

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY
VOLUNTARY SURRENDER WITH DISCIPLINARY ACTION PENDING
(Docket No. D-020212-039)

In The Matter Of:

JOSEPH ANTHONY CUSMA, R.Ph.
7919 Erika Circle N.W.
Massillon, Ohio 44646
(R.Ph. No. 03-1-08957)

This Settlement Agreement is entered into by and between Joseph Anthony Cusma 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.

Joseph Anthony Cusma enters into this Agreement being fully informed of his rights afforded under Chapter 119. of the Ohio Revised Code, including the right to representation by counsel and the right to a formal adjudication hearing on the issues contained herein.

Joseph Anthony Cusma is knowingly and voluntarily acknowledging that, in order to settle the disciplinary charges that have been filed by the Board against him and in order to obviate the need to conduct an administrative hearing to consider possible disciplinary sanctions against Joseph Anthony Cusma's license to practice pharmacy in the State of Ohio, this Agreement is entered into on the basis of the following stipulations, admissions, and understandings:

- (A) The Ohio State Board of Pharmacy is empowered by Section 4729.16 of the Ohio Revised Code to suspend, revoke, place on probation, refuse to grant or renew an identification card, or impose a monetary penalty on the license holder for violation of any of the enumerated grounds.
- (B) Joseph Anthony Cusma neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated February 12, 2002; however, the Board has duly filed the allegations in its Notice of Opportunity as stated therein and will withhold conducting an adjudication hearing pursuant to the terms of this agreement.

Wherefore, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of a formal hearing at this time, Joseph Anthony Cusma knowingly and voluntarily **SURRENDERS PERMANENTLY TO THE STATE BOARD OF PHARMACY HIS LICENSE AND REGISTRATION TO PRACTICE PHARMACY, WITH DISCIPLINARY ACTION PENDING, AND IS PRECLUDED FROM MAKING ANY APPLICATION FOR FURTHER REGISTRATION.**

Pursuant to Rule 4729-9-01, Joseph Anthony Cusma may not be employed by or work in any facility licensed by the Board of Pharmacy to possess or distribute dangerous drugs.

Joseph Anthony Cusma acknowledges that he 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.

Joseph Anthony Cusma waives any and all claims or causes of action he 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. Joseph Anthony Cusma waives any rights of appeal pursuant to Chapter 119. of the Ohio Revised Code.

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.

SIGNED AND EFFECTIVE JANUARY 6, 2003

THE STATE BOARD OF PHARMACY

VS

JOE CUSMA, R.Ph.

THE MATTER OF THE STATE BOARD OF PHARMACY VERSUS JOE CUSMA, DOCKET 6-22-1, WAS HEARD PURSUANT TO CHAPTERS 4729. AND 119., REVISED CODE. AFTER CONSIDERATION OF THE EVIDENCE ADDUCED, MOTION WAS MADE AND RECORDED THE FOLLOWING ORDER BE ADOPTED:

ORDER

1. THE STATE BOARD OF PHARMACY FINDS JOE CUSMA DID VIOLATE SECTION 3715.52(L), OHIO REVISED CODE, IN THAT A DANGEROUS DRUG: TO WIT: NORLESTRIN 21 1/50 WAS DISPENSED ON PRESCRIPTION # 294490 ON MAY 17, 1977 WITHOUT PROPER AUTHORIZATION.
2. THE STATE BOARD OF PHARMACY FINDS JOE CUSMA DID VIOLATE SECTION 3715.52(L), OHIO REVISED CODE, IN THAT A DANGEROUS DRUG: TO WIT: NORLESTRIN 21 1/50 WAS DISPENSED ON PRESCRIPTION # 294490 ON JUNE 17, 1977 WITHOUT PROPER AUTHORIZATION.
3. THE STATE BOARD OF PHARMACY FINDS JOE CUSMA DID VIOLATE OHIO STATE PHARMACY BOARD REGULATION 4729-5-12 IN THAT A DANGEROUS DRUG: TO WIT: NORLESTRIN 21 1/50 WAS DISPENSED ON PRESCRIPTION # 294490 ON JUNE 17, 1977 WITHOUT A RECORD BEING MADE OF SAID DISPENSING.
4. THE STATE BOARD OF PHARMACY FINDS JOE CUSMA DID VIOLATE SECTION 3715.52(L) OF THE OHIO REVISED CODE IN THAT A DANGEROUS DRUG: TO WIT: NORLESTRIN 21 1/50 WAS DISPENSED ON PRESCRIPTION # 294490 ON JULY 15, 1977 WITHOUT PROPER AUTHORIZATION.
5. THE STATE BOARD OF PHARMACY FINDS JOE CUSMA DID VIOLATE OHIO STATE PHARMACY BOARD REGULATION 4729-5-12 IN THAT A DANGEROUS DRUG: TO WIT: NORLESTRIN 21 1/50 WAS DISPENSED ON PRESCRIPTION # 294490 ON JULY 15, 1977 WITHOUT A RECORD BEING MADE OF SAID DISPENSING.
6. THE STATE BOARD OF PHARMACY FINDS JOE CUSMA DID VIOLATE SECTION 3719.07(G)(2) OF THE OHIO REVISED CODE IN THAT AN AUDIT CONDUCTED BY A REPRESENTATIVE OF THE OHIO STATE PHARMACY BOARD DISCLOSED A SHORTAGE OF MORE THAN 500 TABLETS OF A SCHEDULE II DRUG: TO WIT: PERCODAN, SUCH AUDIT CONDUCTED FOR A PERIOD BETWEEN MAY 30, 1977 AND AUGUST 24, 1977.
7. THE STATE BOARD OF PHARMACY FINDS JOE CUSMA DID VIOLATE SECTION 3719.05(A) OF THE OHIO REVISED CODE IN THAT A SCHEDULE IV DRUG: TO WIT: DARVOCET N-100 WAS DISPENSED ON PRESCRIPTION # 294037 ON MAY 13, 1977 WITHOUT PROPER AUTHORIZATION.

8. THE STATE BOARD OF PHARMACY FINDS JOE CUSMA DID VIOLATE SECTION 3719.05(A), OHIO REVISED CODE, IN THAT A SCHEDULE IV DRUG: TO WIT: DARVOCET N-100 WAS DISPENSED ON PRESCRIPTION # 294037 ON MAY 18, 1977 WITHOUT PROPER AUTHORIZATION.
9. THE STATE BOARD OF PHARMACY FINDS JOE CUSMA DID VIOLATE SECTION 3719.02(G)(2), OHIO REVISED CODE, IN THAT A SCHEDULE IV DRUG: TO WIT: DARVOCET N-100 WAS DISPENSED ON PRESCRIPTION # 294037 ON MAY 18, 1977 WITHOUT A RECORD BEING MADE OF SAID DISPENSING.
10. THE STATE BOARD OF PHARMACY FINDS JOE CUSMA DID VIOLATE SECTION 3719.05(A), OHIO REVISED CODE, IN THAT A SCHEDULE IV DRUG: TO WIT: DARVOCET N-100 WAS DISPENSED ON PRESCRIPTION # 294037 ON JUNE 1, 1977 WITHOUT PROPER AUTHORIZATION.
11. THE STATE BOARD OF PHARMACY FINDS JOE CUSMA DID VIOLATE SECTION 3719.05(A), OHIO REVISED CODE, IN THAT A SCHEDULE IV DRUG: TO WIT: DARVOCET N-100 WAS DISPENSED ON PRESCRIPTION # 294037 ON JUNE 17, 1977 WITHOUT PROPER AUTHORIZATION.
12. THE STATE BOARD OF PHARMACY FINDS JOE CUSMA DID VIOLATE SECTION 4729.16(D), OHIO REVISED CODE, IN THAT ON JUNE 6, 1977 HE PERMITTED A PERSON OTHER THAN A PHARMACIST OR PHARMACY INTERN TO PRACTICE PHARMACY: TO WIT: KATHY NICHOLS DID DISPENSE A DANGEROUS DRUG: TO WIT: ORTHO-NOVUM 21 1/50, ON PRESCRIPTION # 294191.
13. THE STATE BOARD OF PHARMACY FINDS JOE CUSMA DID VIOLATE OHIO STATE PHARMACY BOARD REGULATION 4729-5-12 IN THAT ON JUNE 6, 1977 KATHY NICHOLS DISPENSED A DANGEROUS DRUG: TO WIT: ORTHO-NOVUM 21 1/50, ON PRESCRIPTION # 294191 AND THERE WAS NO RECORD MADE OF SAID DISPENSING.
14. THE STATE BOARD OF PHARMACY FINDS UNDER SECTION 4729.16, OHIO REVISED CODE, THE STATE BOARD OF PHARMACY, AFTER HEARING AND NOTICE IN ACCORDANCE WITH SECTIONS 119.01 TO 119.13, INCLUSIVE, OF THE REVISED CODE, MAY REVOKE, SUSPEND, OR REFUSE TO GRANT AN IDENTIFICATION CARD OR RENEWAL IDENTIFICATION CARD UNDER THIS CHAPTER, OR MAY IMPOSE A MONETARY PENALTY OR FORFEITURE NOT TO EXCEED IN SEVERITY ANY FINE DESIGNATED UNDER THE REVISED CODE FOR A SIMILAR OFFENSE, IF A MAJORITY OF THE MEMBERS OF THE BOARD FIND A PHARMACIST OR PHARMACY INTERN:
 - (c) GUILTY OF WILLFULLY VIOLATING MORE THAN ONE TIME ANY OF THE PROVISIONS OF SECTIONS 3715.52 TO 3715.72 OR CHAPTER 2925., 3719., OR 4729. OF THE REVISED CODE.
 - (d) GUILTY OF PERMITTING ANYONE OTHER THAN A PHARMACIST OR PHARMACY INTERN TO PRACTICE PHARMACY.

THE STATE BOARD OF PHARMACY HEREBY SUSPENDS THE IDENTIFICATION CARD OF JOE CUSMA FOR ONE YEAR EFFECTIVE MARCH 1, 1978 AND FINES HIM \$1,000.00. FURTHER, THE BOARD SUSPENDS THE SUSPENSION AND SUSPENDS \$500.00 OF THE FINE ON CONDITION THAT MR. CUSMA ABIDE BY THE TERMS OF PROBATION SET BY THE BOARD, FOR A ONE YEAR PERIOD. THESE TERMS PROVIDE THAT MR. CUSMA SHALL NOT VIOLATE ANY DRUG LAWS OF THE STATE OF OHIO AND ABIDE BY THE REGULATIONS OF THE OHIO STATE BOARD OF PHARMACY.

THIS ORDER WAS APPROVED BY A ROLL CALL VOTE OF THE STATE BOARD OF PHARMACY.

MOTION CARRIED.

SO ORDERED.

ORDER EFFECTIVE FEBRUARY 14, 1978