

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY
(Docket No. D-030422-069)

In The Matter Of:

RAYNER B. LOTTON, R.Ph.
505 Sycamore Drive
Circleville, Ohio 43113
(R.Ph. No. 03-3-22200)

This Settlement Agreement is entered into by and between Rayner B. Lotton 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.

Rayner B. Lotton 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. Rayner B. Lotton 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, Rayner B. Lotton is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about April 22, 2003, pursuant to Chapter 119. of the Ohio Revised Code, Rayner B. Lotton 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. Rayner B. Lotton requested a hearing; it was scheduled. The April 22, 2003, Notice of Opportunity for Hearing contains the following allegations or charges:

- (1) Records of the Board of Pharmacy indicate that Rayner B. Lotton was originally licensed in the State of Ohio on March 4, 1997, pursuant to reciprocity, and is currently licensed to practice pharmacy in the State of Ohio. Records further reflect during the relevant time periods stated herein, Rayner B. Lotton was the Responsible Pharmacist at Berger Hospital pursuant to Sections 4729.27 and 4729.55 of the Ohio Revised Code and Section 4729-5-11 of the Ohio Administrative Code.
- (2) Rayner B. Lotton did, as the Responsible Pharmacist-in-charge, on or about August 26, 2001, (prior to dispensing a drug order to patient #1) upon review of the patient profile in order to conduct prospective drug utilization review, Rayner B. Lotton recognized over-utilization yet he failed to take appropriate steps to avoid or resolve the problem. Rayner B. Lotton received a drug order for "Librium 300 mg one qid," yet he dispensed the drug in spite of the over dosage and the patient suffered severe harm. Such conduct is in violation of Rule 4729-5-20 of the Ohio Administrative Code.

- (3) Rayner B. Lotton did, as the Responsible Pharmacist-in-charge, on or about August 26, 2001, fail to implement policies and procedures consistent with federal and state laws and rules, and/or adhere to such policies and procedures, so as to provide for the safe and effective distribution of drugs, to wit: hospital and pharmacy policy provided that, when a pharmacist questioned the validity or propriety of a drug order, the pharmacist would contact the patient's responsible nurse, who would then contact the physician. Alternatively, a pharmacist must directly contact the prescribing physician when questions or problems would arise to ensure the safe and effective distribution of drugs. When dispensing a drug order on this date, due to adherence to this improper policy, a patient was harmed as indicated in paragraph 2 above. Such conduct is in violation of Rule 4729-17-02(C)(3) of the Ohio Administrative Code.

Rayner B. Lotton neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated April 22, 2003; 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, Rayner B. Lotton knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

- (A) Pursuant to Sections 4729.16 and 4729.25(B), Rayner B. Lotton is hereby reprimanded for the aforementioned violations of rules and/or laws.
- (B) In addition to any and all other Continuing Education requirements, Rayner B. Lotton agrees to attend 2.0 hours of continuing education within one year of the effective date of this agreement in the area of policies and procedures and other measures to prevent dispensing errors in hospital pharmacy practice.

Rayner B. Lotton 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.

Rayner B. Lotton 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. Rayner B. Lotton 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. Rayner B. Lotton 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 JULY 14, 2003