0347 Ms. Ferris moved that the Board grant Deborah Turnipseed a one (1) year extension. The motion was seconded by Mr. Grimm and approved by the Board: Yes-7, No-0.

- 9:18 a.m.** Ms. Southard presented the Pharmacy Technician Trainee Extension Request from Caven Reid-Scott – Columbus, OH (09112656) to the Board for consideration.
- R-2024-0348** Ms. Ferris moved that the Board grant Caven Reid-Scott a one (1) year extension. The motion was seconded by Mr. Grimm and approved by the Board: Yes-7, No-0.
- 9:19 a.m.** Ms. Southard presented the Intern/Pharmacist Ratio Request from Asian Health Initiative Free Clinic to the Board for consideration.
- R-2024-0349** Mr. Huston moved that the Board grant the request of the Asian Health Initiative Free Clinic. The motion was seconded by Ms. Ferris and approved by the Board: Yes-7, No-0. The following resolution was adopted by the Board:
-

Asian Health Initiative RPH:INT Ratio Request

Clinic

Pursuant to OAC 4729:2-1-01 (M)(3), the Board hereby approves a 1:6 Pharmacist to Pharmacy Intern ratio for the Asian Health Initiative Free Clinics indefinitely.

Festival

Pursuant to OAC 4729:2-1-01 (M)(3), the Board hereby approves a 1:6 Pharmacist to Pharmacy Intern ratio for the Asian Health Initiative community outreach services during the Columbus Asian Festival held on May 25 and 26, 2024. Further, the Board waives the terminal distributor license requirements in OAC 4729:2-3-05 and permits pharmacy interns to administer CLIA waived diagnostic laboratory testing under the direct supervision of a pharmacist.

- 9:26 a.m.** Ms. Southard presented the Exam Extension Request from Kimoy Pemberton to the Board for consideration.
- R-2024-0350** Ms. Pfaff moved that the Board grant Kimoy Pemberton a one (1) year extension. The motion was seconded by Mr. Buchta and approved by the Board: Yes-7, No-0.
- 9:30 a.m.** Ms. Southard presented the Reciprocity/FPGEC Request from Rabih El-Sibai – Dearborn Heights, MI to the Board for consideration.
- R-2024-0351** Mr. Grimm moved that the Board grant Rabih El-Sibai's request. The motion was seconded by Mr. Huston and approved by the Board: Yes-7, No-0.
- 9:33 a.m.** Mr. McNamee presented a resolution titled *NeighborHub Health - Drug Repository Program*.

R-2024-0352

Mr. Miller 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:

NeighborHub Health – Drug Repository Program *

The Board hereby finds that it is in the public's interest, in accordance with section 4729.25 of the Revised Code, to permit you to donate the doses of medication to your repository program for use on uninsured and unhoused individuals. The doses must exceed six months from the date they were dispensed by the pharmacy to be eligible for donation to NeighborHub Health's repository program.

Please be advised that this determination only applies to the 21 doses of injectable naltrexone (Vivitrol®) outlined in your request and additional requests will not be considered. Moving forward, the Board expects you to develop a process to account for abandoned medications in accordance with ORC 3715.87 and OAC 4729:5-10.

*Resolution authorized by Board President in accordance with a resolution adopted May 5, 2020

9:36 a.m.

Mr. McNamee presented a resolution titled *Licensure Requirements for Returning Dangerous Drugs from an Out-of-State Entity to an Ohio Pharmacy*.

R-2024-0353

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

Licensure Requirements for Returning Dangerous Drugs from an Out-of-State Entity to an Ohio Pharmacy.

An out-of-state entity, that is appropriately licensed in its own state, shall not be required to obtain a license as a terminal distributor of dangerous drugs for the sole purpose of returning dangerous drugs to a dispensing pharmacy licensed in this state. This resolution shall remain in effect until rescinded by the board or until the board promulgates rules to such effect.

9:37 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*, 4729:5-5-02.5 - *Outpatient Pharmacy Access Points*, 4729:5-3-22 - *Continuous Quality Improvement Programs in Pharmacy Services*, 4729:1-4-02 - *Duty to report*, 4729:2-4-02 - *Duty to report*, 4729:3-4-02 - *Duty to report*, 4729:5-4-02 - *Duty to Report*, 4729:1-4-01 -

Disciplinary actions, 4729:2-4-01 - Disciplinary actions, 4729:3-4-01 - Disciplinary actions, 4729:8-5-01 - Dispensary reporting into the prescription monitoring program (RESCIND 3796:6-3-10), 4729-4-01 - Definitions - confidential personal information, 4729-4-02 - Confidential personal information, 4729-7-01 – Severability, 4729:1-3-05 - Therapeutic diabetic shoes, 4729:2-3-01 - Practice as a pharmacy intern, 4729:2-3-02 - Therapeutic diabetic shoes, 4729:5-1-02 - Licensed health professional authorized to prescribe drugs, 4729:5-3-01 - Disposal of controlled substances, 4729:5-3-03 - Inspections and corrective actions, 4729:5-3-05 - Confidentiality of patient records, 4729:5-3-06 - Storage of adulterated drugs, 4729:5-3-07 - Controlled substances inventory requirements, 4729:5-3-08 - Sales of dangerous drugs on-line, 4729:5-3-10 - Employment of individuals with felony convictions, 4729:5-7-01 - Definitions - Charitable pharmacies, 4729:5-7-02 - Licensure, compliance, and support personnel, 4729:5-7-03 - Persons eligible to transfer sample drugs to a charitable pharmacy, 4729:5-7-04 - Eligibility requirements for sample drugs received by a charitable pharmacy, 4729:5-7-05 - Dispensing a sample drug by a charitable pharmacy, 4729:5-12-01 - Medication Therapy Management – Definitions, 4729:5-12-02 - Medication Therapy Management, 4729:6-2-03 - Criminal Records Checks, 4729:6-2-04 - Drug Distributor Applications, 4729:6-2-06 - Procedure for discontinuing business as a distributor of dangerous drugs, 4729:6-3-01 - Disposal of controlled substances, 4729:6-3-03 - Inspections and corrective actions, 4729:6-3-04 - Verification of licensure prior to sale or purchase, 4729:6-3-05 - Suspicious Order Monitoring and Due Diligence, 4729:6-3-06 - Controlled Substances Inventory Requirements, 4729:6-3-07 - Sales of dangerous drugs on-line, 4729:6-3-08 - Distributor of dangerous drugs samples and complimentary supplies, 4729:6-5-01 - Wholesale Distributors - General Operations, 4729:6-5-02 - Wholesale distributors – recordkeeping, 4729:6-6-01 - Virtual wholesalers - general operations, 4729:6-7-01 - Brokers - general operations, 4729:6-8-01 - Manufacturers - General Operations, 4729:6-8-02 - Manufacturers – recordkeeping, 4729:6-9-01 - Repackagers - General Operations, 4729:6-9-02 - Repackagers – recordkeeping, 4729:6-10-01 - Outsourcing facilities - general operations, 4729:6-10-02 - Outsourcing facilities - record keeping, 4729:6-11-01 - Third party logistics providers - general operations, 4729:6-11-02 - Third party logistics providers – recordkeeping, 4729:1-5-03 - Veteran and military family provisions related to continuing education, 4729:2-1-01 - Definitions - pharmacy interns, 4729:2-2-05 - Internship credit, 4729:3-5-03 - Veteran and military family provisions related to continuing education, 4729:5-1-01 - Definitions - terminal distributors of dangerous drugs, and 4729:6-1-01 - Definitions - distributors of dangerous drugs to the Board for approval.

R-2024-0354

Ms. Pfaff 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, 4729:5-5-02.5 - Outpatient Pharmacy Access Points, 4729:5-3-22 - Continuous Quality Improvement Programs in Pharmacy Services, 4729:1-4-02 - Duty to report, 4729:2-4-02 - Duty to report, 4729:3-4-02 - Duty to report, 4729:5-4-02 - Duty to Report, 4729:1-4-01 - Disciplinary actions, 4729:2-4-01 - Disciplinary actions, 4729:3-4-01 - Disciplinary actions, 4729:8-5-01 - Dispensary reporting into the prescription monitoring program (RESCIND 3796:6-3-10), 4729-4-01 - Definitions - confidential personal information, 4729-4-02 - Confidential personal information, 4729-7-01 – Severability, 4729:1-3-05 - Therapeutic diabetic shoes, 4729:2-3-01 - Practice as a pharmacy intern, 4729:2-3-02 - Therapeutic diabetic shoes, 4729:5-1-02 - Licensed health professional

authorized to prescribe drugs, 4729:5-3-01 - Disposal of controlled substances, 4729:5-3-03 - Inspections and corrective actions, 4729:5-3-05 - Confidentiality of patient records, 4729:5-3-06 - Storage of adulterated drugs, 4729:5-3-07 - Controlled substances inventory requirements, 4729:5-3-08 - Sales of dangerous drugs on-line, 4729:5-3-10 - Employment of individuals with felony convictions, 4729:5-7-01 - Definitions - Charitable pharmacies, 4729:5-7-02 - Licensure, compliance, and support personnel, 4729:5-7-03 - Persons eligible to transfer sample drugs to a charitable pharmacy, 4729:5-7-04 - Eligibility requirements for sample drugs received by a charitable pharmacy, 4729:5-7-05 - Dispensing a sample drug by a charitable pharmacy, 4729:5-12-01 - Medication Therapy Management – Definitions, 4729:5-12-02 - Medication Therapy Management, 4729:6-2-03 - Criminal Records Checks, 4729:6-2-04 - Drug Distributor Applications, 4729:6-2-06 - Procedure for discontinuing business as a distributor of dangerous drugs, 4729:6-3-01 - Disposal of controlled substances, 4729:6-3-03 - Inspections and corrective actions, 4729:6-3-04 - Verification of licensure prior to sale or purchase, 4729:6-3-05 - Suspicious Order Monitoring and Due Diligence, 4729:6-3-06 - Controlled Substances Inventory Requirements, 4729:6-3-07 - Sales of dangerous drugs on-line, 4729:6-3-08 - Distributor of dangerous drugs samples and complimentary supplies, 4729:6-5-01 - Wholesale Distributors - General Operations, 4729:6-5-02 - Wholesale distributors – recordkeeping, 4729:6-6-01 - Virtual wholesalers - general operations, 4729:6-7-01 - Brokers - general operations, 4729:6-8-01 - Manufacturers - General Operations, 4729:6-8-02 - Manufacturers – recordkeeping, 4729:6-9-01 - Repackagers - General Operations, 4729:6-9-02 - Repackagers – recordkeeping, 4729:6-10-01 - Outsourcing facilities - general operations, 4729:6-10-02 - Outsourcing facilities - record keeping, 4729:6-11-01 - Third party logistics providers - general operations, 4729:6-11-02 - Third party logistics providers – recordkeeping, 4729:1-5-03 - Veteran and military family provisions related to continuing education, 4729:2-1-01 - Definitions - pharmacy interns, 4729:2-2-05 - Internship credit, 4729:3-5-03 - Veteran and military family provisions related to continuing education, 4729:5-1-01 - Definitions - terminal distributors of dangerous drugs, and 4729:6-1-01 - Definitions - distributors of dangerous drugs for filing with CSI and JCARR. The motion was seconded by Mr. Huston and approved by the Board: Yes-7, No-0.

10:07 a.m.

Mr. McNamee presented rules 4729:5-3-22 - Continuous Quality Improvement Programs in Pharmacy Services. (NEW), Rule 4729:1-4-02 | Duty to report. (PHARMACISTS) (RESCIND ORIGINAL/NEW), Rule 4729:2-4-02 | Duty to report. (PHARMACY INTERNS) (RESCIND ORIGINAL / NEW), Rule 4729:3-4-02 | Duty to report. (PHARMACY TECHNICIANS) (RESCIND ORIGINAL/NEW), Rule 4729:5-4-02 | Duty to Report. (PHARMACIES) (NEW), Rule 4729:1-4-01 | Disciplinary actions. (AMEND) [Pharmacists], Rule 4729:2-4-01 | Disciplinary actions. (AMEND) [Pharmacy Interns], Rule 4729:3-4-01 | Disciplinary actions. (AMEND) [Pharmacy Technicians] to the Board for approval.

R-2024-0355

Mr. Grimm moved that the Board approve rules 4729:5-3-22 - Continuous Quality Improvement Programs in Pharmacy Services. (NEW), Rule 4729:1-4-02 | Duty to report. (PHARMACISTS) (RESCIND ORIGINAL/NEW), Rule 4729:2-4-02 | Duty to report. (PHARMACY INTERNS) (RESCIND ORIGINAL / NEW), Rule 4729:3-4-02 | Duty to report. (PHARMACY TECHNICIANS) (RESCIND ORIGINAL/NEW), Rule 4729:5-4-02 | Duty to Report. (PHARMACIES) (NEW), Rule 4729:1-4-01 | Disciplinary actions. (AMEND) [Pharmacists], Rule 4729:2-4-01 | Disciplinary actions. (AMEND) [Pharmacy Interns], Rule 4729:3-4-01 | Disciplinary actions. (AMEND) [Pharmacy Technicians] for filing with CSI and JCARR. The motion was seconded by Ms. Pfaff and approved by the Board: Yes-7, No-0.

- 10:37 a.m.** Mr. McNamee presented rule 4729:5-5-02.1 - *Provision of Ancillary Services in an Outpatient Pharmacy* to the Board for approval.
- R-2024-0356** Mr. Grimm moved that the Board approve rule 4729:5-5-02.1 - *Provision of Ancillary Services in an Outpatient Pharmacy* for filing with JCARR. The motion was seconded by Ms. Pfaff and approved by the Board: Yes-7, No-0.
- 10:40 a.m.** The Board took a short recess.
- 10:48 a.m.** Mr. Schierholt presented the Executive Director Report.
-
- R-2024-0357** Ms. Buettner announced the dismissal of the Notice of Opportunity for Hearing issued on August 12, 2022, in the matter of Belden Village Open MRI Center (Case No. A-2022-0093).
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- R-2024-0358** Ms. Buettner announced the dismissal of the Notice of Opportunity for Hearing issued on January 5, 2023, in the matter of Spectrum Medical X-Ray Co. (Case No. A-2022-0094).
-
- R-2024-0359** Ms. Buettner announced the following Settlement Agreement has been signed by all parties and is now effective:
-

**IN THE MATTER OF:
CASE NO. A-2023-0500**

**Seth Risner, RPh
License No. 03-129768
4039 Idlewood Court
Hilliard, Ohio 43026**

**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 Seth Risner, RPh, for the purpose of resolving all issues between the parties relating to the Board investigation of Seth Risner's termination from employment as a pharmacist in June 2023 and abuse and/or addiction of drugs and/or alcohol. Together, the Board and Seth Risner 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. Seth Risner is a licensed pharmacist in the state of Ohio under license number 03-129768.

FACTS

1. The Board initiated an investigation of Seth Risner, pharmacist license number 03-129768, related to Seth Risner's termination from employment as a pharmacist in June 2023 and abuse and/or addiction of drugs and/or alcohol.
2. On or about December 5, 2023, the Board considered the request to allow Seth Risner to voluntarily suspend his license to practice pharmacy, with terms and conditions imposed. The Board granted the request, in lieu of any formal notice of opportunity for hearing/summary suspension.

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. The Board agrees to accept, in lieu of any formal notice of opportunity for hearing, Seth Risner's voluntary suspension of his license to practice pharmacy, to the State of Ohio Board of Pharmacy, license number 03-129768.
3. **SETH RISNER AGREES TO A SUSPENSION OF HIS LICENSE TO PRACTICE PHARMACY AS A PHARMACIST, LICENSE NO. 03-129768, WITH DISCIPLINE PENDING. SUCH SUSPENSION IS EFFECTIVE AS OF THE DATE OF THIS AGREEMENT.**
4. **The Board agrees to not take any further disciplinary action or institute additional administrative proceedings against Seth Risner's license to practice pharmacy, related to the conduct described in the "Facts" Section of this Agreement.**
5. Seth Risner, pursuant to Rule 4729:1-1-01(T) of the Ohio Administrative Code, may not be employed by or work in a facility licensed by the State Board of Pharmacy to possess or distribute dangerous drugs and/or medical marijuana during such period of suspension.
6. After 12 months from the effective date of this Agreement, the Board will consider any petition filed by Seth Risner for a hearing, pursuant to Ohio Revised Code Chapter 119., for reinstatement. The Board will only consider reinstatement of the license to practice pharmacy in Ohio if the following conditions have been met:
 1. Seth Risner must maintain a current address with the Board throughout the duration of the suspension.

2. Seth Risner must enter into and adhere to the terms of a **new** contract, signed within thirty days after the effective date of this Agreement, 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. Seth Risner 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 Seth Risner 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 Seth Risner 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. Seth Risner 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. Seth Risner 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 Seth Risner reappear before the Board for possible additional sanctions, including and up to revocation of license.

4. Seth Risner shall not refuse a breathalyzer or other drug testing requested by law enforcement during the duration of suspension. The Board shall treat any such refusal as a violation of the Board's Order and request Seth Risner reappear before the Board for possible additional sanctions, including and up to revocation of license.
5. Seth Risner must immediately report any violation of the terms of this suspension to the Board by contacting legal@pharmacy.ohio.gov. Failure to self-report any violation shall be treated as a violation of this Board's Order and will subject Seth Risner to possible additional sanctions, including and up to revocation of license.
6. Seth Risner must demonstrate satisfactory proof to the Board that he is no longer addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render her unfit to practice pharmacy.
7. Seth Risner must provide, in the reinstatement petition, documentation of the following:
 - a. Compliance with the contract required above (e.g.-proof of giving the sample within twelve hours of notification and copies of all drug and alcohol screen reports, meeting attendance records, treatment program reports, etc.);
 - b. Compliance with the continuing pharmacy education requirements set forth in 4729:1-5-02 of the Ohio Administrative Code as applicable and in effect on the date of petitioning the Board for reinstatement;
 - c. Compliance with the terms of this Order.
8. If reinstatement is not accomplished within **three years** of the effective date of this Agreement, Seth Risner must also show successful completion of the North American Pharmacist Licensure Examination (NAPLEX) and the Multistate Pharmacy Jurisprudence Exam (MPJE), or an equivalent examination(s) approved by the Board.
9. Seth Risner 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.
10. When deemed appropriate by the Board, Seth Risner must submit to a psychiatric evaluation, and, where appropriate, continued treatment acceptable to the Board.

11. Seth Risner 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 suspension, other than in instances where the board or its probation committee can be assured that monitoring is otherwise being performed.
12. Violation of any term of suspension, 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 additional action before the Board up to and including revocation of your pharmacy license.
13. 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 resulting in a hearing before the Board and may also result in criminal and/or administrative charges.
14. Periods during which Seth Risner is not in compliance with all terms of suspension shall toll the length of time of suspension during which Seth Risner was out of compliance. The minimum length of time each violation will toll the suspension term is available on the Board's website, www.pharmacy.ohio.gov. The Board may implement additional disciplinary action in addition to or instead of tolling suspension.
15. If Seth Risner's employment is related to the practice of pharmacy, Seth Risner must provide copies of the board order or settlement agreement to all employers or prospective employers, all licensing authorities in which Seth Risner holds a professional license or applies for a professional license, all persons who provide Seth Risner chemical dependency treatment monitoring, and law enforcement and court personnel if Seth Risner has court involvement, such as ILC, drug court or diversion, related the suspension, during the effective period of this order or agreement.
16. Failure to complete the terms set forth in this Agreement, or to petition for reinstatement within five years of the date of this Order, may result in the Board issuing a notice of opportunity for hearing to consider additional disciplinary action, including and up to revocation of Seth Risner's license.
7. Seth Risner agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
8. Seth Risner understands that he has the right to be represented by counsel for review and execution of this agreement.
9. Seth Risner 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.

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-2024-0360

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

**IN THE MATTER OF:
CASE NO. A-2023-0199**

Ryanne Wolfe, RPh
License No. 03-226090
1733 Spring Forest Dr.
Oregon, OH 43616

**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 Ryanne Wolfe, RPh, for the purpose of resolving all issues between the parties relating to the Board investigation of Ryanne Wolfe's administration of saline in lieu of legitimate COVID-19 vaccine and falsification of documentation. Together, the Board and Ryanne Wolfe are referred to hereinafter as "the parties."

JURISDICTION

3. 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.
4. Ryanne Wolfe is a licensed pharmacist in the state of Ohio under license number 03-226090.

FACTS

3. The Board initiated an investigation of RYANNE WOLFE, pharmacist license number 03-226090, related to RYANNE WOLFE's administration of saline in lieu of legitimate COVID-19 vaccine and falsification of documentation.
4. On or about September 22, 2023, the Board sent a Notice of Opportunity for Hearing to RYANNE WOLFE, 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.
5. On or about October 6, 2023, RYANNE WOLFE, through counsel BRANDON M. SMITH, ESQ., timely requested an administrative hearing, which was subsequently scheduled for March 4, 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:

15. The recitals set forth above are incorporated in this Settlement Agreement as though fully set forth herein.
16. RYANNE WOLFE neither admits nor denies the allegations stated in the Notice of Opportunity for hearing letter dated September 22, 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.
17. RYANNE WOLFE agrees her Ohio pharmacist license, license number 03-226090, shall be suspended pursuant to Section 4729.16 of the Ohio Revised Code, for three months from the effective date of this Agreement. During the period of suspension, the following conditions apply:
 - a. Pursuant to Rule 4729-9-01(F) of the Ohio Administrative Code, RYANNE WOLFE may not be employed by or work in a facility licensed by the State Board of Pharmacy to possess or distribute dangerous drugs and/or medical marijuana during such period of suspension.
 - b. 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 Agreement resulting in a hearing before the Board and may also result in criminal and/or administrative charges.
 - c. RYANNE WOLFE must immediately report any violation of the terms of this suspension to the Board by contacting legal@pharmacy.ohio.gov. Failure to self-report any violation shall be treated as a violation of this Board's Order and will subject RYANNE WOLFE to possible additional sanctions, including and up to revocation of license.

- d. At the conclusion of the three-month suspension, the Board will reinstate the pharmacist license of Ryanne Wolfe, so long as the Terms of this Agreement have been complied with throughout the duration of the suspension, and all necessary licensing documents have been properly submitted.
18. Ryanne Wolfe agrees to pay to the Board a monetary penalty in the amount of \$1,000.00. This fine will be attached to Ryanne Wolfe'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.
19. The Board hereby imposes a written reprimand on Ryanne Wolfe's pharmacist license, number 03-226090.
20. Ryanne Wolfe agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
21. Ryanne Wolfe understands that she has the right to be represented by counsel for review and execution of this agreement.
22. Ryanne Wolfe 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.
23. Ryanne Wolfe 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.
24. 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.
25. All parties to this Agreement understand that this document is a public record pursuant to Ohio Revised Code Section 149.43.
26. 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.
27. 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.
28. This Agreement shall become effective upon the date of the Board President's signature below.
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R-2024-0361

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

**IN THE MATTER OF:
CASE NO. A-2021-0006**

Alexis Brooks, RPh
License No. 03-337602
2539 Swart Rd.
Albany, OH 45710

**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 Alexis Brooks, RPh, for the purpose of resolving all issues between the parties relating to the Board investigation of drug inventory security. Together, the Board and Alexis Brooks 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. Alexis Brooks is a licensed pharmacist in the state of Ohio under license number 03-337602.
3. Alexis Brooks was previously listed as the Responsible Person of The Drugstore at OU, located at 2 Health Center Dr., Athens, Ohio.

FACTS

1. The Board initiated an investigation of Alexis Brooks, pharmacist license number 03-337602, and The Drugstore at O'Bleness, related to drug inventory security.
2. On or about June 14, 2023, the Board sent a Notice of Opportunity for Hearing to Alexis Brooks, 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 August 7, 2023, Alexis Brooks, through counsel Levi J. Tkach, 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 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. Alexis Brooks neither admits nor denies the allegations stated in the Notice of Opportunity for hearing letter dated June 14, 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. Alexis Brooks agrees to pay to the Board a monetary penalty in the amount of \$250.00. This fine will be attached to Alexis Brooks'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. Alexis Brooks must obtain three hours of approved continuing pharmacy education (0.3 CEUs) which may not also be used for license renewal. The 0.3 CEUs must be completed within six months from the effective date of this agreement. Copies of completed CEUs must be e-mailed to legal@pharmacy.ohio.gov.
 5. The Board hereby imposes a written reprimand on Alexis Brooks's pharmacist license, number 03-337602.
 6. Alexis Brooks agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
 7. Alexis Brooks understands that she has the right to be represented by counsel for review and execution of this agreement.
 8. Alexis Brooks 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.
 9. Alexis Brooks 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.
 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.
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R-2024-0362

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

**IN THE MATTER OF:
CASE NO. A-2021-0534**

Doctors Hospital
License No. 02-1108100
c/o Brigitta Miller, RPh
5100 West Broad Street
Columbus, OH 43228

**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 Doctors Hospital for the purpose of resolving all issues between the parties relating to the Board investigation of the theft of drugs by an employee and drug security issues. Together, the Board and Doctors Hospital 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. Doctors Hospital is a licensed Terminal Distributor of Dangerous Drugs under license number 02-1108100.

FACTS

1. The Board initiated an investigation of Doctors Hospital, Terminal Distributor of Dangerous Drugs license number 02-1108100, related to the theft of drugs by an employee and drug security issues.
2. On or about August 30, 2023, the Board sent a Notice of Opportunity for Hearing to Doctors Hospital, which outlined the allegations and provided notice of its right to a hearing, its rights in such hearing, and its right to submit contentions in writing.
3. On or about September 21, 2023, Doctors Hospital, through counsel James M. McGovern, timely requested an administrative hearing, which was scheduled for October 6, 2023. The matter was continued and 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 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. Doctors Hospital neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated August 30, 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. Doctors Hospital agrees to pay to the Board a monetary penalty the amount of \$10,000. 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 Doctors Hospital's TDDD license, number 02-1108100.
5. Doctors Hospital 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. Doctors Hospital 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 Doctors Hospital 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 Doctors Hospital by the Board and will NOT discharge Doctors Hospital from any obligation under the terms of this Agreement.
7. Doctors Hospital agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
8. Doctors Hospital 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 Doctors Hospital will operate.
10. Doctors Hospital 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.
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-2024-0363

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

**IN THE MATTER OF:
CASE NO. A-2022-0611**

Premier Injury Center

License No. 02-60000524
c/o Joseph Claude Carver, M.D.
1430 S. High Street, Suite C
Columbus, OH 43207

**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 Premier Injury Center for the purpose of resolving all issues between the parties relating to the Board investigation of Premier Injury Center failing to comply with the responsible person requirements. Together, the Board and Premier Injury Center 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. Premier Injury Center is a licensed Terminal Distributor of Dangerous Drugs under license number 02-60000524.

FACTS

1. The Board initiated an investigation of Premier Injury Center, Terminal Distributor of Dangerous Drugs license number 02-60000524, related to allegations of Premier Injury Center failing to comply with the responsible person requirements.
2. On or about March 20, 2023, the Board sent a Notice of Opportunity for Hearing to Premier Injury Center, 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 April 11, 202, Premier Injury Center, through counsel David M. Abromowitz, timely requested an administrative hearing, which was subsequently scheduled for October 11, 2023.

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. Premier Injury Center neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated March 20, 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. Premier Injury Center agrees to pay to the Board a monetary penalty the amount of \$1,500.00 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 Premier Injury Center's TDDD license, number 02-60000524.
5. Premier Injury Center 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. Premier Injury Center 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 Premier Injury Center 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 Premier Injury Center by the Board and will NOT discharge Premier Injury Center from any obligation under the terms of this Agreement.

7. Premier Injury Center agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
 8. Premier Injury Center 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 Premier Injury Center will operate.
 10. Premier Injury Center 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.
 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.
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R-2024-0364

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

**IN THE MATTER OF:
Case No. A-2022-0458**

**CVS/Pharmacy #3302
License No. 02-0110650**
c/o Anthony Nappo, RPh
7230 Market Street
Youngstown, Ohio 44512

**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 #3302 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 #3302 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 #3302 has an active TDDD license with the Board under license number 02-0110650, which lists Anthony Nappo, RPh, as the Responsible Person.

FACTS

1. The Board initiated an investigation of CVS/Pharmacy #3302, TDDD license number 02-0110650, related to an employee performing duties of a pharmacy technician without maintaining appropriate registration with the Board.
2. On or about January 26, 2023, the Board sent a Notice of Opportunity for Hearing to CVS/Pharmacy #3302, which outlined the allegations and provided notice of its right to a hearing, its rights in such hearing, and its right to submit contentions in writing.

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

TERMS

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

1. The recitals set forth above are incorporated in this Settlement Agreement as though fully set forth herein.
2. CVS/Pharmacy #3302 neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated January 26, 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 #3302 agrees to pay to the Board a monetary penalty the amount of \$1,000. This fine will be attached to CVS/Pharmacy #3302'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 CVS/Pharmacy #3302's TDDD license, number 02-0110650.
5. CVS/Pharmacy #3302 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 #3302 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 #3302 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 #3302 by the Board and will NOT discharge CVS/Pharmacy #3302 from any obligation under the terms of this Agreement.
7. CVS/Pharmacy #3302 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 #3302 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 #3302 will operate.
10. CVS/Pharmacy #3302 waives its opportunity to be heard pursuant to Chapter 119. of the Ohio Revised Code and waives any right to appeal.
11. This Agreement may be executed in counterparts or facsimiles, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.
12. All parties to this Agreement understand that this document is a public record pursuant to Ohio Revised Code Section 149.43.

13. This Agreement contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this Agreement.
 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.
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R-2024-0365 Ms. Ferris moved that the January 8, 2024, Probation Committee Meeting Minutes be approved as written. The motion was seconded by Mr. Buchta and approved by the Board: Yes-7, No-0.

R-2024-0366 Ms. Ferris moved that the January 8, 9, and 11, 2024, Board Meeting Minutes be approved as written. The motion was seconded by Mr. Buchta and approved by the Board: Yes-7, No-0.

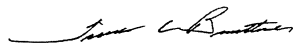
R-2024-0367 Ms. Ferris moved that the January 17, 2024, Conference Call Minutes be approved as written. The motion was seconded by Mr. Buchta and approved by the Board: Yes-7, No-0.

R-2024-0368 Ms. Ferris moved that the January 31, 2024, Conference Call Minutes be approved as written. The motion was seconded by Mr. Buchta and approved by the Board: Yes-7, No-0.

R-2024-0369 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. Buchta and a roll-call vote was conducted by President Buettner as follows: Buchta-yes; Ferris-yes, Goodman-yes; Grimm-yes; Huston-yes, Miller-yes, and Pfaff-yes.

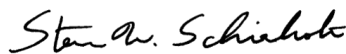
R-2024-0370 The Board returned to Public Session and Mr. Grimm moved to adjourn the February 2024 State of Ohio Board of Pharmacy Meeting. The motion was seconded by Mr. Buchta and approved by the Board: Yes-7, No-0.

12:42 p.m. The Board Meeting Adjourned.



Trina Buettner, RPh, President

Date: 03/05/2024



Steven W. Schierholt, Executive Director

Date: 03/05/2024