

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY
(Docket No. D-021119-036)

In The Matter Of:

WILLIAM JOSEPH GONGOLA, R.Ph.
535 Cherry Hill Drive
Pickerington, Ohio 43147
(R.Ph. No. 03-1-18875)

This Settlement Agreement is entered into by and between William Joseph Gongola 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.

William Joseph Gongola 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. William Joseph Gongola 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, William Joseph Gongola is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about November 19, 2002, pursuant to Chapter 119. of the Ohio Revised Code, William Joseph Gongola 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. William Joseph Gongola requested a hearing; it was scheduled and continued. The November 19, 2002, Notice of Opportunity for Hearing contains the following allegations or charges:

- (1) Records of the Board of Pharmacy indicate that William Joseph Gongola was originally licensed in the State of Ohio on July 29, 1991, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio. Records further reflect that as of July 11, 2000, William Joseph Gongola was the Responsible Pharmacist at Big Bear Pharmacy #208 pursuant to Sections 4729.27 and 4729.55 of the Ohio Revised Code and Rule 4729-5-11 of the Ohio Administrative Code.
- (2) William Joseph Gongola as Responsible Pharmacist did, on or about July 18, 2000, to March 5, 2002, fail to provide "supervision and control" of dangerous drugs as required in Section 4729.55(B) of the Revised Code, and "adequate safeguards" to assure that dangerous drug are being distributed in accordance with all state and federal laws as required in Section 4729.55(C) of the Revised Code, to wit: a technician was given authority to order all medications from wholesalers, checked the

orders when received, and stocked the shelves with the medications without any supervision. Such conduct is in violation of Rule 4729-9-11 of the Ohio Administrative Code and is not in accordance with Section 4729.55 of the Ohio Revised Code.

- (3) William Joseph Gongola as Responsible Pharmacist did, on or about July 18, 2000 to March 5, 2002, fail to provide effective and approved controls and procedures to deter and detect theft and diversion of dangerous drugs, to wit: the following drugs were diverted from the pharmacy without adequate detection and/or prevention:

Drug Type	Strength	Shortage	% Short
diazepam	10 mg	3,613	60%
diazepam	2 mg	177	15%
diazepam	5 mg	3,681	34%
hydrocodone/APAP	5/500	6,253	16%
hydrocodone/APAP	10/325	5,199	40%
hydrocodone/APAP	10/500	2,894	36%
hydrocodone/APAP	10/660	1,589	40%
hydrocodone/APAP	5/325	18	2%
hydrocodone/APAP	7.5/325	100	50%
OxyContin	10 mg	41	41%
OxyContin	20 mg	236	3%
OxyContin	40 mg	120	0.4%
OxyContin	80 mg	201	0.6%
OxyContin	160 mg	100	50%
carisoprodol / soma	350 mg	11,143	49%
Vicoprofin	200/7.5	470	27%
phenermine	37.5 mg	5,548	76%

Such conduct is in violation of Rule 4729-9-05 of the Ohio Administrative Code and is not in accordance with Section 4729.55 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:

- (A) William Joseph Gongola's pharmacist identification card, No. 03-1-18875, will be placed on probation for one year from the effective date of this Agreement, with the following conditions:

(1) William Joseph Gongola must obtain within one year from the effective date of this agreement, completion of 0.3 CEUs (three hours) of continuing pharmacy education focused on pharmacy management and/or diversion issues. These hours are in addition to those required for renewal. If proof of completion is not submitted to the Board office before the end of his probation period, William Joseph Gongola's pharmacist identification card will be suspended until this condition is achieved.

(2) The State Board of Pharmacy hereby declares that William Joseph Gongola's pharmacist identification card is not in good standing.

- (3) William Joseph Gongola must not violate the drug laws of the State of Ohio, any other state, or the federal government.
- (4) William Joseph Gongola must abide by the rules of the State Board of Pharmacy.
- (5) William Joseph Gongola must comply with the terms of this Agreement.

William Joseph Gongola 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. 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.

William Joseph Gongola 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. William Joseph Gongola 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. William Joseph Gongola agrees that should the Board reject this Agreement and if this case proceeds to hearing, he 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.

SIGNED AND EFFECTIVE MARCH 3, 2003