



OHIO STATE BOARD OF PHARMACY

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

-Equal Opportunity Employer and Service Provider-

PHONE: 614/466-4143

FAX: 614/752-4836

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

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

URL: <http://www.state.oh.us/pharmacy/>

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY (Docket No. 040512-071)

In the Matter of:

CVS/PHARMACY #3458
c/o Dennis W. White, R.Ph.
1331 North Fairfield Road
Beavercreek, Ohio 45432
(Terminal Distributor No. 02-0140700)

This settlement agreement is entered into by and between CVS/PHARMACY #3458 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 #3458 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 #3458 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 #3458 is a licensed terminal distributor of dangerous drugs in the State of Ohio.

WHEREAS, on or about May 12, 2004, pursuant to Chapter 119. of the Ohio Revised Code, CVS/PHARMACY #3458 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. Further, a hearing was scheduled. The May 12, 2004, Notice of Opportunity for Hearing contains the following allegations or charges:

- (1) Records of the Board of Pharmacy indicate that CVS/Pharmacy #3458, 1331 North Fairfield Road, Beavercreek, Ohio, is licensed with the State Board of Pharmacy as a Terminal Distributor of Dangerous Drugs and Dennis W. White is 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.

CVS/PHARMACY #3458

Page 2

Settlement Agreement

- (2) CVS/Pharmacy #3458 did, on or about November 7, 2002, and dates subsequent, fail to maintain a prescription in the pharmacy for a period of three years, to wit: after dispensing Rx #164799, CVS/Pharmacy #3458 did not file or otherwise keep the prescription record on file at the pharmacy. Such conduct is in violation of Section 4729.37 of the Ohio Revised Code and Rule 4729-5-09(C) of the Ohio Administrative Code.
- (3) CVS/Pharmacy #3458 did, on or about November 7, 2002, and dates subsequent, fail to keep the daily counseling log readily available and produced promptly for inspection by the Board, to wit: the daily counseling log is no longer maintained in the pharmacy for said date; however, other dates are available. Such conduct is in violation of Rule 4729-5-27(H) of the Ohio Administrative Code, and constitutes violating a rule of the Board within the meaning of Section 4729.57 of the Ohio Revised Code.

Whereas, 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 #3458 knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

- (A) CVS/PHARMACY #3458 agrees to the imposition of a monetary penalty of one thousand dollars (\$1,000.00) relating to paragraph two and one thousand dollars (\$1,000.00) relating to paragraph three, for a total monetary penalty of \$2,000.00, and payment of the monetary penalty is due and owing within thirty (30) days of the effective date of this Agreement. Checks should be made payable to the "Treasurer, State of Ohio" and mailed with the enclosed form to the State Board of Pharmacy, 77 S. High Street, 17th Floor, Columbus, Ohio 43215-6126.

CVS/PHARMACY #3458 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 #3458 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 #3458 waives any rights of appeal pursuant to Chapter 119. of the Ohio Revised Code.

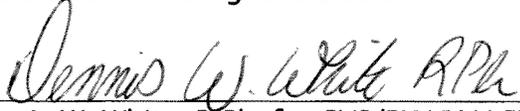
This agreement embodies the entire agreement between and of the parties. There are no express or implied promises, guarantees, terms, covenants, conditions, or obligations other than those contained herein; and this agreement supersedes all previous communications, representations or agreements, either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

CVS/PHARMACY #3458

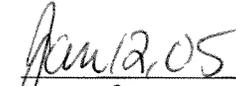
Page 3

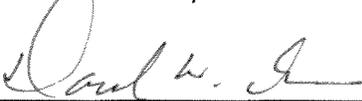
Settlement Agreement

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.

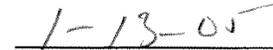


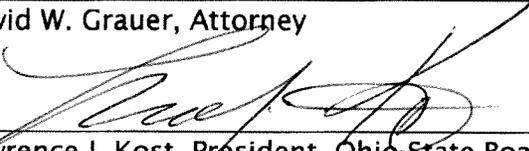
Dennis W. White, R.Ph. for CVS/PHARMACY #3458


Date of Signature

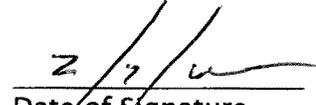


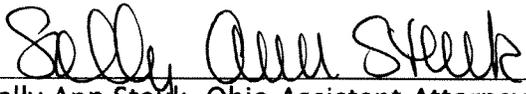
David W. Grauer, Attorney


Date of Signature

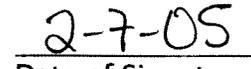


Lawrence J. Kost, President, Ohio State Board of Pharmacy


Date of Signature



Sally Ann Steuk, Ohio Assistant Attorney General


Date of Signature