OHIO STATE BOARD OF PHARMACY

77 South High Street, 17th Floor; Columbus, Ohio 43266-0320

-Equal Opportunity Employer and Service Provider-

PHONE: 614/466-4143 **FAX: 614/752-4836** **E-MAIL: bop_butler@ohio.gov**

TTY/TDD Ohio Relay Service: 1-800/750-0750 URL: http://www.state.oh.us/pharmacy/

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY
(Docket No. D-980618-069)

In The Matter Of:

LINDA M. MAHONEY, R.Ph.
6230 Eagles Lake Drive
Cincinnati, Ohio 45248
(R.Ph. No. 03-1-16312)

This Settlement Agreement is entered into by and between Linda M. Mahoney 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.

Linda M. Mahoney enters into this Agreement being fully informed of her 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.

Linda M. Mahoney is knowingly and voluntarily acknowledging that, in order to settle the disciplinary charges that have been filed by the Board against her and in order to obviate the need to conduct an administrative hearing to consider possible disciplinary sanctions against Linda M. Mahoney'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) Linda M. Mahoney neither admits nor denies the allegations stated in the Notice; however, the Board has evidence sufficient to sustain the allegations and hereby adjudicates the same:

(1) Records of the Board of Pharmacy indicate that Linda M. Mahoney was originally licensed in the State of Ohio on January 28, 1986, pursuant to reciprocity, and is currently licensed to practice pharmacy in the State of Ohio. Records further reflect that, during relevant time periods alleged herein, Linda M. Mahoney was the Responsible Pharmacist at Kroger Pharmacy #310, 2421 Harrison Avenue, Cincinnati, Ohio, pursuant to

Sections 4729.27 and 4729.55 of the Ohio Revised Code and Section 4729-5-11 of the Ohio Administrative Code.

(2) Linda M. Mahoney did, from July 4, 1995, through January 3, 1997, fail to provide "supervision and control" of dangerous drugs as required in Division (B) of Section 4729.55 of the Ohio Revised Code, and "adequate safeguards" to assure that dangerous drugs were being distributed in accordance with all state and federal laws as required in Section 4729.55 of the Revised Code, to wit: as the Responsible Pharmacist, Linda M. Mahoney failed to provide personal supervision over the dangerous drugs in the pharmacy; Linda Mahoney failed to require pharmacists employed under her direction to provide personal supervision over the dangerous drugs; and, Linda M. Mahoney failed to ensure adequate safeguards over the dangerous drugs to prevent diversion. Technicians were permitted to remain in the pharmacy during times when no pharmacists were present. The following drugs were diverted from the pharmacy without detection:

Drug	Quantity	% of Stock
Oxycodone with Acetaminophen	197	0.48%
Oxycodone with ASA	19	0.46%
Methylphenidate 5mg	96	0.70%
Methylphenidate 10mg	263	1.75%
Methylphenidate SR 20mg	15	0.75%
Hydrocodone 5mg	22,853	47.97%
Hydrocodone 7.5mg	1,310	5.59%
Hydrocodone 10mg	101	50.50%
Diazepam 5mg	184	0.53%
Diazepam 10mg	1,773	7.04%
Morphine Sulfate 60mg	52	0.78%

Such conduct is in violation of Section 4729.27 of the Ohio Revised Code and Rules 4729-5-11 and 4729-9-11 of the Ohio Administrative Code.

Wherefore, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of a formal hearing at this time, Linda M. Mahoney knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

(A) Linda M. Mahoney may not serve as a responsible pharmacist for one year from the effective date of this agreement.

(B) Linda M. Mahoney's pharmacist identification card, No. 03-1-16312, will be placed on probation for two years from the effective date of this agreement. The terms of probation are as follows:

(1) The State Board of pharmacy hereby declares that Linda M. Mahoney's pharmacist identification card is not in good standing

and thereby denies the privilege of being a preceptor and training pharmacy interns pursuant to paragraph (D)(1) of Rule 4729-3-01 of the Ohio Administrative Code.

(2) Linda M. Mahoney must not violate the drug laws of the state of Ohio, any other state, or the federal government.

(3) Linda M. Mahoney must abide by the rules of the Ohio State Board of Pharmacy.

(4) Linda M. Mahoney must comply with the terms of this Agreement.

(B) Linda M. Mahoney agrees to the imposition of a monetary penalty of Seven Hundred Fifty Dollars ($750.00) 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 form to the State Board of Pharmacy, 77 South High Street, 17th Floor, Columbus, Ohio 43266-0320.

If, in the judgment of the Board, Linda M. Mahoney appears to have violated or breached any terms or conditions of this Agreement, the Ohio State Board of Pharmacy reserves the right to, at any time, revoke probation, modify the conditions of probation, and reduce or extend the period of probation, and/or the Board may institute formal disciplinary proceedings for any and all possible violations or breaches, including but not limited to, alleged violation of the laws of Ohio occurring before the effective date of this Agreement.

Linda M. Mahoney acknowledges that she 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.

Linda M. Mahoney waives any and all claims or causes of action she 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. Linda M. Mahoney waives any rights of appeal pursuant to Chapter 119. of the Ohio Revised Code.

In the event the Board, in its discretion, does not adopt this Agreement as its Adjudication, this settlement offer is withdrawn and shall be of no evidentiary value and shall not be relied upon or introduced in any disciplinary action or appeal by either party. Linda M. Mahoney agrees that should the Board reject this Agreement and if this case proceeds to hearing, she will assert no claim that the Board was prejudiced by its review and discussion of this Agreement or of any information relating thereto.

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.

Linda M. Mahoney, Respondent — 1-12-99 Date of Signature

Jay S. Cohen, Attorney for Respondent — 12/29/98 Date of Signature

Joseph J. Maslak, Jr., President, Ohio State Board of Pharmacy — 2/9/99 Date of Signature

Sally Ann Steuk, Ohio Assistant Attorney General — 2-9-99 Date of Signature