



OHIO STATE BOARD OF PHARMACY

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SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY

(Docket No. D-981009-019)

In The Matter Of:

JEROME C. BROERING, R.Ph.

78 Bobby Lane N.

Westerville, Ohio 43081

(R.Ph. No. 03-2-10130)

This Settlement Agreement is entered into by and between Jerome C. Broering 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.

Jerome C. Broering 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.

Jerome C. Broering 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 Jerome C. Broering'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) Jerome C. Broering neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing dated October 9, 1998; however, the Board has evidence sufficient to sustain the allegations and hereby adjudicates the same:
 - (1) Records of the Board of Pharmacy indicate that Jerome C. Broering was originally licensed in the State of Ohio on July 20, 1972, pursuant to

examination, and is currently licensed to practice pharmacy in the State of Ohio. Records further reflect that during the relevant time periods stated herein, Jerome C. Broering was the Responsible Pharmacist at Linden Medical Pharmacy, Inc., pursuant to Sections 4729.27 and 4729.55 of the Ohio Revised Code and Section 4729-5-11 of the Ohio Administrative Code.

- (2) Jerome C. Broering as the Responsible Pharmacist did, from August 18, 1995, through October 15, 1996, knowingly sell controlled substances in amounts exceeding fifty times the bulk amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Jerome C. Broering and/or persons under his control sold the following controlled substances without prescriptions and not for a legitimate medical purpose:

<u>Drug</u>	<u>Schedule</u>	<u>Shortage</u>	<u>% of Stock</u>
APAP with Codeine #4	III	14,124	49%
Diazepam 10mg	IV	48,900	38.5%
Adipex-P	IV	6,919	12.0%
Phentermine HCl 37.5mg	IV	10,702	14.9%

Such conduct is in violation of Section 2925.03 of the Ohio Revised Code.

- (3) Jerome C. Broering as the Responsible Pharmacist did, from August 18, 1995, through October 15, 1996, knowingly sell controlled substances in an amount exceeding five times the bulk amount but not exceeding fifty times the bulk amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Jerome C. Broering and/or persons under his control sold the following controlled substances without prescriptions and not for a legitimate medical purpose:

<u>Drug</u>	<u>Schedule</u>	<u>Shortage</u>	<u>% of Stock</u>
Talwin NX	IV	2,715	6.7%

Such conduct is in violation of Section 2925.03 of the Ohio Revised Code.

- (4) Jerome C. Broering as the Responsible Pharmacist did, from August 18, 1995, through October 15, 1996, fail to keep a record of all controlled substances received or dispensed by the pharmacy which contained name and place of residence of each person to whom controlled substances were dispensed, to wit: the pharmacy and/or its employees sold the controlled substances listed in paragraphs (2) and (3) above but kept no records of the sales. Such conduct is in violation of Section 3719.07 of the Ohio Revised Code and Rule 4729-9-14 of the Ohio Administrative Code.

- (5) Jerome C. Broering as the Responsible Pharmacist did, from August 18, 1995, through October 15, 1996, fail to provide effective and approved controls and procedures to guard against theft and diversion of dangerous drugs, to wit: the pharmacy had inadequate supervision and control over the controlled substances so as to prevent, deter, or detect the diversion of the controlled substances noted in paragraphs (2) and (3) above. Such conduct is in violation of Rule 4729-9-05 of the Ohio Administrative Code.
- (6) Jerome C. Broering as the Responsible Pharmacist did, on or about October 15, 1996, and dates prior thereto, fail to maintain the minimum standards for a pharmacy, to wit: the pharmacy did not possess a current copy of federal and state laws, regulations, and rules governing the legal distribution of drugs in Ohio. Such conduct is in violation of Rule 4729-9-02 of the Ohio Administrative Code.
- (7) Jerome C. Broering did, from September 16, 1997, through November 4, 1997, while not being a registered pharmacist or pharmacy intern under the personal supervision of a registered pharmacist, dispense or sell dangerous drugs, to wit: after failing to renew his license to practice pharmacy Jerome C. Broering dispensed drugs pursuant to prescription. The following are representative samples of some of the prescriptions Mr. Broering dispensed:

<u>Rx No.</u>	<u>Date</u>	<u>Drug</u>	<u>Quantity</u>
870221	09/24/97	APAP/Codeine #3	20
870224	09/24/97	Adipex-P	14
874119	10/16/97	Propoxyphene N-100	60
874125	10/16/97	Oxazepam 30mg	60
877055	11/04/97	Propoxyphene N-100	50
877061	11/04/97	Phentermine HCl 37.5mg	14

Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.

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

- (A) A 90-day suspension of his pharmacist identification card, No. 03-2-10130, and such suspension is effective April 23, 1999. Pursuant to Rule 4729-9-01(F) of the Ohio Administrative Code, Jerome C. Broering may not be employed by or work in a facility licensed by the Board of Pharmacy to possess or distribute dangerous drugs during such period of suspension.
- (B) Division (B) of Section 4729.16 of the Revised Code provides that: "Any individual whose identification card is revoked, suspended, or refused, shall return his

identification card and certificate of registration to the offices of the state board of pharmacy within ten days after receipt of the notice of such action.” The certificate and identification card should be forwarded by certified mail, return receipt requested.

- (C) Upon reinstatement, Jerome C. Broering’s pharmacist identification card, No. 03-2-10130, will be placed on probation for two years. The terms of probation are as follows:
- (1) The State Board of pharmacy hereby declares that Jerome C. Broering’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) Jerome C. Broering may not serve as a responsible pharmacist for one year.
 - (3) Jerome C. Broering must not violate the drug laws of the state of Ohio, any other state, or the federal government.
 - (4) Jerome C. Broering must abide by the rules of the Ohio State Board of Pharmacy.
 - (5) Jerome C. Broering must comply with the terms of this Order.

If, in the judgment of the Board, Jerome C. Broering 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.

Jerome C. Broering 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.

Jerome C. Broering 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. Jerome C. Broering waives any rights of appeal pursuant to Chapter 119. of the Ohio Revised Code.

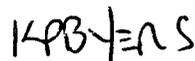
In the event the Board, in its discretion, does not adopt this Agreement as its Adjudication, this settlement offer is withdrawn and shall be of no evidentiary value and shall not be relied upon or introduced in any disciplinary action or appeal by either party. Jerome C. Broering agrees that should 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.



Jerome C. Broering, Respondent

5-19-1999
Date of Signature



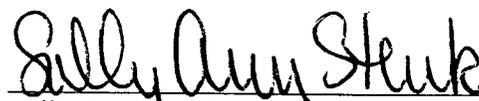
Kevin P. Byers, Attorney for Respondent

5/19/99
Date of Signature



Joseph J. Maslak, Jr., President, Ohio State Board of Pharmacy

6/14/99
Date of Signature



Sally Ann Steuk, Ohio Assistant Attorney General

6-14-99
Date of Signature