



**MINUTES OF THE SEPTEMBER 11-12, 2017**  
**MEETING OF THE STATE OF OHIO BOARD OF PHARMACY**

**Monday, September 11, 2017**

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

Megan E. Marchal, RPh, Presiding; Joshua M. Cox, RPh; Michael A. Moné, RPh; Richard J. Newlon, Public Member; Curtis L. Passafume, Jr., RPh; Jennifer M. Rudell, RPh; Fred M. Weaver, RPh; and Shawn C. Wilt, RPh.

Kilee S. Yarosh, RPh—Absent.

Also present were Steven Schierholt, *Executive Director*; Nicole Dehner, *Chief Legal Counsel*; Chad Garner, *Director of OARRS*; Eric Griffin, *Director of Compliance and Enforcement*; Chandra Galante, *Director of Licensing*; Steven Kochheiser, *Assistant Attorney General*; Sarah Ackman, *Associate Legal Counsel*; and Cameron McNamee, *Director of Policy and Communications*.

Mr. Garner introduced the new hearing room technology.

Mr. Cox gave the PAPC Committee update.

Mr. Passafume provided the MMAC Committee update.

Ms. Galante presented the Licensing report, providing an active license count, staffing, and upcoming licensing projects.

Mr. Griffin provided the Compliance and Enforcement report providing compliance case statistics and staffing updates.

Mr. Garner presented the OARRS/IT report.

Ms. Dehner provided the Legal update.

Mr. McNamee presented the Legislative update.

**R-2018-062** Mr. Passafume moved that the Board approve the following Resolution:

**Waiver of Pharmacist to Intern Ratio—NEOMED Flu Clinics**



The State of Ohio Board of Pharmacy hereby grants an indefinite exemption pursuant to Rule 4729:2-1-01 of the Administrative Code to allow for up to a 1:5 pharmacist to intern ratio for all flu clinics operated by the Northeast Ohio Medical University (NEOMED) College of Pharmacy. Please be advised that the interns performing the immunizations may only do so under the direct supervision of a licensed Ohio pharmacist who is authorized to administer immunizations. Any ratio exceeding 1:5 will require additional approval by the Board.

The motion was seconded by Ms. Rudell and approved by the Board: Aye-7.

**R-2018-063** Mr. Passafume moved that the Board approve Rule 4729-5-30.1 for filing with CSI and JCARR. The motion was seconded by Mr. Wilt and approved by the Board: Aye-7.

**R-2018-064** Mr. Weaver moved that the Board rescind Rule 4729-33 and approve Rules 4729:5-14-01; 4729:5-14-02; 4729:5-14-03; and 4729:5-14-04 for filing with CSI and JCARR. The motion was seconded by Mr. Cox and approved by the Board: Aye-5/Nay-2.

**11:23 a.m.** Mr. McNamee presented the updates to the Pharmacy Technician Rules.

**R-2018-065** Mr. Passafume moved that the Board approve the Pharmacy Technician Rules packet presented by Mr. McNamee for filing with JCARR. The motion was seconded by Mr. Weaver and approved by the Board: Aye-7.

**11:43 a.m.** Mr. Schierholt provided the Executive Director report.

**R-2018-066** The Board received an application for the Continuing Education Provider Status of **Sarah Suffel, PharmD.** (03-1-29309) Avon Lake, Ohio. Mr. Passafume moved that the Continuing Education Provider Status be approved. The motion was seconded by Mr. Newlon and approved by the Board: Aye-6/Abstain-1.

**R-2018-067** The Board received a Foreign Grad Intern Renewal request, 4729-3-04(B), of **Mohammad Kittaneh** (06-014662) Cincinnati, Ohio. Mr. Moné moved that the Board deny the specific request. The motion was seconded by Mr. Weaver and approved by the Board: Aye-6/Nay-1.

**R-2018-068** The Board received a Foreign Grad Intern Renewal request, 4729-3-04(B), of **Mai Safi** (06-011962) Sylvania, Ohio. Mr. Moné moved that the Board deny the specific request. The motion was seconded by Mr. Wilt and approved by the Board: Aye-7.

**R-2018-069** Mr. Moné moved that the Board adopt the following approvals of the Responsible Person Committee:

- a. Leon Margolin (35.090064)—Approved for a period of 1 year.**
  - I. Comprehensive Pain Management Institute, LLC—*Columbus, OH* (02-2141400)
  - II. Comprehensive Pain Management Institute, LLC—*Mayfield Heights, OH* (02-2775650)
- b. Sandra Witherspoon (03-2-19619)—Approved until January 5, 2018.**
  - I. St. Ann’s Hospital Columbus, Inc.—*Westerville, OH* (02-0034150)
  - II. Diley Ridge Medical Center—*Canal Winchester, OH* (02-2007400)

- c. **Cynthia Lynn Kryc (03-2-16718)—Approved indefinitely or until such time the business model changes.**
  - I. Crosby Drugs—*Columbus, OH* (02-0173000)
  - II. CDI Long Term Care, *Columbus, OH* (02-0173050)
- d. **Gregory Harrington (CA 631390) —Approved indefinitely or until such time the business model changes.**
  - I. Caremark, LLC DBA CVS Specialty—*Redlands, CA* (02-1058600)
  - II. Caremark CA Specialty Pharmacy, LLC—*Redlands, CA* (02-2597800)
- e. **Corey Lee Enders (03-2-29310)—Approved for a period of 6 months.**
  - I. Mt. Carmel New Albany Surgical Hospital—*New Albany, OH* (02-1400250)
  - II. Mt. Carmel East Hospital—*Columbus, OH* (02-0032900)
- f. **Michael Garland (Not Licensed)—Approved until May 31, 2018.**
  - I. Amerisource Bergen Drug Corporation—*Phoenix, AZ* (01-1305150)
  - II. Amerisource Bergen Drug Corporation—*Phoenix, AZ* (01-2653600)

The motion was seconded by Mr. Passafume and approved by the Board: Aye-7.

**R-2018-070**

Mr. Moné moved that the Board adopt the following denial of the Responsible Person Committee:

- a. **Kedar Deshpande (35.080539)**
  - I. Orthopedic & Spine Center—*Thornville, OH* (02-2664700)
  - II. Orthopedic & Spine Center—*Marysville, OH* (02-2682850)
  - III. Orthopedic & Spine Center—*Dublin, OH* (02-1698600)

The motion was seconded by Mr. Passafume and approved by the Board: Aye-7.

**R-2018-071**

The Board received a request for approval to Ohio Administrative Code Rule 4729-5-11 (A)(1) requesting that **Robert H. Perkins** (35.071151) Columbus, Ohio, be the Responsible Person for the following Pain Management Clinics:

Physical Medicine Associates—*Columbus, Ohio* (02-1834800)  
Physical Medicine Associates—*Dublin, Ohio* (02-2690400)

After discussion, Mr. Cox moved that the Board approve the request for a period of 1 year. The motion was seconded by Mr. Passafume and approved by the Board: Aye-6/Nay-1.

**R-2018-072**

The Board received a request for approval to Ohio Administrative Code Rule 4729-5-11 (A)(1) requesting that **Dwight Mosley** (35.092811) Hendersonville, Tennessee, be the Responsible Person for the following Pain Management Clinics:

Comprehensive Pain Specialist—*Columbus, Ohio* (02-2450800)  
Comprehensive Pain Specialist—*Lancaster, Ohio* (02-2540050)

After discussion, Mr. Wilt moved that the Board deny the request. The motion was seconded by Mr. Weaver and approved by the Board: Aye-5/Nay-2.

- R-2018-073** The Board received a qualified technician request of **Hiroko Briones**. Mr. Moné moved to approve the specific request. The motion was seconded by Mr. Passafume and approved by the Board: Aye-6/Abstain-1.
- 12:13 p.m.** The Board recessed for lunch.
- 1:31 p.m.** The meeting reconvened in the Hearing Room.
- Ms. Galante presented the 4729.553 OBOT facility waiver request process.
- R-2018-074** The Board received a request for approval to Ohio Administrative Code Rule 4729-18-02(B)(1) office-based opioid treatment classification. Mr. Newlon moved that the Board approve the request of **Barnesville Family Health Center/Russell Lee-Wood, MD**. The motion was seconded by Mr. Moné and approved by the Board: Aye-7.
- R-2018-075** The Board received a request for approval to Ohio Administrative Code Rule 4729-18-02(B)(1) office-based opioid treatment classification. Mr. Moné moved that the Board approve the request of **Medsave Clinic/Randall Colucci, DO**. The motion was seconded by Mr. Passafume and approved by the Board: Aye-7.
- R-2018-076** The Board received a request for approval to Ohio Administrative Code Rule 4729-18-02(B)(1) office-based opioid treatment classification. Mr. Moné moved that the Board approve the request of **Third Street Family Health Services/Brett Toward, MD**. The motion was seconded by Mr. Cox and approved by the Board: Aye-7.
- R-2018-077** The Board received a request for approval to Ohio Administrative Code Rule 4729-18-02(B)(1) office-based opioid treatment classification. Mr. Moné moved that the Board approve the request of **Five Points Primary Care/Joseph Bocka, MD**. The motion was seconded by Mr. Passafume and approved by the Board: Aye-7.
- R-2018-078** The Board received a request for approval to Ohio Administrative Code Rule 4729-18-02(B)(1) office-based opioid treatment classification. Mr. Cox moved that the Board approve the request of **Hawkins Medical Center/Ujwala Pagedar, MD**. The motion was seconded by Mr. Passafume and approved by the Board: Aye-7.
- R-2018-079** The Board received a request for approval to Ohio Administrative Code Rule 4729-18-02(B)(1) office-based opioid treatment classification. Mr. Moné moved that the Board approve the request of **Health Matters, LLC/Barrington Arthurs, MD**. The motion was seconded by Mr. Passafume and approved by the Board: Aye-7.
- 1:54 p.m.** Ms. Galante gave an overview of the Wholesale Conversion process.
- R-2018-080** Mr. Weaver moved that the Board extend the expiration date of the 2018 renewal of the Wholesaler of Dangerous Drugs licenses that are effected by HB 49. The motion was seconded by Mr. Passafume and approved by the Board: Aye-7.
- R-2018-081** Mr. Newlon moved that the Board issue the license for Manufacture Jubilant Draximage, INC. The motion was seconded by Mr. Passafume and approved by the Board: Aye-6/Abstain-1.

- 2:00 p.m.** J. Michelle Sybesma, *Parkdale Center for Professionals*, gave a presentation to the Board.
- 2:25 p.m.** Jenni Wai presented a summary of JCPP's proposed definition of an MTM for the Board's feedback.
- 2:37 p.m.** Ms. Yarosh joined the meeting.
- Mr. McNamee presented a Resolution to the Board regarding the delivery of Naloxone.
- R-2018-082** Mr. Weaver moved that the Board adopt the following Resolution:

**Delivery of Naloxone by a Terminal Distributors of Dangerous Drugs**

The Board hereby permits a terminal distributor of dangerous drugs (TDDD) that is authorized to personally furnish naloxone pursuant to section 4731.941 of the Revised Code to deliver the drug to an individual requesting the naloxone if the TDDD meets the following:

1. The TDDD has established a process to ensure compliance with the training and education requirements pursuant to section 4731.941 of the Revised Code and such a process is included as part of the physician-approved protocol.
2. The naloxone is delivered to the patient by means of an authorized employee of the TDDD (i.e. authorized in protocol), United States Postal Service or common or contract carrier.
3. Except as provided for in paragraph (4) of this resolution, naloxone that is delivered to a patient may not be returned to stock.
4. If naloxone is returned by an authorized employee (i.e. has not left the possession of the employee) or is returned in original packaging (i.e. return to sender) by the United States Postal Service or common or contract carrier, it may only be returned to stock if the naloxone meets either of the following prior to initially leaving the TDDD:
  - (a) The naloxone is personally furnished in a tamper evident container or package prior to leaving the TDDD; or
  - (b) The naloxone is personally furnished in the manufacturer's original tamper evident packaging.
5. Naloxone that is personally furnished and shows any signs of tampering or adulteration shall not be returned to stock.
6. The drug is properly labeled in accordance with rule 4729-5-17 of the Administrative Code.
7. Unless the patient is unavailable, patient counseling shall be conducted by telephone.
8. Documentation shall be provided with the naloxone that includes a telephone number where an authorized TDDD employee or physician may be contacted regarding the medication's use. It shall include the hours an authorized TDDD employee or physician is available. The telephone service must be available at no cost to the TDDD's primary patient population.
9. All required records are maintained in accordance with rule 4729-9-22 of the Administrative Code.

The motion was seconded by Ms. Rudell and approved by the Board: Aye-8.

- 2:50 p.m.** Mr. Weaver moved that the Board go into Executive Session to consider the investigation of charges or complaints against a licensee, confer with Board counsel regarding a pending or imminent court action and to discuss matters required to be confidential by law pursuant to Section 121.22(G)(1), (3) & (5) of the Ohio Revised Code. The motion was seconded by Ms. Yarosh and a roll-call vote was conducted by President Marchal as follows: Cox-yes; Moné-yes; Newlon-yes; Passafume-yes; Rudell-yes; Weaver-yes; Wilt-yes and Yarosh-yes.
- 3:38 p.m.** Executive session ended and the Board recessed for the day.

**Tuesday, September 12, 2017**

- 9:00 a.m.** The State of Ohio Board of Pharmacy convened in the Hearing Room, 17th Floor, of the Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio, with the following members present:
- Megan E. Marchal, RPh, Presiding; Joshua M. Cox, RPh; Michael A. Moné, RPh; Richard J. Newlon, Public Member; Curtis L. Passafume, Jr., RPh; Jennifer M. Rudell, RPh; Fred M. Weaver, RPh; Shawn C. Wilt, RPh and Kilee S. Yarosh, RPh.
- 9:13 a.m.** The Board was joined by Assistant Attorney General Steven Kochheiser to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Ryan Hendrickson**, Ft. Wayne, Indiana.
- 9:55 a.m.** The hearing ended and the record was closed.
- Mr. Newlon moved that the Board recess in order to consider the quasi-judicial matter 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. Rudell and a roll-call vote was conducted by President Marchal as follows: Cox-yes; Moné-yes; Newlon-yes; Passafume-yes; Rudell-yes; Weaver-yes; Wilt-yes and Yarosh-yes.
- 10:24 a.m.** The recess ended and the hearing was opened to the public.
- R-2018-083** After votes were taken in public session, the Board adopted the following order in the matter of **Ryan Hendrickson**, Ft. Wayne, Indiana.

**ORDER OF THE STATE BOARD OF PHARMACY**

(Case Number 2016-2239)

In The Matter Of:

**Ryan Hendrickson, R.Ph.**  
7430 Glen Gelder Circle  
Fort Wayne, IN 46804  
(License No. 03-2-36376)

### INTRODUCTION

The Matter of Ryan Hendrickson came for a hearing on September 12, 2017, before the following members of the State of Ohio Board of Pharmacy (Board): Megan E. Marchal, RPh, *Presiding*; Joshua M. Cox, RPh; Michael A. Moné, RPh; Richard J. Newlon, *Public Member*; Curtis L. Passafume, Jr., RPh; Jennifer M. Rudell, RPh; Fred M. Weaver, RPh; Shawn C. Wilt, RPh and Kilee S. Yarosh, RPh.

Ryan Hendrickson was present and was not represented by counsel. The State of Ohio was represented by Steven Kochheiser, Assistant Attorney General.

### SUMMARY OF EVIDENCE

#### State's Witnesses:

1. Ryan Hendrickson

#### Respondent's Witnesses:

1. None

#### State's Exhibits:

- |    |                                    |          |
|----|------------------------------------|----------|
| 1. | Notice of Opportunity for Hearing  | 03-14-17 |
| 2. | Request for Hearing                |          |
| 3. | Scheduling Letter                  | 04-13-17 |
| 4. | Credential view screen             | 05-05-17 |
| 5. | Reciprocity Application            | 10-04-16 |
| 6. | NABP Letter and attached documents | 07-18-16 |
| 7. | Hobart Police and Court records    | 08-28-12 |

#### Respondent's Exhibits:

- |    |  |          |
|----|--|----------|
| A. | Dr. Hinchman Letter re. Safe to Return to Practice                       | 04-24-13 |
| B. | Pharmacists Recovery Network of Indiana Probation Report                 | 01-11-16 |
| C. | Indiana Board of Pharmacy Order  | 05-20-13 |
| D. | Court records filed in Lake Superior Court, Criminal Division            | 01-09-13 |
| E. | Pharmacists Recovery Network of Indiana Treatment and Recovery Agreement | 10-30-12 |
| F. | Resurrection Health Care Treatment Agreement                             | 10-09-12 |
| G. | Letter from Grandview Pharmacy   | 09-05-17 |

### FINDINGS OF FACT

After having heard the testimony, observed the demeanor of the witnesses, considered the evidence, and weighed the credibility of each, the Board finds the following to be fact:

1. On Ryan Hendrickson's notarized NABP application for Transfer of Pharmacist License to the state of Ohio, he answered "Yes" to question 2 that inquired whether your pharmacist license in any jurisdiction has ever been revoked, suspended, restricted, terminated, or otherwise be subject to disciplinary action (public or private) by any board of pharmacy or other state authority.



On the same application, Ryan Hendrickson also answered "Yes" to question 4 that inquired whether he has ever been charged or convicted (including nolo contendere plea or guilty plea) of a felony or misdemeanor (other than minor traffic offenses) whether or not the sentence was imposed, suspended, expunged or whether he were pardoned from any such offense.

a. On or about August 28, 2012, the Indiana Board of Pharmacy summarily suspended Ryan Hendrickson's license to practice pharmacy after he admitted to diverting varying strengths of hydrocodone. On or about November 9, 2012, the suspension was extended for an additional ninety (90) days. On or about May 20, 2013, his license to practice pharmacy was placed on indefinite probation. On or about February 24, 2016, Ryan Hendrickson's indefinite term of probation was withdrawn by the Indiana Board of Pharmacy and his license to practice was reinstated. Case No. 2012 IBP 0073.

b. On or about August 3, 2012, Ryan Hendrickson was indicted on two (2) counts of Theft, a felony offense, and two (2) counts of Possession of a Controlled Substance, a felony offense. On or about January 9, 2013, he plead guilty to one count of Theft, a misdemeanor offense, in the Superior Court of Lake County, Crown Point, Indiana. The court imposed an eighteen (18) month jail sentence; however, the sentence was suspended for probation. Case No. 45G03-1208-FD-00181.

#### CONCLUSIONS OF LAW

1. Such conduct as set forth in paragraphs (1)(a) and (1)(b) of the Allegations Section, if proven, constitutes the following violations of the ORC:

- a. Guilty of acts constituting felony or gross immorality, ORC Section 4729.16(A)(1); and
- b. Guilty of dishonesty or unprofessional conduct in the practice of pharmacy, ORC Section 4729.16(A)(2); and
- c. Being addicted to or abusing liquor or drugs to such a degree as to render the pharmacist unfit to practice pharmacy, ORC 4729.16(A)(3); and
- d. Has been convicted of a misdemeanor related to, or committed in, the practice of pharmacy, ORC Section 4729.16(A)(4); and
- e. Guilty of willfully violating...any rule adopted by the board, ORC Section 4729.16(A)(5).

2. Such conduct as set forth in paragraphs (1)(a) and (1)(b) of the Allegations section, if proven, constitutes a violation of each of the following divisions of Section 4729-5-04 of the OAC:

- a. Violated any state or federal law or rule regardless of the jurisdiction in which the acts were committed, OAC Rule 4729-5-04(A); and
- b. Is addicted to or abusing alcohol, drugs or other chemical substances or impaired physically or mentally to such a degree as to render the pharmacist unfit to practice pharmacy, OAC Rule 4729-5-04(D); and



- c. Has been disciplined by any professional licensing board, OAC Rule 4729-5-04(F).

DECISION OF THE BOARD

The State of Ohio Board of Pharmacy hereby approves the application for registration as a pharmacist by reciprocity to practice pharmacy in Ohio subject to a period of probation for two years beginning on the effective date of this Order, with the following conditions:

1. Ryan Hendrickson must appear before the Board's Probation Committee a minimum of two times annually, unless otherwise determined by the Probation Committee;
2. Ryan Hendrickson must attend the Board's reciprocity session within 90 days of the Board's Order;
3. If Ryan Hendrickson practices pharmacy in an Ohio location, during the period of his probation, he shall not be the Responsible Person and he shall not supervise interns unless otherwise approved by the Board or its Probation Committee.

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

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

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

SO ORDERED.

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**10:26 a.m.** The Board recessed briefly.

**10:41 a.m.** The Board reconvened in the Hearing Room.

The Board was joined by Assistant Attorney General Steven Kochheiser to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Michael Baker**, New Franklin, Ohio.

**11:18 a.m.** The hearing ended and the record was closed.

Mr. Weaver moved that the Board recess in order to consider the quasi-judicial matter 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. Newlon and a roll-call vote was conducted by President Marchal as follows: Cox-yes; Moné-yes; Newlon-yes; Passafume-yes; Rudell-yes; Weaver-yes; Wilt-yes and Yarosh-yes.

**11:27 a.m.** The recess ended and the hearing was opened to the public.

**R-2018-084** After votes were taken in public session, the Board adopted the following order in the matter of **Michael Baker**, New Franklin, Ohio.

**ORDER OF THE STATE BOARD OF PHARMACY**

(Case Number 2015-1055)

In The Matter Of:

**Michael Baker, R.Ph.**

258 W. Comet  
Clinton, Ohio 44216  
(License No. 03-1-20498)

**INTRODUCTION**

The Matter of Michael Baker, came for hearing on September 12, 2017, before the following members of the State of Ohio Board of Pharmacy (Board): Megan E. Marchal, RPh, *Presiding*; Joshua M. Cox, RPh; Michael A. Moné, RPh; Richard J. Newlon, *Public Member*; Curtis L. Passafume, Jr., RPh; Jennifer M. Rudell, RPh; Fred M. Weaver, RPh; Shawn C. Wilt, RPh and Kilee S. Yarosh, RPh.

Michael Baker was present and was not represented by counsel. The State of Ohio was represented by Steven Kochheiser, Assistant Attorney General.

**SUMMARY OF EVIDENCE**

**State's Witnesses:**

1. Michael Baker

**Respondent's Witnesses:**

1. Justin Bracken
2. Jarrod Grossman

**State's Exhibits:**

- |   |            |
|---|------------|
| 1. Request for Reinstatement                                    | 03-07-2017 |
| 2. Scheduling Letter  | 03-08-2017 |
| 3. Credential view screen                                       | 05-05-2017 |
| 4. Order of the State Board of Pharmacy dated September 2, 2015 | 09-02-2015 |

**Respondent's Exhibits:**

- |   |           |
|---|-----------|
| A. Letters and documents in support of Respondent's Reinstatement | 8-18-2017 |
|---|-----------|

FINDINGS OF FACT & DECISION OF THE BOARD

After having heard the testimony, observed the demeanor of the witnesses, considered the evidence, and weighed the credibility of each, the Board finds that Michael Baker has substantially complied with the terms set forth in the Board Order of the State of Ohio Board of Pharmacy, Case No. 2015-1055, dated September 2, 2015.

On the basis of this Finding of Fact, and after consideration of the record as a whole, the State of Ohio Board of Pharmacy hereby approves, effective immediately, the reinstatement of the pharmacist identification card, No. 03-1-20498, held by Michael Baker to practice pharmacy in Ohio subject to a period of probation for five years, with the following conditions:

1. Michael Baker must enter into and adhere to the terms of a **new** contract, signed within thirty days after the effective date of this Order, with an Ohio Department of Mental Health and Addiction Services (ODMHAS) treatment provider or a treatment provider acceptable to the Board for a period of not less than five years and, upon signing, submit a copy of the contract to the Board office. Failure to adhere to the terms of the treatment contract will be considered a violation of the Board's Order and subject Michael Baker to potential sanctions up to and including revocation of license. The contract must provide that:
  - a. **Random, observed** urine drug screens shall be conducted at least once each month.
  - b. The urine sample must be given within twelve hours of notification. The urine drug screen must include testing for creatinine or specific gravity of the sample as the dilutional standard.
  - c. Alcohol and Ethyl Glucuronide (ETG) must be added to the standard urine drug screen.
  - d. Results of all drug screens must be negative. Refusal of a drug screen or a diluted drug screen is equivalent to a positive result. Any positive results, including those which may have resulted from ingestion of food, but excluding false positives which resulted from medication legitimately prescribed, indicates a violation of the contract.
  - e. In the event of a negative diluted screen, a hair sample test must be completed at the cost of the Michael Baker in a timeframe consistent with the drug lab's recommended policy, but in any event no later than 12 days after the negative diluted screen.
2. The intervener/sponsor shall submit reports to the Board, in a format acceptable to the Board, indicating drug screens and their results in a timely fashion. Actual copies of drug screens shall be made available to the Board upon request.
  - a. Attendance is required a minimum of three times per calendar week (Sunday through Saturday) on separate days, at an Alcoholics Anonymous, Narcotics Anonymous, and/or similar support group meeting.
  - b. The program shall immediately report to the Board any violations of the contract and/or lack of cooperation.

3. Michael Baker shall not refuse an employer provided drug or alcohol screen. If the Board becomes aware of any positive drug or alcohol screen results that were obtained in the course of employment or any mechanism other than via the signed contract with ODMHAS, the Board shall treat these results as a violation of the Board's Order and request Michael Baker reappear before the Board for possible additional sanctions, including and up to revocation of license.
4. Michael Baker shall not refuse a breathalyzer or other drug testing requested by law enforcement during the duration of probation. The Board shall treat any such refusal as a violation of the Board's Order and request Michael Baker reappear before the Board for possible additional sanctions, including and up to revocation of license.
5. Michael Baker must submit quarterly progress reports to the Board (due January 10, April 10, July 10, and October 10 of each year of probation) that include:
  - a. The written report and documentation provided by the treatment program pursuant to the contract, and
  - b. A written description of Michael Baker's progress towards recovery and what Michael Baker has been doing during the previous three months.
6. Other terms of probation are as follows:
  - a. Michael Baker must meet at least annually with the Board's Probation Committee, the first meeting to be held June 4, 2018 at 9:00 a.m.
  - b. The State of Ohio Board of Pharmacy hereby declares that Michael Baker's pharmacist identification card is not in good standing and thereby denies the privilege of being a preceptor and training pharmacy interns pursuant to paragraph (D)(1) of Rule 4729-3-01 of the Ohio Administrative Code.
  - c. Michael Baker may not serve as a responsible pharmacist.
  - d. Michael Baker may not destroy, assist in, or witness the destruction of controlled substances.
  - e. Michael Baker may not work in a pharmacy more than 40 hours per week or 80 hours over a two week period.
  - f. Michael Baker must, during the first six months of practice, work only with a pharmacist whose license is in good standing.
  - g. Michael Baker must not violate the drug laws of Ohio, any other state, or the federal government.
  - h. Michael Baker must abide by the rules of the State of Ohio Board of Pharmacy.
  - i. Michael Baker must comply with the terms of this Order.

j. Michael Baker's license is deemed not in good standing until successful completion of the probationary period.

7. Due to Michael Baker's guilty plea to a felony drug offense, in order to be employed by an Ohio-licensed terminal or wholesale distributor of dangerous drugs that is a United States Drug Enforcement Administration (DEA) registrant, he must obtain a DEA waiver pursuant to 21 C.F.R. Section 1307.03 and consistent with Ohio Administrative Code Rule 4729-9-27 and 21 C.F.R. Section 1307.76.

8. Michael Baker must immediately report any violation of the terms of this probation to the Board by contacting [legal@pharmacy.ohio.gov](mailto:legal@pharmacy.ohio.gov). Failure to self-report any violation shall be treated as a violation of this Board's Order and will subject Michael Baker to possible additional sanctions, including and up to revocation of license.

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

At the conclusion of the probationary period, the Board will issue a notice of opportunity for hearing to Michael Baker regarding the status of Michael Baker's probation and whether Michael Baker has successfully met all terms of probation and may be considered in good standing.

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

SO ORDERED.

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**11:30 a.m.** The Board led a discussion regarding the presentation of Parkdale Center for Professionals.

**11:43 a.m.** The Board recessed briefly.

**12:05 p.m.** The Board reconvened in the Hearing Room.

**R-2018-085** Ms. Marchal announced the following Settlement Agreement has been signed by all parties and is now effective:

**IN THE MATTER OF:  
CASE No. 2017-1167**

**Akron General Suburban South Family Physicians**  
c/o Dr. Kevin Baldie  
2818 S. Arlington Rd.  
Akron, Ohio 44312  
**License No. 02-2578850**

**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 Akron General Suburban South Family Physicians, for the purpose of resolving all issues between the parties relating to the Board investigation of the negative answer to the legal question on their change of responsible person application. Together, the Board and Akron General Suburban South Family Physicians are referred to hereinafter as “the parties.”

#### **JURISDICTION**

1. Pursuant to Section 4729.57 of the Ohio Revised Code and the rules adopted thereunder, the Board has the authority to suspend, revoke, or refuse to grant or renew any license issued pursuant to Section 4729.54 of the Ohio Revised Code.
2. On or about January 25, 2017, Akron General Suburban South Family Physicians submitted a change of Responsible Person Application for a Terminal Distributor of Dangerous Drugs License 02-2578850.

#### **FACTS**

1. On or about February 1, 2017, the Board initiated an investigation of Akron General Suburban South Family Physicians, Terminal Distributor of Dangerous Drugs license number 02-2578850, related to Akron General Suburban South Family Physicians’ negative answer to the legal question on their change of responsible person application.
2. On or about June 29, 2017, the Board sent a Notice of Opportunity for Hearing to Akron General Suburban South Family Physicians, 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. Akron General Suburban South Family Physicians neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated June 29, 2017; 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. Akron General Suburban South Family Physicians agrees to pay to the Board a monetary penalty in the amount of \$750.00, by means of a cashier’s check made payable to “Treasurer, State of Ohio,” mailed with the enclosed form to the Board, 77 South High Street, 17<sup>th</sup> Floor, Columbus, Ohio 43215-6126, no later than 30 days from the effective date of this Agreement.

4. Akron General Suburban South Family Physicians must submit a new change of Responsible Person application naming a new responsible person within 30 days of the effective date of this Agreement.
5. Akron General Suburban South Family Physicians 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. Akron General Suburban South Family Physicians 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 Akron General Suburban South Family Physicians 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 Akron General Suburban South Family Physicians by the Board and will NOT discharge Akron General Suburban South Family Physicians from any obligation under the terms of this Agreement.
7. Akron General Suburban South Family Physicians agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
8. Akron General Suburban South Family Physicians 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 Akron General Suburban South Family Physicians will operate.
10. Akron General Suburban South Family Physicians 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.

**R-2018-086**

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

**IN THE MATTER OF:**



**CASE NOS.**  
**2016-1299-A**  
**2016-1299-B**

**Giant Eagle Pharmacy #6501**  
c/o Shawna Ricker, RPh  
1250 North Hamilton Road  
Columbus, Ohio 43230  
**License No. 02-1311200**

**AND**

**Shawna Ricker, RPh**  
6878 Addenbrook Blvd.  
New Albany, Ohio 43054  
**License No. 03-2-28255**

#### **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 Giant Eagle Pharmacy #6501 and Shawna Ricker, for the purpose of resolving all issues between the parties relating to the Board investigation of the failure to report significant drug losses to the Board. Together, the Board, Giant Eagle Pharmacy #6501 and Shawna Ricker are referred to hereinafter as “the parties.”

#### **JURISDICTION**

1. Pursuant to Section 4729.57 of the Ohio Revised Code and the rules adopted thereunder, the Board has the authority to suspend, revoke, or refuse to grant or renew any license issued pursuant to Section 4729.54 of the Ohio Revised Code.
2. Giant Eagle Pharmacy #6501 is a licensed Terminal Distributor of Dangerous Drugs under license number 02-1311200 and Shawna Ricker is a licensed pharmacist under license number 03-2-28255.
3. Pursuant to Section 4729.16 of the Ohio Revised Code and the rules adopted thereunder, the Board has the authority to suspend, revoke, or refuse to grant or renew any license issued pursuant to Sections 4729.07 and 4729.08 of the Ohio Revised Code to practice pharmacy in the state of Ohio.
4. Shawn Ricker is an Ohio-licensed pharmacist under license number 03-2-28255.

#### **FACTS**

1. On or about March 9, 2016, the Board initiated an investigation of Giant Eagle Pharmacy #6501, Terminal Distributor of Dangerous Drugs license number 02-1311200 and Shawna Ricker’s, license number 03-2-28255 related to Giant Eagle Pharmacy #6501 and Shawna Ricker’s failure to report significant drug losses to the Board.

2. On or about May 30, 2017 the Board sent a Notice of Opportunity for Hearing to Giant Eagle Pharmacy #6501 and Shawna Ricker, which outlined the allegations and provided notice of their right to a hearing, their rights in such hearing, and their right to submit contentions in writing.

3. On or about June 9, 2017, Giant Eagle Pharmacy #6501 and Shawna Ricker timely requested an administrative hearing, which was subsequently scheduled for December 12, 2017.

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. Giant Eagle Pharmacy #6501 and Shawna Ricker neither admit nor deny the allegations stated in the Notice of Opportunity for Hearing letter dated May 30, 2017; 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. Giant Eagle Pharmacy #6501 agrees to pay to the Board a monetary penalty in the amount of \$2,500.00, by means of a cashier's check made payable to "Treasurer, State of Ohio," mailed with the enclosed form to the Board, 77 South High Street, 17<sup>th</sup> Floor, Columbus, Ohio 43215-6126, no later than 30 days from the effective date of this Agreement.

4. Giant Eagle Pharmacy #6501 agrees to:

a. Continue training staff in Best Practices, quarterly education meetings, and training pharmacy staff in loss prevention measures, including inventory, record keeping and security of controlled substances.

b. Continue training pharmacy staff on the company's controlled substance dispensing guidelines and other policies and procedures for the filing and dispensing of prescriptions for controlled substances and to the periodically review and revise such policies as appropriate.

c. Continue to evaluate and monitor the pharmacy's physical theft/loss prevention measures, which include, but are not limited to, the following:

- I. delivery personnel are escorted in and out of the pharmacy premises;
- II. cell phones are placed on silent and kept only in designated locations;
- III. personal belongings are stored in clear containers within designated area the is under constant video surveillance;
- IV. smocks cannot be worn outside pharmacy; and

- V. all controlled substances will be segregated in the order received and are verified against the invoice by a pharmacist.
- d. Require Giant Eagle Pharmacy #6501 pharmacists to complete and/or repeat DEA continuing education on controlled substances; and
  - e. Continue to perform regular internal audits on controlled substance compliance with federal and state laws and regulations as well as compliance with company policies and procedures.
5. Shawna Ricker agrees to attend a Board-sponsored "Responsible Person Roundtable," within 6 months of the effective date of this agreement and provide proof of completion to the Board within 30 days of attendance. Proof of completion is to be e-mailed to [legal@pharmacy.ohio.gov](mailto:legal@pharmacy.ohio.gov).
6. Shawna Ricker must obtain 5 hours of approved continuing pharmacy education (0.5 CEUs), which may not also be used for license renewal. Copies of completed CEUs must be e-mailed to [legal@pharmacy.ohio.gov](mailto:legal@pharmacy.ohio.gov).
7. Giant Eagle Pharmacy #6501 and Shawna Ricker, or any subsequent Responsible Person, 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 Giant Eagle Pharmacy #6501 currently holds a professional license, including the Board on renewal applications or applications for a new license.
8. Giant Eagle Pharmacy #6501 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 Giant Eagle Pharmacy #6501 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 Giant Eagle Pharmacy #6501 by the Board and will NOT discharge Giant Eagle Pharmacy #6501 from any obligation under the terms of this Agreement.
9. Giant Eagle Pharmacy #6501 agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
10. Giant Eagle Pharmacy #6501 understands that it has the right to be represented by counsel for review and execution of this agreement.
11. 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 Giant Eagle Pharmacy #6501 will operate.

12. Giant Eagle Pharmacy #6501 and Shawna Ricker waive their opportunity to be heard pursuant to Chapter 119. of the Ohio Revised Code, specifically withdraw their request for hearing in this matter, and waive any right to appeal.

13. 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.

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

15. 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.

**R-2018-087**

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

**IN THE MATTER OF:  
CASE NO. 2016-2185**

**William Staric, RPh  
4251 Wayne Street  
Hilliard, Ohio 43026  
License No. 03-1-14761**

**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 (OSBP) and William Staric, for the purpose of resolving all issues between the parties relating to the OSBP investigation of William Staric's failure to complete continuing education units. Together, OSBP and William Staric 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 OSBP has the authority to suspend, revoke, or refuse to grant or renew any license issued pursuant to Section 4729.16 of the Ohio Revised Code to practice pharmacy as in the state of Ohio.
2. William Staric is a licensed pharmacist under license number 03-1-14761.

**FACTS**

1. On or about October 17, 2016, the OSBP initiated an investigation of William Staric, pharmacist license number 03-1-14761, related to William Staric's failure to complete continuing education units.

2. On or about May 23, 2017, the OSBP sent a Notice of Opportunity for Hearing to William Staric, which outlined the allegations and provided notice of his right to a hearing, his rights in such hearing, and his right to submit contentions in writing.

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

#### TERMS

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

1. The recitals set forth above are incorporated in this Settlement Agreement as though fully set forth herein.
2. William Staric neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated May 23, 2017; 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. **WILLIAM STARIC PERMANENTLY AND VOLUNTARILY SURRENDERS TO THE STATE OF OHIO BOARD OF PHARMACY HIS LICENSE AND REGISTRATION TO PRACTICE PHARMACY, LICENSE NO. 03-1-14761, WITH DISCIPLINE PENDING.**
4. **William Staric agrees to immediately return his license and wall certificate to the Board, if the Board is not already in possession of both.**
5. **William Staric may never reapply for any license issued by the State of Ohio Board of Pharmacy pursuant to Chapters 3719., 3796., or 4729. of the Revised Code.**
6. William Staric agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
7. William Staric understands that he has the right to be represented by counsel for review and execution of this agreement.
8. William Staric agrees and acknowledges that this Board disciplinary action must be disclosed to the proper licensing authority of any state or jurisdiction in which he currently holds a professional license.
9. William Staric 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.

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**R-2018-088**

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

**IN THE MATTER OF:  
CASE NO. 2017-1248**

**James Coll, RPh**  
465 Rosedale Street  
Ravenna, Ohio 44266  
**License No. 03-1-13584**

**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 James Coll, for the purpose of resolving all issues between the parties relating to the request of James Coll to surrender his pharmacist license. Together, the Board and James Coll are referred to hereinafter as "the parties."

**JURISDICTION**

1. Pursuant to Section 4729.16 of the Ohio Revised Code and the rules adopted thereunder, the Board has the authority to suspend, revoke, or refuse to grant or renew any license issued pursuant to Sections 4729.07 and 4729.08 of the Ohio Revised Code to practice pharmacy in the state of Ohio.
2. James Coll is an Ohio-licensed pharmacist under license number 03-1-13584, currently on probation with the Board under case numbers 2014-1002 and 2016-2228.

**FACTS**

1. On or about February 13, 2017, the Board opened an investigation based on a complaint regarding an error in dispensing that occurred at Triangle Drug, license number 02-0691200 located at 219 W. Main St., Ravenna, Ohio 44266. During the course of the investigation, it was determined that prescription number 6408899 for patient M.W., written for donepezil 10 mg, one tablet daily #90, was dispensed by James Coll as aripipazole 10 mg, 1 tablet daily. The data entry error created by a technician was not caught by Pharmacist Coll prior to the prescription being dispensed. The refills for this prescription were also not correctly dispensed. Patient M.W. experienced cognitive effects during the time that were initially attributed to the progression of her disease state, until the error was discovered.
2. On or about July 25, 2017, the Board received an e-mail from James Coll requesting to surrender his pharmacist license, license number 03-1-13584.

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. **JAMES COLL PERMANENTLY AND VOLUNTARILY SURRENDERS TO THE STATE OF OHIO BOARD OF PHARMACY HIS LICENSE AND REGISTRATION TO PRACTICE PHARMACY, LICENSE NO. 03-1-13584, WITH DISCIPLINE PENDING.**
3. **James Coll agrees to immediately return his license and wall certificate to the Board.**
4. **James Coll may never reapply for any license issued by the State of Ohio Board of Pharmacy pursuant to Chapters 3719., 3796., or 4729. of the Revised Code.**
5. James Coll agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
6. James Coll understands that he has the right to be represented by counsel for review and execution of this agreement.
7. James Coll agrees and acknowledges that this Board disciplinary action must be disclosed to the proper licensing authority of any state or jurisdiction in which he currently holds a professional license.
8. This Agreement may be executed in counterparts or facsimiles, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.
9. All parties to this Agreement understand that this document is a public record pursuant to Ohio Revised Code Section 149.43.
10. This Agreement contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this Agreement.

**R-2018-089**

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

**IN THE MATTER OF:  
CASE NO. 2016-1923**

**Brittany Marino**  
4117 33<sup>rd</sup> Avenue  
Cincinnati, Ohio 45209  
**License No. 03-3-29106**



## **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 Brittany Marino, for the purpose of resolving all issues between the parties relating to the Board investigation of the error in dispensing of Prescription number 6327281. Together, the Board and Brittany Marino are referred to hereinafter as “the parties.”

### **JURISDICTION**

1. Pursuant to Section 4729.16 of the Ohio Revised Code and the rules adopted thereunder, the Board has the authority to suspend, revoke, or refuse to grant or renew any license issued pursuant to Sections 4729.07 and 4729.08 of the Ohio Revised Code to practice pharmacy in the state of Ohio.
2. Brittany Marino is an Ohio-licensed pharmacist under license number 03-3-29106.

### **FACTS**

1. On or about August 3, 2016, the Board initiated an investigation of Brittany Marino, pharmacist license number 03-3-29106, related to Brittany Marino’s error in dispensing of Prescription number 6327281.
2. On or about July 24, 2017, the Board sent a Notice of Opportunity for Hearing to Brittany Marino, which outlined the allegations and provided notice of her right to a hearing, her rights in such hearing, and her right to submit contentions in writing.

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

### **TERMS**

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

1. The recitals set forth above are incorporated in this Settlement Agreement as though fully set forth herein.
2. Brittany Marino neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated July 24, 2017; 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. Brittany Marino agrees to pay to the Board a monetary penalty in the amount of \$750.00, by means of a cashier’s check made payable to “Treasurer, State of Ohio,” mailed with the enclosed form to the Board, 77 South High Street, 17<sup>th</sup> Floor, Columbus, Ohio 43215-6126, no later than 30 days from the effective date of this Agreement.

4. Brittany Marino must obtain, within 90 days from the effective date of this Agreement, 6 hours of approved continuing pharmacy education (0.6 CEUs) in medication errors and/or patient safety, which may not also be used for license renewal. Copies of completed CEUs must be e-mailed to [legal@pharmacy.ohio.gov](mailto:legal@pharmacy.ohio.gov).
  5. Brittany Marino agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
  6. Brittany Marino understands that she has the right to be represented by counsel for review and execution of this agreement.
  7. Brittany Marino agrees and acknowledges that this Board disciplinary action must be disclosed to the proper licensing authority of any state or jurisdiction in which she currently holds a professional license, including to the Board on renewal applications or applications for a new license.
  8. Brittany Marino waives an opportunity to be heard pursuant to Chapter 119. of the Ohio Revised Code and waives any right to an appeal.
  9. This Agreement may be executed in counterparts or facsimiles, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.
  10. All parties to this Agreement understand that this document is a public record pursuant to Ohio Revised Code Section 149.43.
  11. This Agreement contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this Agreement.
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**R-2018-090**

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

**IN THE MATTER OF:  
CASE No. 2016-2438**

**Fairview General Hospital**  
c/o Michael Hoying, RPh  
18101 Lorain Avenue  
Cleveland, Ohio 44111  
**License No. 02-0030050**

**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 Fairview General Hospital, for the purpose of resolving all issues between the parties relating to the Board investigation of the failure to report a drug loss. Together, the Board and Fairview General 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, or refuse to grant or renew any license issued pursuant to Section 4729.54 of the Ohio Revised Code.
2. Fairview General Hospital is a licensed Terminal Distributor of Dangerous Drugs under license number 02-0030050.

#### **FACTS**

1. On or about December 13, 2016, the Board initiated an investigation of Fairview General Hospital, Terminal Distributor of Dangerous Drugs license number 02-0030050, related to Fairview General Hospital's failure to report a drug theft or loss.
2. On or about July 18, 2017, the Board sent a Notice of Opportunity for Hearing to Fairview General 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.

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. Fairview General Hospital neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated July 18, 2017; 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. Fairview General Hospital agrees to pay to the Board a monetary penalty in the amount of \$3,000.00, by means of a cashier's check made payable to "Treasurer, State of Ohio," mailed with the enclosed form to the Board, 77 South High Street, 17<sup>th</sup> Floor, Columbus, Ohio 43215-6126, no later than 30 days from the effective date of this Agreement.
4. Fairview General 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.
5. Fairview General 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 Fairview General 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 Fairview General Hospital by the Board and will NOT discharge Fairview General Hospital from any obligation under the terms of this Agreement.

6. Fairview General Hospital agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.

7. Fairview General Hospital understands that it has the right to be represented by counsel for review and execution of this agreement.

8. This Agreement is binding upon any and all successors, assigns, affiliates, and subsidiaries of the parties or any other corporation through whom or with whom Fairview General Hospital will operate.

9. Fairview General Hospital waives its opportunity to be heard pursuant to Chapter 119. of the Ohio Revised Code and waives any right to 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.

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**R-2018-091** Mr. Weaver moved that the Board approve the Probation Committee Minutes of August 9, 2017 as written. The motion was seconded by Mr. Wilt and approved by the Board: Aye-8.

**R-2018-092** Mr. Moné moved that the Board approve the Meeting Minutes of August 7-9, 2017 as amended. The motion was seconded by Mr. Passafume and approved by the Board: Aye-8.

**12:13 p.m.** The Board was joined by Assistant Attorney General Steven Kochheiser to create a record in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Kevin Heimberger**, Ashland, Ohio.

**12:20 p.m.** The hearing ended and the record was closed.

Ms. Yarosh moved that the Board recess in order to consider the quasi-judicial matter 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. Rudell and a roll-call vote was conducted by President Marchal as follows: Cox-yes; Moné-yes; Newlon-yes; Passafume-yes; Rudell-yes; Weaver-yes; Wilt-yes and Yarosh-yes.

**12:25 p.m.** The recess ended and the hearing was opened to the public.

**R-2018-093** After votes were taken in public session, the Board adopted the following order in the matter of **Kevin Heimberger**, Ashland, Ohio.

**ORDER OF THE STATE BOARD OF PHARMACY**

(Case Number 2015-1903)

In The Matter Of:

**Kevin Heimberger**  
309 West 4<sup>th</sup> Street  
Ashland, Ohio 44805  
(License No. 06-013222)

**INTRODUCTION**

The Matter of Kevin Heimberger came for consideration on September 12, 2017, before the following members of the State of Ohio Board of Pharmacy (Board): Megan E. Marchal, RPh, *Presiding*; Joshua M. Cox, RPh; Michael A. Moné, RPh; Richard J. Newlon, *Public Member*; Curtis L. Passafume, Jr., RPh; Jennifer M. Rudell, RPh; Fred M. Weaver, RPh; Shawn C. Wilt, RPh and Kilee S. Yarosh, RPh.

Kevin Heimberger was not present nor represented by Counsel. The State of Ohio was represented by Steven Kochheiser, Assistant Attorney General.

**SUMMARY OF EVIDENCE**

**State's Witness:**

1. Homer Chapa—State of Ohio Board of Pharmacy

**Respondent's Witnesses:**

None

**State's Exhibits:**

- |    |  |            |
|----|--|------------|
| 1. | Notice of Opportunity for Hearing              | 05-24-2017 |
| 2. | Order of the State of Ohio Board of Pharmacy   | 02-10-2017 |
| 3. | Email from Nicole Dehner to Sheldon Wittenberg | 02-06-2017 |

**Respondent's Exhibits:**

None

**FINDINGS OF FACT**

After having heard the testimony, observed the demeanor of the witnesses, considered the evidence, and weighed the credibility of each, the Board finds the following to be fact:

1. Pursuant to a Board Order issued February 10, 2017, the Board retains continuing jurisdiction over the matter of Kevin Heimberger.
  - a. Kevin Heimberger's license was summarily suspended on or about May 12, 2016 pursuant to Ohio 3719.121(B). The Board found clear and convincing evidence that continuation of his professional practice or method of prescribing or personally furnishing presented a danger of immediate and serious harm to others. Case No. 2015-1903.
  - b. On or about February 6, 2017, the Board held a hearing on this matter where Kevin Heimberger appeared before the Board with counsel. After a stipulation to the Findings of Fact, the Board heard the testimony and considered the evidence and determined that he knowingly obtained or exerted control over the property, dangerous drugs, of Kroger Pharmacy N-895, without consent. The Board concluded that he violated sections 2913.02, 4729.16(A)(1), (A)(2), (A)(3) and (A)(5) of the Ohio Revised Code and 4729-5-04(C) and (D) of the Ohio Administrative Code. In its decision, the Board included a term that required him to enter into and adhere to the terms of a new contract, signed within 7 days from February 6, 2017, with an Ohio Department of Mental Health and Addiction Services treatment provider and submit a copy to the Board office. This decision was memorialized in an order which became effective on or about February 10, 2017.
2. Kevin Heimberger failed to submit to the Board a signed contract with an Ohio Department of Mental Health and Addiction Services treatment provider within 7 days as required pursuant to the order.

#### CONCLUSIONS OF LAW

1. Such conduct as set forth in the Findings of Fact constitutes a violation of the Board's Order dated February 10, 2017 and subjects Kevin Heimberger to further discipline including and up to revocation of his license no. 06-013222, pursuant to ORC Section 4729.16 and the Board Order dated February 10, 2017.
2. Such conduct as set forth in the Findings of Fact constitutes a violation of section 4729-7-02 of the Ohio Administrative Code, requirements for renewal of a pharmacist identification card.
3. Such conduct as set forth in the Findings of Fact constitutes a violation of Section 4729.08(B) of the ORC of good moral character and habits.
4. Such conduct as set forth in the Findings of Fact constitutes a violation of the following divisions of (A)(2) of section 4729.16 of the ORC, as effective prior to April 6, 2017:
  - a. Guilty of dishonesty or unprofessional conduct in the practice of pharmacy, ORC Section 4729.16(A)(2); and
  - b. Guilty of willfully violating...any of the provisions of this chapter, sections 3715.52 to 3715.72 of the Revised Code, Chapter 2925. or 3719. of the Revised Code, or any rule adopted by the board under those provisions, ORC Section 4729.16(A)(5).

5. Such conduct as set forth in the Findings of Fact constitutes a violation of each of the following divisions of Rule 4729-5-04 of the OAC as effective April 28, 2016:

a. Violated any state or federal law or rule regardless of the jurisdiction in which the acts were committed, OAC Rule 4729-5-04(A); and

b. Violated...any of the provisions of Chapters 4729...of the Revised Code, or any rule adopted by the board under those provisions, OAC Rule 4729-5-04(B); and

c. Violated any restrictions placed by the board on a license or violated any terms of a board order issued against the licensee, OAC Rule 4729-5-04(M).

#### DECISION OF THE BOARD

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

**On the basis of the Findings of Fact and section (1) of the Conclusions of Law, the State of Ohio Board of Pharmacy hereby revokes permanently the Intern Registration, No. 06-013222, held by Kevin Heimberger effective as of the date of the mailing of this Order.**

**On the basis of the Findings of Fact and section (2) of the Conclusions of Law, the State of Ohio Board of Pharmacy hereby revokes permanently the Intern Registration, No. 06-013222, held by Kevin Heimberger effective as of the date of the mailing of this Order.**

**On the basis of the Findings of Fact and section (3) of the Conclusions of Law, the State of Ohio Board of Pharmacy hereby revokes permanently the Intern Registration, No. 06-013222, held by Kevin Heimberger effective as of the date of the mailing of this Order.**

**On the basis of the Findings of Fact and section (4) of the Conclusions of Law, the State of Ohio Board of Pharmacy hereby revokes permanently the Intern Registration, No. 06-013222, held by Kevin Heimberger effective as of the date of the mailing of this Order.**

**On the basis of the Findings of Fact and section (5)(a) of the Conclusions of Law, the State of Ohio Board of Pharmacy hereby revokes permanently the Intern Registration, No. 06-013222, held by Kevin Heimberger effective as of the date of the mailing of this Order.**

**On the basis of the Findings of Fact and section (5)(b) of the Conclusions of Law, the State of Ohio Board of Pharmacy hereby revokes permanently the Intern Registration, No. 06-013222, held by Kevin Heimberger effective as of the date of the mailing of this Order.**



**On the basis of the Findings of Fact and section (5)(c) of the Conclusions of Law, the State of Ohio Board of Pharmacy hereby revokes permanently the Intern Registration, No. 06-013222, held by Kevin Heimberger effective as of the date of the mailing of this Order.**

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

Mr. Passafume moved for Conclusions of Law; Mr. Weaver seconded the motion. Motion passed (Aye-8/Nay-0).

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

SO ORDERED.

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**12:28 p.m.** Mr. McNamee gave a presentation to the Board regarding Office Based Opioid Treatment Rules.

**R-2018-094** Mr. Moné moved that the Board adopt the following Resolution:

**Correctional Facility Destruction of Patient-Specific Controlled Substances**

A state or local correctional facility, as defined in section [5163.45](#) of the Revised Code, may engage in the on-site destruction of ultimate user (i.e. patient-owned) controlled substances in the custodial care of staff, as follows:

- (1) The correctional facility shall be licensed as a category III terminal distributor of dangerous drugs.
- (2) The responsible person shall have policies and procedures in place to ensure compliance with and shall comply with all the following:
  - a. Upon discontinuation of a patient's controlled substance medication, the responsible person, director of nursing or a licensed pharmacist and another responsible person-approved nurse or corrections officer, must document the removal of the patient's dangerous drugs from the medication cart or storage area and record the transfer of the drugs to a secure storage area for disposal.
  - b. The record of the controlled substances removed from the medication cart, or other area of storage, for disposal shall be made on a controlled substance proof-of-use sheet. A controlled substance proof-of-use sheet means a record utilized by a correctional facility that captures, at a minimum, the following information:
    - I. Date;
    - II. Patient name;
    - III. Drug name;
    - IV. Drug strength;
    - V. Quantity; and

VI. The positive identification of the two individuals responsible for removing the dangerous drugs from the medication cart, or other storage area, and transferring the drugs to the secure storage area.

c. The responsible person, director of nursing or a licensed pharmacist and another responsible person-approved nurse or corrections officer, may destroy ultimate user controlled substances using an on-site method at the location licensed as a category III terminal distributor of dangerous drugs. Both individuals shall personally witness and document the destruction of the controlled substance medication. The on-site method does not have to meet the definition of non-retrievable in rule 4729-9-06 of the Administrative Code but must render the drug unavailable and unusable.

d. A record of controlled substances destroyed shall be made, containing the date of destruction, patient name, drug name, drug strength, quantity, method of destruction and the positive identification of the two individuals listed in the previous paragraph of this resolution that are responsible for the destruction. The record of controlled substance destruction shall be maintained on-site at the location licensed as a terminal distributor of dangerous drugs for a minimum of three years and made available to the board of pharmacy upon request.

e. Controlled substances shall be destroyed no later than ten days from the date the patient's controlled substance medication is removed from the medication cart or storage area in accordance with this resolution.

The motion was seconded by Ms. Yarosh and approved by the Board: Aye-8.

**1:11 p.m.** Pursuant to Section 4729.16(E) of the Ohio Revised Code, the State of Ohio Board of Pharmacy considered whether reasonable cause existed to believe that an individual who is a pharmacist is physically or mentally impaired, and whether to order the pharmacist to undergo a physical and mental examination.

**R-2018-095** Mr. Wilt moved that the Board send the abovementioned individual for a physical and mental evaluation. The motion was seconded by Mr. Passafume and approved by the Board: Aye-4/Nay-4—Ms. Marchal voted in favor of the motion, consistent with Section 4729.03 of the ORC, and the motion passed.

**1:30 p.m.** The following candidates for licensure by reciprocity participated in a discussion of pharmacy laws and rules with Ms. Terri Ghittman, *OARRS Pharmacist*, in Room South A, 31<sup>st</sup> Floor of the Vern Riffe Center for the Government and the Arts:

ASHRAF AWAWDEH	03-2-37579
JEFFREY ROSS BOYER	03-2-37550
HENRY C. BURGESS	03-2-37576
ASHLEY SUSAN CHERIAN	03-2-37315
COLLEEN PATRICIA CLOYD	03-2-37477
KATHRYN DIEHL	03-2-36598
MICHELLE DUNCAN	03-2-37584
KATELYN M. GOMPERS	03-2-37433

ADAM ROBERT GONYEAU	03-2-37517
MARLEE MARIE GROUNDS	03-2-37523
JACLYN A. HAMROCK	03-2-37507
LANDON THOMAS HERRICK	03-2-37558
JANELLE ELAINE HESTIN	03-2-37557
CHI-FAN KU HOCKINGS	03-2-37568
ROBYN MCKENZIE JENSEN	03-2-37547
MICHELLE RENEE MAGYER	03-2-37538
MICHAEL LEE MILLER	03-2-37551
JULIE ANN MOELLER	03-2-37569
LINDA NGUYEN	03-2-37486
MARIETTE NEG NJEI	03-2-37573
KELLI M. NOEL	03-2-37586
MARIE CHRISTINE OGRODNIK	03-2-37556
ANUOLUWAPO T. OLOFINLUA	03-2-37540
JEAN PATTON	TO BE ASSIGNED
ALEX PAUL PAVLOVIC	03-2-37580
MICHAEL JAMES PERRY	03-2-37536
DIVYA VERMA	03-2-37555
SORA VYSOTSKI	03-2-36794
JOHN G. ZAVRAS	03-2-37167
ROGER WADDINGTON	TO BE ASSIGNED
AMY WINCHELL	TO BE ASSIGNED
LINDA S. ZICCARDI	03-2-21629

**R-2018-096** Mr. Passafume moved that the meeting be adjourned. The motion was seconded by Mr. Cox and approved by the Board: Aye-8.

**1:34 p.m.** The meeting was adjourned.

  
 Megan E. Marchal, RPh, President

10/10/17  
 Date

  
 Steven W. Schierholt, Esq., Executive Director

10/13/17  
 Date