

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY
(Docket No. D-000211-046)

In the Matter of:

NEWTOWN FIRE AND RESCUE
c/o Scott Frame, M.D.
3537 Church Street
Newtown, Ohio 45244
(Terminal Distributor No. 02-0980900)

THIS SETTLEMENT AGREEMENT IS ENTERED INTO BY AND BETWEEN NEWTOWN FIRE AND RESCUE 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.

NEWTOWN FIRE AND RESCUE VOLUNTARILY 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, AND THE RIGHT TO APPEAL. NEWTOWN FIRE AND RESCUE 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, Newtown Fire and Rescue is a licensed terminal distributor of dangerous drugs in the state of Ohio.

WHEREAS, on or about February 11, 2000, pursuant to Chapter 119. of the Ohio Revised Code, Newtown Fire and Rescue 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 February 11, 2000, Notice of Opportunity for Hearing contains the following allegations or charges:

- (1) Records of the State Board of Pharmacy indicate that Scott Frame, M.D. is the responsible person for Newtown Fire and Rescue, terminal distributor license number 02-0980900, pursuant to Section 4729.55 of the Ohio Revised Code.
- (2) Newtown Fire and Rescue allowed its terminal distributor license to lapse from January 1, 1998, to November 4, 1999. Such conduct is in violation of Section 4729.54(l) of the Ohio Revised Code.

WHEREAS, Newtown Fire and Rescue admits to the allegations or charges, and the Board hereby adjudicates the same.

WHEREAS, Newtown Fire and Rescue admits and acknowledges that it is not a “prevailing eligible party” for purposes of Revised Code Sections 119.092 and 2335.39. Further, Newtown Fire and Rescue waives any rights it may have under Sections 119.09 and 2335.39 of the Ohio Revised Code.

WHEREAS, Newtown Fire and Rescue, 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 Newtown Fire and Rescue 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 Newtown Fire and Rescue, set forth in the Notice of Opportunity for Hearing.

WHEREAS, Newtown Fire and Rescue 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.

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 Sections 4729.25(B) and 4729.57 of the Ohio Revised Code, Newtown Fire and Rescue is hereby reprimanded.
- (B) Newtown Fire and Rescue agrees to pay licensing and late fees for the 1998 through 2000 renewal periods in the amount of \$447.50. (Paid on November 4, 1999.)

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 JUNE 12, 2000