

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY
(Docket No. D-010312-043)

In the Matter of:

TRUMBULL TWP. VOLUNTEER FIRE DEPT.
c/o Jim Bradbury
2443 State Route 534
Geneva, Ohio 44041
(Terminal Distributor No. 02-0974850)

THIS SETTLEMENT AGREEMENT IS ENTERED INTO BY AND BETWEEN TRUMBULL TWP. VOLUNTEER FIRE DEPT. 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.

TRUMBULL TWP. VOLUNTEER FIRE DEPT. 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.

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, Trumbull Twp. Volunteer Fire Dept. is a licensed terminal distributor of dangerous drugs in the State of Ohio.

WHEREAS, on or about March 12, 2001, pursuant to Chapter 119. of the Ohio Revised Code, Trumbull Twp. Volunteer Fire Dept. 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 by the Board. The March 12, 2001, Notice of Opportunity for Hearing contains the following allegations or charges:

- (1) Records of the Board of Pharmacy indicate that you are the EMS Coordinator at Trumbull Twp. Volunteer Fire Dept., 2443 State Route 534 Geneva, Ohio 44041, terminal distributor license number 02-0974850, pursuant to Sections 4729.27 and 4729.55 of the Ohio Revised Code and Rule 4729-5-11 of the Ohio Administrative Code.
- (2) Trumbull Twp. Volunteer Fire Dept. did, on or about April 19, 2000, possess for sale dangerous drugs when the conduct was not in accordance with Chapter 4729. of the Ohio Revised Code, to wit: after its license to possess drugs had lapsed and prior to its renewal, the squad possessed dangerous drugs for use on patients. Such conduct is in violation of Section 4729.51(C) of the Ohio Revised Code, and if proven constitutes violating a provision of Chapter 4729. of the Ohio Revised Code within the meaning of Section 4729.57 of the Ohio Revised Code.

- (3) Trumbull Twp. Volunteer Fire Dept. did, on or about June 7, 2000, possess for sale dangerous drugs when the conduct was not in accordance with Chapter 4729. of the Ohio Revised Code, to wit: after its license to possess drugs had lapsed and prior to its renewal, and after having been warned of such conduct by a Board agent on April 19, 2000, the squad possessed dangerous drugs for use on patients. Such conduct is in violation of Section 4729.51(C) of the Ohio Revised Code, and if proven constitutes violating a provision of Chapter 4729. of the Ohio Revised Code within the meaning of Section 4729.57 of the Ohio Revised Code.
- (4) Trumbull Twp. Volunteer Fire Dept. did, on or about April 19, 2000, fail to secure dangerous drugs in an area secured by suitable locks and/or an electronic barrier, to wit: the drug box on the squad had no locks, and the squad was accessible by non-licensed persons. Such conduct is in violation of Rule 4729-9-11(B) of the Ohio Administrative Code, and if proven constitutes violating a rule of the Board within the meaning of Section 4729.57 of the Ohio Revised Code.
- (5) Trumbull Twp. Volunteer Fire Dept. did, on or about June 7, 2000, fail to secure dangerous drugs in an area secured by suitable locks and/or an electronic barrier, to wit: the drug box, without locks, had been stored in the building's radio room/office, and was accessible by non-licensed persons. A Board agent had given a written warning about such conduct on April 19, 2000. Such conduct is in violation of Rule 4729-9-11(B) of the Ohio Administrative Code, and if proven constitutes violating a rule of the Board within the meaning of Section 4729.57 of the Ohio Revised Code.

WHEREAS, Trumbull Twp. Volunteer Fire Dept. denies some or all of the allegations or charges. Notwithstanding Trumbull Twp. Volunteer Fire Dept.'s denial of the allegations, the Board hereby adjudicates the same.

WHEREAS, Trumbull Twp. Volunteer Fire Dept. admits and acknowledges that it is not a "pre-
vailing eligible party" for purposes of Revised Code Sections 119.092 and 2335.39. Further, Trumbull Twp. Volunteer Fire Dept. waives any rights it may have under Sections 119.09 and 2335.39 of the Ohio Revised Code.

WHEREAS, Trumbull Twp. Volunteer Fire Dept., with intention of binding itself and its successors in interest and assigns, hereby releases, and holds harmless from liability and forever discharges the State of Ohio, the Board, the Ohio Attorney General, and any and all of their present and former members, officers, attorneys, agents and employees, personally and in their official capacities, from any and all claims, demands, causes of actions, judgments, or executions that Trumbull Twp. Volunteer Fire Dept. ever had, or now has or may have, known or unknown, or that anyone claiming through or under it may have or claims to have, created by or arising out of the allegations or charges filed by the Board against Trumbull Twp. Volunteer Fire Dept., set forth in the Notice of Opportunity for Hearing.

WHEREAS, Trumbull Twp. Volunteer Fire Dept. 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.

Therefore, the parties, in consideration of the mutual covenants and promises contained herein, and in lieu of any further formal proceedings at this time, and intending to be bound by said covenants, agree as follows:

- (A) Pursuant to Section 4729.25(B) of the Ohio Revised Code, Trumbull Twp. Volunteer Fire Dept. is hereby reprimanded.

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.

THE PARTIES HERETO ACKNOWLEDGE THAT THIS 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.

SIGNED AND EFFECTIVE DECEMBER 3, 2001