



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

(Docket Number D-111019-213)

In the Matter of:

GHA PHARMACY

c/o Timothy Dale Burton, R.Ph.
2915 Clifton Avenue
Cincinnati, Ohio 45220
(Terminal Distributor Number 02-1526550)

This Settlement Agreement is entered into by and between GHA Pharmacy 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.

GHA Pharmacy 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. GHA Pharmacy 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, GHA Pharmacy is a licensed Terminal Distributor of Dangerous Drugs in the State of Ohio.

WHEREAS, on or about October 19, 2011, pursuant to Chapter 119. of the Ohio Revised Code, GHA Pharmacy 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 and continued by the Board. The October 19, 2011, Notice of Opportunity for Hearing contains the following allegations or charges:

- (1) Records of the Board of Pharmacy indicate that GHA Pharmacy 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, Timothy Dale Burton 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) GHA Pharmacy did, from on or about October 18, 2010, through February 10, 2011, fail to notify the Ohio State Board of Pharmacy by telephone immediately upon the discovery of the theft or significant loss of dangerous drugs or controlled substances, to wit: pharmacy personnel were aware that there were shortages of controlled substances, and that a pharmacy technician stole the significant amounts of hydrocodone from four different pharmacies, yet did not immediately notify the Board of Pharmacy. Such conduct is in violation of Rule 4729-9-15(A) of the Ohio Administrative Code.

GHA Pharmacy neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated October 19, 2011; 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, GHA Pharmacy knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

(A) GHA Pharmacy agrees to the imposition of a monetary penalty of three thousand dollars (\$3,000.00) 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, Room 1702, Columbus, Ohio 43215-6126.

(B) GHA Pharmacy agrees to adopt and implement the policies as submitted to the Ohio State Board of Pharmacy in its letter dated January 4, 2012. These policies are incorporated into this Agreement as if fully rewritten herein.

(C) In addition, GHA Pharmacy agrees to require each pharmacist in charge and supervising pharmacist at all GHA Pharmacy locations to obtain, within six months from the effective date of this Agreement, five hours of approved continuing pharmacy education (0.5 CEUs) in Jurisprudence, which may not also be used for license renewal.

GHA Pharmacy 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.

GHA Pharmacy 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. GHA Pharmacy 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.

GHA Pharmacy, Respondent
c/o Timothy Dale Burton, R.Ph.

02/09/12
Date of Signature

Kris M. Dawley, Attorney for Respondent

02/15/12
Date of Signature

Donald M. Casar, President, Ohio State Board of Pharmacy

03/05/12
Date of Signature

Tracy M. Nave, Ohio Assistant Attorney General

03/30/12
Date of Signature