



IN THE MATTER OF:

CASE NO. A-2021-0118

I-2020-1644

Rite Aid Pharmacy #2397
c/o Brad Long, RPh
419 Claremont Ave.
Ashland, Ohio 44805

License No. 02-0366400

SETTLEMENT AGREEMENT WITH THE STATE OF OHIO BOARD OF PHARMACY

This Settlement Agreement (Agreement) is entered into by the State of Ohio Board of Pharmacy (Board) and Rite Aid #2397, for the purpose of resolving all issues between the parties relating to the Board investigation of Rite Aid Pharmacy #2397 failing to properly secure and monitor its drug stock. Together, the Board and Rite Aid Pharmacy #2397 are referred to hereinafter as "the parties."

JURISDICTION

1. Pursuant to Section 4729.57 of the Ohio Revised Code and the rules adopted thereunder, the Board has the authority to suspend, revoke, or refuse to grant or renew any license issued pursuant to Section 4729.54 of the Ohio Revised Code.
2. Rite Aid Pharmacy #2397, located at 419 Claremont Ave., Ashland, Ohio, has an active TDDD license with the Board under license number 02-0366400, which lists Brad Long, RPh as the Responsible Person.

FACTS

1. The Board initiated an investigation of Rite Aid Pharmacy #2397, TDDD license number 02-0366400, related to Rite Aid Pharmacy #2397 failing to properly secure and monitor its drug stock.
2. On or about June 4, 2021, the Board sent a Notice of Opportunity for Hearing to Rite Aid Pharmacy #2397, which outlined the allegations and provided notice of its right to a hearing, its rights in such hearing, and its right to submit contentions in writing.

WHEREFORE, the parties desire to resolve the issues relating to the above-referenced findings without resorting to further administrative or judicial proceedings.

77 South High Street, 17th Floor, Columbus, Ohio 43215

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TERMS

NOW THEREFORE, in consideration of the mutual promises herein expressed, the parties knowingly and voluntarily agree as follows:

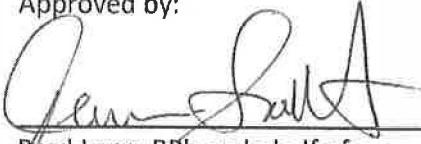
1. The recitals set forth above are incorporated in this Agreement as though fully set forth herein.
2. Rite Aid Pharmacy #2397 neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated June 4, 2021, however, the Board has evidence sufficient to sustain the allegations, finds them to violate Ohio's pharmacy law as set forth in the Notice, and hereby adjudicates the same.
3. Rite Aid Pharmacy #2397 agrees to pay to the Board a monetary penalty in the amount of \$500.00. This fine will be attached to Rite Aid #2397's license record and must be paid no later than 30 days from the effective date of this Order. To pay this fine you must login to www.license.ohio.gov and process the items in your cart.
4. Rite Aid Pharmacy #2397 agrees and acknowledges that this Board disciplinary action must be disclosed to the proper licensing authority of any state or jurisdiction, as required by any such state or jurisdiction, in which it currently holds a professional license, including the Board on renewal applications or applications for a new license.
5. Rite Aid Pharmacy #2397 agrees to comply with all federal and state requirements related to Terminal Distributors of Dangerous Drugs, including but not limited to, Ohio Revised Code Chapter 4729. and the Rules adopted thereunder, Chapter 3719. and the Rules adopted thereunder, Chapter 3715. and the Rules adopted thereunder as well as the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301 and Chapter 21, Section 360 of the United States Code, and Section 207.20 of the Code of Federal Regulations. Any violation by Rite Aid Pharmacy #2397 of the terms of one or more federal or state requirements may constitute sufficient grounds for further enforcement action related to any licenses granted to Rite Aid Pharmacy #2397 by the Board and will NOT discharge Rite Aid Pharmacy #2397 from any obligation under the terms of this Agreement.
6. Rite Aid Pharmacy #2397 agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
7. Rite Aid Pharmacy #2397 understands that it has the right to be represented by counsel for review and execution of this Agreement.
8. This Agreement is binding upon any and all successors, assigns, affiliates, and subsidiaries of the parties or any other corporation through whom or with whom Rite Aid Pharmacy #2397 will operate.

9. Rite Aid Pharmacy #2397 expressly waives its opportunity to be heard pursuant to Chapter 119. of the Ohio Revised Code and waives any right to appeal.
10. This Agreement may be executed in counterparts or facsimiles, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.
11. All parties to this Agreement understand that this document is a public record pursuant to Ohio Revised Code Section 149.43.
12. This Agreement contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this Agreement.
13. This Agreement shall become effective upon the date of the Board President's signature below.

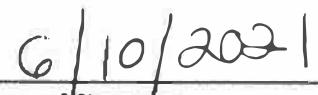
[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties to this Agreement have executed it and/or cause it to be executed by their duly authorized representatives.

Approved by:



Brad Long, RPh on behalf of,
Rite Aid Pharmacy #2397, Respondent



Date of Signature

Jermaine Smith
SR Director Legislative &
Regulatory Affairs
Attorney for Respondent (if Applicable)


Date of Signature

Jennifer Rudell, RPh
President,
State of Ohio Board of Pharmacy



06.25.2021

Date of Signature

Henry Appel, Ohio Assistant Attorney General


06.25.2021

Date of Signature



**STATE OF
OHIO**
BOARD OF PHARMACY

-THIS IS A RED INK STAMP-

I certify this to be a true and exact copy of
the original document on file with the
Ohio State Board of Pharmacy.

Steven W. Schierholz

Steven W. Schierholz, Esq., Executive Dir.
Date: 06/04/2021

-MUST HAVE BOARD SEAL TO BE OFFICIAL-

**NOTICE OF OPPORTUNITY FOR HEARING
PROPOSAL TO TAKE DISCIPLINARY ACTION AGAINST
TERMINAL DISTRIBUTOR OF DANGEROUS DRUGS LICENSEE**

IN THE MATTER OF:

**CASE NO. A-2021-0118
I-2020-1644**

Rite Aid Pharmacy #2397

License No. 02-0366400

c/o Brad Long, RPh
419 Claremont Ave.
Ashland, Ohio 44805

June 4, 2021

Dear Rite Aid Pharmacy #2397 and Mr. Long,

You are notified, in accordance with the provisions of Section 119.07 of the Ohio Revised Code the State of Ohio Board of Pharmacy (Board) proposes to take action against your license as a Terminal Distributor of Dangerous Drugs under authority of Section (TDDD) 4729.57 of the Revised Code.

JURISDICTION

1. Pursuant to Section 4729.57 of the Ohio Revised Code and the rules adopted thereunder, the Board has the authority to suspend, revoke, or refuse to grant or renew any license issued pursuant to Section 4729.55 of the Ohio Revised Code to practice as a TDDD in the state of Ohio. Additionally, Section 4729.57 of the Revised Code grants the Board the authority to impose a monetary penalty or forfeiture not to exceed in severity any fine designated under the Revised Code for a similar offense or \$1,000 if the acts committed have not been classified as an offense by the Revised Code.
2. Rite Aid #2387 has an active TDDD license with the Board under license number 02-0366400 which lists Brad Long as the Responsible Person.

ALLEGATIONS

1. On or about November 2, 2020, Brad Long was the Responsible Person for Rite Aid Pharmacy #2397, located at 419 Claremont Ave., Ashland, Ohio, when a loss of drugs was discovered during a corporate audit. The loss included:
 - a. 215 alprazolam 0.5mg
 - b. 173 lorazepam 0.5mg, and

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- c. 166 lorazepam 0.5mg (different NDC).
- 2. On or about March 11, 2021, Brad Long was interviewed by an agent of the Board about the losses reported. He stated the following:
 - a. He did not know the pharmacy had the losses until he received notice from Rite Aid Corporate.
 - b. He was advised the losses were aggregated from a series of cycle counts by various pharmacists.
 - c. He conducts a monthly count of all CII drugs. He also counts the alprazolam and tramadol products. Other controlled substances are only counted during the annual inventory.

POTENTIAL VIOLATIONS OF LAW

- 1. Such conduct as set forth in the Allegations Section, if proven, each constitutes a violation of Section 4729.55 of the ORC, effective April 6, 2017, each punishable by a maximum penalty of \$150:
 - a. A pharmacist... will maintain supervision and control over the possession and custody of dangerous drugs that may be acquired by or on behalf of the applicant, ORC Section 4729.55(B); and/or
 - b. Adequate safeguards are assured to prevent the sale or other distribution of dangerous drugs by any person other than a pharmacist or licensed health professional authorized to prescribe drugs, ORC Section 4729.55(C); and/or
 - c. Adequate safeguards are assured to carry on the business of a terminal distributor of dangerous drugs in a manner that allows pharmacists and pharmacy interns employed by the terminal distributor to practice pharmacy in a safe and effective manner, ORC Section 4729.55(D).
- 2. Such conduct as set forth in the Allegations Section, if proven, each constitutes a violation of each of the following divisions of Section 4729.57 of the ORC, each violation punishable by a maximum penalty of \$1,000:
 - a. Violating any rule of the board, ORC Section 4729.57(B)(2); and/or
 - b. Violating any provision of this chapter, ORC Section 4729.57(B)(3); and/or
 - c. Ceasing to satisfy the qualifications of a TDDD set forth in section 4729.55 of the Revised Code, ORC Section 4729.57(B)(7); and/or
 - d. Any other cause for which the board may impose discipline as set forth in rules adopted under section 4729.26 of the Revised Code, ORC Section 4729.57(B)(10).
- 3. Such conduct as set forth in the Allegations Section, if proven, each constitutes a violation of the following sections of Rule 4729:5-2-01 of the OAC, as effective March 1, 2019, each punishable by a maximum penalty of \$500:
 - a. The responsible person shall be responsible for the practice of the profession of pharmacy, including, but not limited to, the supervision and control of dangerous drugs as required in division

(B) of section 4729.55 of the Revised Code, adequate safeguards as required in division (C) of section 4729.55 of the Revised Code, security and control of dangerous drugs and maintaining all drug records otherwise required, OAC Rule 4729:5-2-01(A)(2); and/or

- b. The person to whom the terminal distributor of dangerous drugs license has been issued and all pharmacists on duty are responsible for compliance with all state and federal laws, regulations, and rules governing the distribution of drugs and the practice of pharmacy, OAC Rule 4729:5-2-01(A)(3); and/or
- c. The responsible person to whom the terminal distributor of dangerous drugs license has been issued and all licensed health professionals on duty are responsible for compliance with all state and federal laws, regulations, and rules governing the distribution of dangerous drugs, OAC Rule 4729:5-2-01(E)(4); and/or
- d. The responsible person shall be responsible for ensuring the terminal distributor of dangerous drugs requirements are met, including, but not limited to, the supervision and control of dangerous drugs as required in division (B) of section 4729.55 of the Revised Code, adequate safeguards as required in division (C) of section 4729.55 of the Revised Code, security and control of dangerous drugs and maintaining all drug records otherwise required, OAC Rule 4729:5-2-01(E)(6); and/or

4. Such conduct as set forth in the Allegations Section, if proven, each constitutes a violation of the following sections of Rule 4729-9-11 of the OAC, each punishable by a maximum penalty of \$500: A pharmacist, prescriber, and responsible person pursuant to rule 4729-5-11 of the Administrative Code shall provide supervision and control of dangerous drugs as required in division (B) of section 4729.55 of the Revised Code, and adequate safeguards to ensure that dangerous drugs are being distributed in accordance with all state and federal laws as required in section 4729.55 of the Revised Code, by the following procedures: In a pharmacy: Except as provided in paragraph (A)(2) of this rule, a pharmacist shall provide personal supervision of the dangerous drugs, exempt narcotics, hypodermics, poisons, D.E.A. controlled substance order forms, all records relating to the distribution of dangerous drugs, except where the board has granted a permission for such records to be stored at a secure off-site location pursuant to rules 4729-9-14 and 4729-9-22 of the Administrative Code, at all times in order to deter and detect theft or diversion, OAC Rule 4729-9-11(A)(1).
5. Such conduct as set forth in the Allegations Section, if proven, each constitutes a violation of the following divisions of Rule 4729:5-4-01 of the OAC, as effective March 1, 2019, each violation punishable by a maximum penalty of \$1,000:
 - a. Violating any rule of the board, OAC Rule 4729:5-4-01(B)(2); and/or
 - b. Violating any provision of Chapter 4729. Of the Revised Code, OAC Rule 4729:5-4-01(B)(3); and/or
 - c. Ceasing to satisfy the qualifications of a TDDD set forth in section 4729.55 of the Revised Code, OAC Rule 4729:5-4-01(B)(7).

YOU ARE FURTHER NOTIFIED, in accordance with the provisions of Chapters 119. and 4729. of the Ohio Revised Code, that you are entitled to a hearing before the State of Ohio Board of Pharmacy, if you request such a hearing within thirty 30 days of the date of the mailing of this notice.

IF YOU DESIRE A HEARING, such request shall either be mailed to the State of Ohio Board of Pharmacy, Attn: Legal, 77 South High Street, 17th Floor, Columbus, Ohio 43215-6126 or an e-mail request may be sent to legal@pharmacy.ohio.gov (please note faxes will not be accepted). **YOUR REQUEST MUST BE RECEIVED ON OR PRIOR TO THE 30TH DAY FOLLOWING THE MAILING DATE OF THIS NOTICE.** Please note that if you submit a request via email, your request will be acknowledged within one business day of receipt. If you do not receive an acknowledgment, please contact the Board offices at 614-466-4143 and request the legal department. You may appear at such hearing in person, by your attorney, or by such other representative as is permitted to practice before the agency, or you may present your position, arguments or contentions in writing; and, at this hearing, you may also present evidence and examine any witnesses appearing for and against you. **If you are a corporation, you must be represented at the hearing by an attorney licensed to practice in the state of Ohio.**

YOU ARE FURTHER ADVISED that if there is no request for such a hearing received by the Board on or prior to the 30th day following the mailing of this notice, the State of Ohio Board of Pharmacy, upon consideration of the aforementioned allegations against you, may take action without such a hearing.

If you have questions regarding the Chapter 119. Administrative Hearing process, please e-mail your questions to legal@pharmacy.ohio.gov or call the Board office at 614-466-4143 and ask for the legal department.

BY ORDER OF THE STATE BOARD OF PHARMACY



Steven W. Schierholt, Esq., Executive Director

SWS/alg/kll

Encl: Settlement Proposal

CMRRR: 7021 0350 0000 3918 0722