



OHIO STATE BOARD OF PHARMACY

77 South High Street, Room 1702; Columbus, OH 43215-6126

-Equal Opportunity Employer and Service Provider-

TEL: 614/466-4143

E-MAIL: exec@bop.state.oh.us

FAX: 614/752-4836

TTY/TDD: Use the Ohio Relay Service: 1-800/750-0750

URL: <http://www.pharmacy.ohio.gov>

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY (Case No. 2013-1681)

In the Matter of:

CVS Pharmacy #3457
415 North Main Street, Suite B
New Carlisle, Ohio 45344
(Terminal Distributor Number 02-0102350)

This Settlement Agreement is entered into by and between CVS Pharmacy #3457 and the Ohio State Board of Pharmacy, a state agency charged with enforcing the Pharmacy Practice Act and Dangerous Drug Distribution Act, Chapter 4729. of the Ohio Revised Code.

CVS Pharmacy #3457 enters into this Agreement being fully informed of its rights afforded under Chapter 119. of the Ohio Revised Code, including the right to representation by counsel, the right to a formal adjudication hearing on the issues contained herein, the right to appeal. CVS Pharmacy #3457 acknowledges that by entering into this Agreement it has waived its rights under Chapter 119. of the Revised Code.

WHEREAS, the State Board of Pharmacy is empowered by Section 4729.57 of the Ohio Revised Code to suspend, revoke, refuse to renew any license issued to a terminal distributor of dangerous drugs pursuant to section 4729.54 of the Revised Code, or may impose a monetary penalty on the license holder, for violation of any of the enumerated grounds of Section 4729.57 of the Ohio Revised Code.

WHEREAS, CVS Pharmacy #3457 is a licensed terminal distributor of dangerous drugs in the State of Ohio.

WHEREAS, on or about April 15, 2014, pursuant to Chapter 119. of the Ohio Revised Code, CVS Pharmacy #3457 was notified of the allegations or charges against it, its right to a hearing, its rights in such hearing, and its right to submit contentions in writing. The April 15, 2014, Notice of Opportunity for Hearing contains the following allegations or charges:

- (1) Records of the Board of Pharmacy indicate that CVS Pharmacy #3457 is licensed with the State Board of Pharmacy as a Terminal Distributor of Dangerous Drugs. Records further reflect during the relevant time periods stated herein, Jennifer Jane Simmons, R.Ph. was the Responsible Pharmacist pursuant to Rule 4729-5-11 of the Ohio Administrative Code and Sections 4729.27 and 4729.55 of the Ohio Revised Code.
- (2) CVS Pharmacy #3457 has failed to furnish satisfactory proof to the Ohio State Board of Pharmacy that adequate safeguards are assured to prevent the sale or other distribution of dangerous drugs by any person other than a pharmacist or li-

censed health professional authorized to prescribe drugs, to wit: between May 21, 2013 through May 23, 2013, CVS Pharmacy #3457, 415 North Main Street, New Carlisle, Ohio 45344, allowed Laura Cappa, R.Ph., to engage in the practice of pharmacy and perform duties as a pharmacist intern while on duty despite the fact that she did not have an Ohio pharmacy intern license. Specifically, Laura Cappa dispensed RX#C0485265 for Lorazepam 1mg tablet on May 21, 2013; RX# 0485623 for Diovan 320mg tablet on May 22, 2013; and RX# C048505 for Hydrocodone-Acetaminophen 5-500 on May 23, 2013, while she did not have an Ohio pharmacy intern license. Not until the CVS Regulatory Department requested a copy of Laura Cappa's Ohio intern license was it discovered that she did not have one. The CVS Pharmacy District Manager admitted to a Board Agent in a telephone interview on August 7, 2013, that he failed to verify that Laura Cappa had a valid Ohio intern license when he hired her. Such failure to verify the existence of a required Ohio pharmacy intern license, prior to allowing a person to work in a pharmacy as a pharmacy intern, demonstrates the failure to maintain adequate safeguards to ensure the safe and effective practice of pharmacy. Such conditions violate Section 4729.55(C) of the Ohio Revised Code and constitute a failure to meet the qualifications for a Terminal Distributor of Dangerous Drugs.

- (3) CVS Pharmacy #3457 has ceased to satisfy the qualifications of a terminal distributor of dangerous drugs set forth in Section 4729.55 of the Ohio Revised Code, to wit: between May 21, 2013 through May 23, 2013, CVS Pharmacy #3457, 415 North Main Street, New Carlisle, Ohio 45344, allowed Laura Cappa, R.Ph., to engage in the practice of pharmacy and perform duties as a pharmacist intern while on duty despite the fact that she did not have an Ohio pharmacy intern license. Specifically, Laura Cappa dispensed RX#C0485265 for Lorazepam 1mg tablet on May 21, 2013; RX# 0485623 for Diovan 320mg tablet on May 22, 2013; and RX# C048505 for Hydrocodone-Acetaminophen 5-500 on May 23, 2013, while she did not have an Ohio pharmacy intern license. At no time prior to the CVS Regulatory Department requesting a copy of Laura Cappa's Ohio intern license, and discovering that she did not have one, was it ever verified that Ms. Cappa was licensed in Ohio to perform duties as a pharmacist intern. The CVS Pharmacy District Manager admitted to a Board Agent in a telephone interview on August 7, 2013, that he failed to verify that Laura Cappa had a valid Ohio intern license when he hired her. Such conduct demonstrates that adequate safeguards are not assured so that the pharmacy will carry on the business of a terminal distributor of dangerous drugs in a manner that allows pharmacists and pharmacy interns to practice in a safe and effective manner, and constitutes a violation of Section 4927.55(D) of the Ohio Revised Code and a failure to meet the qualification for a Terminal Distributor of Dangerous Drugs.

CVS Pharmacy #3457 neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated April 15, 2014; however, the Board has evidence sufficient to sustain the allegations and hereby adjudicates the same.

Wherefore, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of a formal hearing at this time, CVS Pharmacy #3457 knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

- (A) CVS Pharmacy #3457 agrees to the imposition of a monetary penalty of five hundred dollars (\$500.00) due and owing within thirty days from the effective date of this Agreement. Checks should be made payable to the "Treasurer, State of Ohio" and mailed with the enclosed forms to the State Board of Pharmacy, 77 South High Street, 17th Floor, Columbus, Ohio 43266-0320.

CVS Pharmacy #3457 acknowledges that it has had an opportunity to ask questions concerning the terms of this agreement and that all questions asked have been answered in a satisfactory manner. Any action initiated by the Board based on alleged violation of this Agreement shall comply with the Administrative Procedure Act, Chapter 119. of the Ohio Revised Code.

CVS Pharmacy #3457 waives any and all claims or causes of action it may have against the State of Ohio or the Board, and members, officers, employees, and/or agents of either, arising out of matters which are the subject of this Agreement. CVS Pharmacy #3457 waives any rights of appeal pursuant to Chapter 119. of the Ohio Revised Code.

This Agreement embodies the entire agreement between and of the parties. There are no express or implied promises, guarantees, terms, covenants, conditions, or obligations other than those contained herein; and this agreement supersedes all previous communications, representations or agreements, either verbal or written, between the parties.

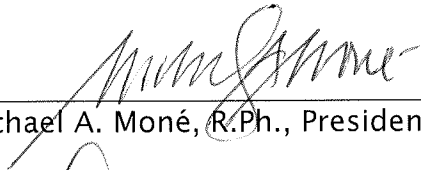
This Settlement Agreement shall be considered a public record, as that term is used in Section 149.43 of the Ohio Revised Code, and shall become effective upon the date of the Board President's signature below.



Joseph Lavino, PharmD, R.Ph., JD
Director, Executive Advisor , CVS #3457

7-25-2014

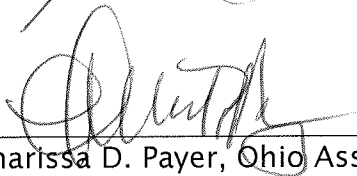
Date of Signature



Michael A. Moné, R.Ph., President, Ohio State Board of Pharmacy

8-5-2014

Date of Signature



Charissa D. Payer, Ohio Assistant Attorney General

8-5-2014

Date of Signature

MONETARY PENALTY TRANSMITTAL FORM

IN THE MATTER OF:

CVS PHARMACY #3457
(Terminal Distributor No. 02-0102350)

THE ENCLOSED AGREEMENT OF THE OHIO STATE BOARD OF PHARMACY IMPOSES A MONETARY PENALTY PURSUANT TO SECTION 4729.57 OF THE REVISED CODE. SAID MONETARY PENALTY OF \$500.00 DUE PRIOR TO THIRTY DAYS FROM THE EFFECTIVE DATE OF THIS AGREEMENT.

TO ENSURE PROPER CREDIT, RETURN THIS FORM WITH YOUR PAYMENT TO THE STATE BOARD OF PHARMACY; 77 S. HIGH STREET, ROOM 1702; COLUMBUS, OHIO 43215-6126. PAYMENT IS TO BE MADE PAYABLE TO THE "TREASURER, STATE OF OHIO".

PAYMENT NOT RECEIVED DURING THE DESIGNATED TIME MAY RESULT IN FURTHER ACTION BY THE BOARD THROUGH THE OFFICES OF THE STATE AUDITOR AND ATTORNEY GENERAL.

- FOR BOARD USE ONLY BELOW THIS LINE -

Case No. 2013-1681

Penalty Type Settlement Agreement

Amount Assessed \$500.00

Control No. 1500558

Amount Suspended -0-

Date Received 08/01/2014

Amount Due \$500.00

Amount Received \$500.00