

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY
(Docket No. 010713-003)

In the Matter of:

LO-MED PRESCRIPTION SERVICES, INC.
c/o Gregory S. Oswald, R.Ph.
1360 Reimer Road
Wadsworth, Ohio 44281
(Terminal Distributor No. 02-0359250)

THIS SETTLEMENT AGREEMENT IS ENTERED INTO BY AND BETWEEN LO-MED PRESCRIPTION SERVICES, INC. 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.

LO-MED PRESCRIPTION SERVICES, INC. ENTERS INTO THIS AGREEMENT BEING FULLY INFORMED OF ITS 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.

WHEREAS, the State Board of Pharmacy is empowered by Section 4729.57 of the Ohio Revised Code to suspend, revoke, refuse to renew any license issued to a terminal distributor of dangerous drugs pursuant to section 4729.54 of the Revised Code, or may impose a monetary penalty on the license holder, for violation of any of the enumerated grounds of Section 4729.57 of the Ohio Revised Code.

WHEREAS, Lo-Med Prescription Services, Inc. is a licensed terminal distributor of dangerous drugs in the State of Ohio.

WHEREAS, on or about July 13, 2001, pursuant to Chapter 119. of the Ohio Revised Code, Lo-Med Prescription Services, Inc. was notified of the allegations or charges against it, its right to a hearing, its rights in such hearing, and its right to submit contentions in writing. Further, a hearing was scheduled by the Board. The Notice of Opportunity for Hearing contains the following allegations or charges:

- (1) Records of the Board of Pharmacy indicate that Lo-Med Prescription Services, Inc. is licensed with the State Board of Pharmacy as a Terminal Distributor of Dangerous Drugs and Gregory S. Oswald is the Responsible Pharmacist pursuant to Rule 4729-5-11 of the Ohio Administrative Code and Sections 4729.27 and 4729.55 of the Ohio Revised Code.
- (2) Lo-Med Prescription Services, Inc., did, on or about October 26, 2000, fail to perform prospective drug utilization review, to wit: when dispensing medication to a patient pursuant to prescription number R2360709, pharmacists failed to review the original prescription and/or refill information for drug-allergy interactions and/or drug-drug interactions. The physician had ordered Ultram 50mg (patient had been taking Zolof); during the computer entry, the technician was alerted to an allergy problem, and after an override was directed by the pharmacist, the technician was alerted to

a drug-drug interaction warning. The technician again sent the order to the pharmacist, and another override was entered. The order does not indicate that a pharmacist authorized any additional overrides. Lo-Med Prescription Services, Inc. had been given a written warning for deficiencies in drug utilization review by a Board Compliance Specialist on July 3, 2000. Such conduct is in violation of Rule 4729-5-20 of the Ohio Administrative Code, and Rule 4729-5-01(N) as it relates to Rule 4729-5-20 of the Ohio Administrative Code, and if proven constitutes violating a rule of the Board within the meaning of Section 4729.57 of the Ohio Revised Code.

- (3) Lo-Med Prescription Services, Inc., did, on or about May 16, 2000, fail to perform prospective drug utilization review, to wit: when dispensing medication to a patient pursuant to prescription number 2068407, "Diflucan", a technician entered the prescription information into the computer, entered an override when alerted to the Coumadin, and Diflucan drug interaction, and pharmacists failed to review the original prescription and/or refill information for the drug-drug interaction. The prescription was filled and the patient suffered serious physical harm. Such conduct is in violation of Rule 4729-5-20 of the Ohio Administrative Code, and Rule 4729-5-01(N) as it relates to Rule 4729-5-20 of the Ohio Administrative Code, and if proven constitutes violating a rule of the Board within the meaning of Section 4729.57 of the Ohio Revised Code.

WHEREAS, Lo-Med Prescription Services, Inc. denies some or all of the allegations or charges. Notwithstanding Lo-Med Prescription Services, Inc. denial of the allegations, the Board hereby adjudicates the same.

Therefore, 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) Lo-Med Prescription Services, Inc. will institute a Medication Intervention Policy which requires that First Data Bank will update all interactions and allergies in the computer. All information will be printed by data entry and addressed promptly by the clinical pharmacist.
- (B) The pharmacist will address all interactions regardless of severity.
- (C) Data entry will provide the pharmacist with a copy of the order with the information attached. Data entry will attach the interaction, allergy, and duplicate therapy to the clarification form.
- (D) The pharmacist will use professional judgement on the intervention required for each situation.
- (E) All interactions, allergies, and duplicate therapies will be addressed by a pharmacist and will include detailed documentation attached to the actual order, including the physician/nurse's full name, date, time, intervention, and pharmacist initials. Documentation is required even if no intervention is necessary.

- (F) The physician order clarification form will be faxed or sent via tote to appropriate nursing facility for their documentation and appropriate signatures if needed.
- (G) The intervention report along with the physician order clarification form will be attached to the pharmacy copy of the medication orders for completion of clinical evaluation and subsequent filing.
- (H) No order will be processed prior to having the involved pharmacist's verifying intervention, signature, and date.
- (I) A question and answer routine will be performed and results will be reviewed to ensure that all procedures are followed for medication orders requiring intervention.

WHEREAS, Lo-Med Prescription Services, Inc. acknowledges that it 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.

THIS AGREEMENT EMBODIES THE ENTIRE AGREEMENT BETWEEN AND OF THE PARTIES. THERE ARE NO EXPRESS OR IMPLIED PROMISES, GUARANTEES, TERMS, COVENANTS, CONDITIONS, OR OBLIGATIONS OTHER THAN THOSE CONTAINED HEREIN; AND THIS AGREEMENT SUPERSEDES ALL PREVIOUS COMMUNICATIONS, REPRESENTATIONS OR AGREEMENTS, EITHER VERBAL OR WRITTEN, BETWEEN THE PARTIES.

THE PARTIES HERETO ACKNOWLEDGE THAT THIS 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 JANUARY 7, 2002