



OHIO STATE BOARD OF PHARMACY

77 South High Street, Room 1702; Columbus, OH 43215-6126

-Equal Opportunity Employer and Service Provider-

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URL: <http://www.pharmacy.ohio.gov>

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY

(Docket No. D-040714-003)

In The Matter Of:

DELBERT G. BROWN, R.Ph.

1425 Pleasant Hill Road

Waverly, Ohio 45690

(R.Ph. No. 03-3-10478)

This Settlement Agreement is entered into by and between Delbert G. Brown 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.

Delbert G. Brown 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. Delbert G. Brown 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, Delbert G. Brown is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about July 14, 2004, pursuant to Chapter 119. of the Ohio Revised Code, Delbert G. Brown 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. Delbert G. Brown requested a hearing; it was scheduled and continued. The July 14, 2004, Notice of Opportunity for Hearing contains the following allegations or charges:

- (1) Records of the State Board of Pharmacy indicate that Delbert G. Brown was originally licensed in the State of Ohio on July 30, 1973, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio. Records further reflect during the relevant time periods stated herein, Delbert G. Brown was the Responsible Pharmacist at Fruth Pharmacy #16, 101 James Road, Waverly, Ohio, pursuant to Sections 4729.27 and 4729.55 of the Ohio Revised Code and Rule 4729-5-11 of the Ohio Administrative Code.

- (2) Delbert G. Brown did, on or about April 14, 2003, misbrand a drug, to wit: when Delbert G. Brown received a prescription for clonidine 0.2 mg, Rx #6566070, he dispensed clonazepam 2 mg, which had not been prescribed by the physician. The patient was subsequently hospitalized. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.

Delbert G. Brown neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated July 14, 2004; however, the Board has evidence sufficient to sustain the allegations and hereby adjudicates the same.

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

(A) Delbert G. Brown agrees to the imposition of a monetary penalty of five hundred dollars (\$500.00), and payment of the monetary penalty is due and owing within thirty (30) days from the effective date of this Agreement. Checks should be made payable to the "Treasurer, State of Ohio" and mailed with the enclosed forms to the State Board of Pharmacy, 77 South High Street, 17th Floor, Columbus, Ohio 43215-6126.

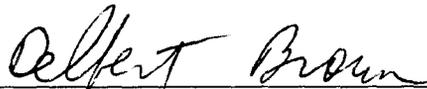
(B) In addition to any and all other continuing education requirements, Delbert G. Brown agrees to attend, within 6 months of the effective date of this agreement, two hours (0.2 CEUs) additional hours of Board-approved continuing pharmacy education for preventing prescription errors in a retail pharmacy.

If, in the judgment of the Board, Delbert G. Brown 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.

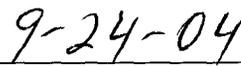
Delbert G. Brown acknowledges that he has had an opportunity to ask questions concerning the terms of this agreement and that all questions asked have been answered in a satisfactory manner. Any action initiated by the Board based on alleged violation of this Agreement shall comply with the Administrative Procedure Act, Chapter 119. of the Ohio Revised Code.

Delbert G. Brown 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. Delbert G. Brown waives any rights of appeal pursuant to Chapter 119. of the Ohio Revised Code.

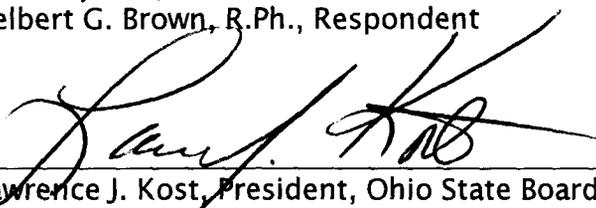
This Settlement Agreement shall be considered a public record, as that term is used in Section 149.43 of the Ohio Revised Code, and shall become effective upon the date of the Board President's signature below.



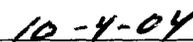
Delbert G. Brown, R.Ph., Respondent



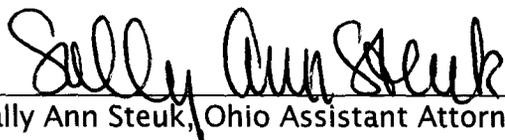
Date of Signature



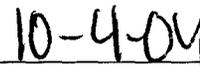
Lawrence J. Kost, President, Ohio State Board of Pharmacy



Date of Signature



Sally Ann Steuk, Ohio Assistant Attorney General



Date of Signature