



OHIO STATE BOARD OF PHARMACY

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

-Equal Opportunity Employer and Service Provider-

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URL: <http://www.state.oh.us/pharmacy/>

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY

(Docket No. D-980610-067)

In The Matter Of:

DONALD R. RETTIG, R.Ph.

15247 Five Point Road
Perrysburg, Ohio 43551
(R.Ph. No. 03-3-06379)

This Settlement Agreement is entered into by and between Donald R. Rettig 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.

Donald R. Rettig 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.

Donald R. Rettig is knowingly and voluntarily acknowledging that, in order to settle the disciplinary charges that have been filed by the Board against him in the Notice of Opportunity for Hearing (hereinafter referred to as the "Notice") dated June 10, 1998, and in order to obviate the need to conduct an administrative hearing to consider possible disciplinary sanctions against his 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. Paragraph (1) of the Notice is reiterated as follows:
 - (1) Records of the Board of Pharmacy indicate that Donald R. Rettig was originally licensed in the State of Ohio on November 13, 1956, pursuant to examination and is currently licensed to practice pharmacy in the State of Ohio. Records further indicate that Donald R. Rettig is the Director of Pharmacy for The Pharm.
- (B) The allegations as stated in paragraph (2) of the Notice have been determined to be unfounded as the paragraph currently reads. Therefore, paragraph (2) is dismissed.
- (C) Donald R. Rettig admits to the allegations stated in paragraph (3) of the Notice, as amended. Further, the Board has evidence sufficient to sustain the allegation, as amended, and hereby adjudicates the same, as reiterated herein:

- (3) Donald R. Rettig did, personally and as a representative of The Pharm #924, #912, and #918, allow, aid, and abet the pharmacies in failing to notify the Board of Pharmacy, the Drug Enforcement Administration, and/or law enforcement authorities upon discovery of the theft or significant loss of dangerous drugs or controlled substances in a timely manner, to wit: the following losses were discovered by Donald R. Rettig and the pharmacies, but were not reported in a timely manner:

The Pharm #924, from November 1, 1995, through May 1, 1996:

<u>Drug</u>	<u>Quantity</u>
Demerol 10mg	158ml
Demerol 50mg	46
Percocet 5mg	58
Methylphenidate 5mg	7
Methylphenidate 10mg	10
Roxilox 5mg	12
Roxicet	5

The Pharm #912, from April 30, 1995, through November 7, 1995:

<u>Drug</u>	<u>Quantity</u>
Dilaudid 2mg	31
Dilaudid 4mg	12
MS Contin 30mg	7

The Pharm #918, from January 15, 1996, through March 18, 1997:

<u>Drug</u>	<u>Quantity</u>
Xanax 1mg	10,996
Phentermine 37.5mg	2,547
Adipex - P	5,256
Phentermine 30mg	1,216
Fastin 30mg	382
Diazepam 5mg	786
Valium 5mg	62
Valium 10mg	663
Alprazolam 1mg	100
Dexedrine 5gm	97
Dexedrine 10mg	300
Dexedrine 15mg	37
Tuinal 200mg	120
Percocet	206

<u>Drug</u>	<u>Quantity</u>
Oxycodone with APAP	251
Tylox	117
Roxilox	385

In addition, numerous dosage units were discovered missing when the stores' pharmacists prepared perpetual inventories; the pharmacists did not mention the shortages to Board agents when inspections were conducted, and written reports were not filed in a timely manner. Such conduct is in violation of Rule 4729-9-15 of the Ohio Administrative Code.

- (D) Additional information has been discovered regarding the allegations as stated in paragraph (4) of the Notice. Said information, known to Donald R. Rettig but not to the Board at the time of the issuance of the Notice, absolves Mr. Rettig's liability for any alleged wrongdoing. Paragraph (4) further alleges that Donald R. Rettig, knowing that a felony had been or was being committed, failed to report such information to law enforcement authorities. Donald R. Rettig produced an affidavit from a police officer which indicates that he did, in fact, instigate some official police involvement. As to this portion of the allegation, this affidavit exonerates Donald R. Rettig. Therefore, paragraph (4) of the Notice is dismissed.

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

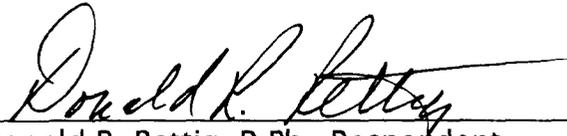
Donald R. Rettig agrees to the imposition of a monetary penalty of two hundred fifty dollars (\$250.00) due and owing within thirty days from the effective date of this Agreement. The monetary penalty should be made payable to the "Treasurer, State of Ohio" and mailed with the enclosed form to the State Board of Pharmacy, 77 South High Street, 17th Floor, Columbus, Ohio 43266-0320.

Donald R. Rettig 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.

Donald R. Rettig 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. Donald R. Rettig waives any rights of appeal pursuant to Chapter 119. of the Ohio Revised Code.

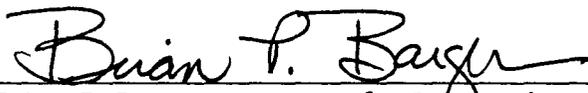
In the event the Board, in its discretion, does not adopt this Agreement as its Adjudication, this settlement offer is withdrawn and shall be of no evidentiary value and shall not be relied upon or introduced in any disciplinary action or appeal by either party. Donald R. Rettig agrees that should the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



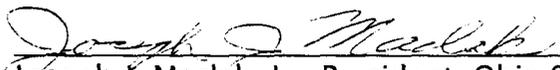
Donald R. Rettig, R.Ph., Respondent

3-3-99
Date of Signature



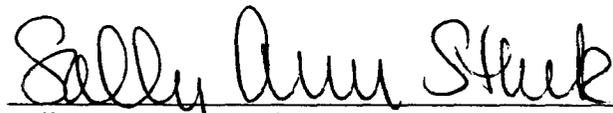
Brian P. Barger, Attorney for Respondent

3/3/99
Date of Signature



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

3/8/99
Date of Signature



Sally Ann Steuk, Ohio Assistant Attorney General

3-9-99
Date of Signature