

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY
(Docket No. D-010615-078)

In The Matter Of:

MARION A. SZCZECHOWSKI, R.Ph.
4220 Hurley Drive
Toledo, Ohio 43614
(R.Ph. No. 03-1-11008)

This Settlement Agreement is entered into by and between Marion A. Szczechowski 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.

Marion A. Szczechowski voluntarily 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, the right to a formal adjudication hearing on the issues contained herein, and the right to appeal. Marion A. Szczechowski acknowledges that by entering into this agreement he has waived his rights under Chapter 119. of the Revised Code.

Whereas, the Board 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 enforce a monetary penalty on the license holder for violation of any of the enumerated grounds therein.

Whereas, Marion A. Szczechowski is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about June 15, 2001, pursuant to Chapter 119. of the Ohio Revised Code, Marion A. Szczechowski was notified of the allegations or charges against him, his right to a hearing, his rights in such hearing, and his right to submit contentions in writing. Further, a hearing was scheduled by the Board. The Notice of Opportunity for Hearing contains the following allegations or charges:

- (A) Records of the Board of Pharmacy indicate that you were originally licensed in the State of Ohio on July 30, 1974, pursuant to examination, and are currently licensed to practice pharmacy in the State of Ohio.
- (B) You did, on or about December 1, 2000, misbrand and/or sell a misbranded drug, to wit: when the prescribing physician caused telephone prescription number 267088 to be issued for "Rondec DM, ½ dropper full, 3 times per day," you dispensed the drug with a label indicating directions as "take 1 and ½ droppers full three times a day." The patient, a seven-month old child, was administered one dose at bedtime. Such conduct is in violation of Section 3715.52 of the Ohio Revised Code, and if proven constitutes being guilty of unprofessional conduct in the practice of pharmacy within the meaning of Section 4729.16 of the Ohio Revised Code.

- (C) You did, on or about December 1, 2000, fail to perform prospective drug utilization review, to wit: when dispensing medication to a patient pursuant to prescription number 267088, you failed to review the original prescription for over-utilization, incorrect drug dosage and duration of drug treatment, and misuse. Such conduct is in violation of Rules 4729-5-20 of the Ohio Administrative Code, and if proven constitutes being guilty of unprofessional conduct in the practice of pharmacy within the meaning of Section 4729.16 of the Ohio Revised Code.

Wherefore, 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:

- (1) Marion A. Szczechowski agrees to the imposition of a monetary Two Hundred Fifty Dollars (\$250.00) due and owing within 30 days of the effective date of this Agreement. The monetary penalty 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 43266-0320.
- (2) In addition to any and all other Continuing Education requirements, Marion A. Szczechowski agrees to attend 2.0 hours of continuing education within two months of the effective date of this agreement for kinetic principles and dosing of pediatric medications, including cough and cold prescriptions.
- (3) Marion A. Szczechowski agrees that the kinetic principles continuing education will be prepared and presented by the faculty of the Pharmacy Practice Division of The Ohio State University College of Pharmacy and will be accredited through the Ohio State Board of Pharmacy.
- (4) Marion A. Szczechowski denies some or all of the allegations or charges. Notwithstanding Marion A. Szczechowski's denial of the allegations, the Board hereby adjudicates the same.
- (5) Marion A. Szczechowski admits and acknowledges that he is not a "prevailing eligible party" for purposes of Revised Code Sections 119.092 and 2335.39. Further Marion A. Szczechowski waives any rights he may have under Revised Code Sections 119.09 and 2335.39.
- (6) Marion A. Szczechowski, with intention of binding himself and his 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 Marion A. Szczechowski ever had, or now has or may have, known or unknown, or that anyone claiming through or under him may have or claims to have, created by or arising out of the allegations or charges filed by the Board against Marion A. Szczechowski, set forth in the Notice of Opportunity for Hearing.

- (7) Marion A. Szczechowski 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.
- (8) 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.
- (9) 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 APRIL 8, 2002