



IN THE MATTER OF:

CASE NO. A-2023-0489

CVS Pharmacy #6167

c/o Dipansh Bhavsar, RPh
418 East Main Street
Ashland, Ohio 44805

License No. 02-2012050

SETTLEMENT AGREEMENT WITH THE OHIO BOARD OF PHARMACY

This Settlement Agreement (Agreement) is entered into by the Ohio Board of Pharmacy (Board) and CVS Pharmacy #6167 for the purpose of resolving all issues between the parties relating to the Board investigation of CVS #6167 employing a Responsible Person who was prohibited from being a Responsible Person in Ohio, as a result of a Settlement Agreement with the Board. Together, the Board and CVS Pharmacy #6167 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, restrict, limit or refuse to grant or renew any license issued pursuant to Section 4729.54 of the Ohio Revised Code.
2. CVS Pharmacy #6167 is a licensed Terminal Distributor of Dangerous Drugs under license number 02-2012050.

FACTS

1. The Board initiated an investigation of CVS Pharmacy #6167, Terminal Distributor of Dangerous Drugs inactive license number 02-2012050, related to CVS Pharmacy #6167’s employing a Responsible Person who was prohibited from being a Responsible Person in Ohio, as a result of a Settlement Agreement with the Board.
2. On or about April 29, 2024, the Board sent a Notice of Opportunity for Hearing to CVS Pharmacy #6167, 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.
3. On or about May 29, 2024, CVS Pharmacy #6167, through counsel Brian Convery, timely requested an administrative hearing. This matter was settled via this Agreement prior to hearing.

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

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 Settlement Agreement as though fully set forth herein.
2. CVS Pharmacy #6167 neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated April 29, 2024; 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. CVS Pharmacy #6167 agrees to pay to the Board a monetary penalty the amount of \$5,000. This fine will be attached to your license record and must be paid no later than 180 days from the effective date of this Agreement. To pay this fine you must login to www.elicense.ohio.gov and process the items in your cart.
4. The Board hereby imposes a written reprimand on CVS Pharmacy #6167's Inactive TDDD license, number 02-2012050.
5. CVS Pharmacy #6167 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.
6. CVS Pharmacy #6167 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 CVS Pharmacy #6167 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 CVS Pharmacy #6167 by the Board and will NOT discharge CVS Pharmacy #6167 from any obligation under the terms of this Agreement.
7. CVS Pharmacy #6167 agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
8. CVS Pharmacy #6167 understands that it has the right to be represented by counsel for review and execution of this agreement.

9. 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 CVS Pharmacy #6167 will operate.
10. CVS Pharmacy #6167 explicitly withdraws its request for a hearing, waives its right to a hearing and an opportunity to be heard pursuant to Chapter 119. of the Ohio Revised Code, and waives any right to an appeal.
11. 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.
12. All parties to this Agreement understand that this document is a public record pursuant to Ohio Revised Code Section 149.43.
13. 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.
14. If any of the provisions, terms, or clauses of this Agreement are declared illegal, unenforceable, or ineffective by an authority of competent jurisdiction, those provisions, terms, and clauses shall be deemed severable, such that all other provisions, terms, and clauses of this Agreement shall remain valid and binding upon both Parties.
15. This Agreement shall become effective upon the date of the Board President's signature below.

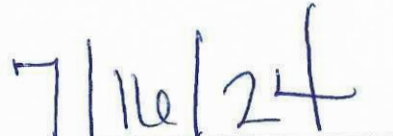
[SIGNATURE PAGE FOLLOWS]

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:



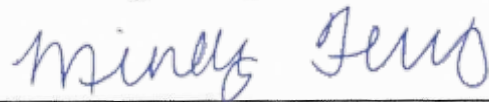
Leigh Parenteau, Senior Manager, on behalf of,
CVS Pharmacy #6167, Respondent



Date of Signature

Brian Convery, Attorney for Respondent

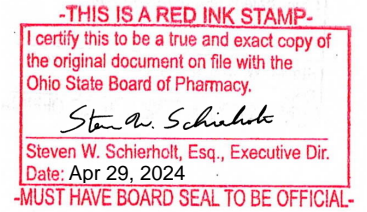
Date of Signature



Mindy Ferris, RPh, President,
Ohio Board of Pharmacy

09.20.2024

Date of Signature



**NOTICE OF OPPORTUNITY FOR HEARING
PROPOSAL TO TAKE DISCIPLINARY ACTION AGAINST LICENSEE**

IN THE MATTER OF:

CASE NO. A-2023-0489

CVS #6167

c/o Dipansh Bhavsar, RPh
418 East Main St.
Ashland, Ohio

License No. 02-2012050

April 29, 2024

Dear CVS #6167:

You are hereby 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 (TDDD) under authority of Section 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, restrict, limit, or refuse to grant or renew any license issued pursuant to section 4729.55 of the ORC to practice as a TDDD in the state of Ohio. Additionally, Section 4729.57 of the Ohio 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 ORC.
2. CVS Pharmacy #6167, located at 418 East Main St., Ashland, Ohio, has an active TDDD license with the Board under license number 02-2012050, which lists Dipansh Bhavsar, RPh as the Responsible Person.

ALLEGATIONS

1. On or about October 5, 2023, CVS Pharmacy #6167 submitted a Change in Responsible Person Application and Attestation Form. The form requested that Stacey Wagner-Zwiebel become the new Responsible Person at CVS Pharmacy #6167, located at 418 East Main St., Ashland, Ohio. On or about October 5, 2023, Stacey Wagner-Zwiebel was named the Responsible Person at CVS #6167.
 - a. Stacey Wagner-Zwiebel was placed in the position of Responsible Person despite her August 4, 2020 Settlement Agreement with the Board which prohibits her from becoming a Responsible Person at a Board-licensed entity until five years has passed and she petitions the Board to have the restriction lifted. The Settlement Agreement is publicly available, and posted on Ohio's license lookup website, "eLicense Ohio Professional Licensure System".
 - b. On the application, Stacey Wagner-Zwiebel on behalf of CVS Pharmacy answered "No" to the question that asks, "Has the Responsible Person ever been the subject of a disciplinary action by the Drug Enforcement Administration or appropriate issuing body of any state or jurisdiction that was based in whole or in part, on the responsible person's prescribing, dispensing, diverting, administering, storing, personally furnishing, compounding, supplying or selling a controlled substance or other dangerous drug (i.e. prescription drug), or is any such action pending."
 - i. This was false. On August 4, 2020, Stacey Wagner-Zwiebel entered a Settlement with the Board for two matters, which included "improperly changing fill dates on two prescriptions and for failing to conduct drug utilization review." In both matters she was the subject of disciplinary action by the Board based in part on her dispensing of a controlled substance or dangerous drug. These Notice of Opportunity for Hearing letters are publicly available, and posted on Ohio's license lookup website, "eLicense Ohio Professional Licensure System".
2. On or about October 19, 2023, an agent of the Board spoke with CVS District Leader, Becky Saksa. When asked about the Stacey Wagner-Zwiebel becoming the Responsible Person despite the prohibition in her Settlement Agreement, she stated:
 - a. She was aware of the Settlement Agreement but only saw where she was fined \$1,000. She was not aware Ms. Wagner-Zwiebel could not be a Responsible Person; she was not aware she could access the PDF of the Board documents on the public eLicense website.
 - b. CVS would hire a new Responsible Person as soon as possible.
 - c. The Responsible Person application was filled out by Stacey Wagner-Zwiebel, and submitted to the Board by Ms. Saksa.
3. CVS #6167 submitted a Change of Responsible Person application to the Board on October 20, 2023.

POTENTIAL VIOLATIONS OF LAW

1. Such conduct as set forth in Allegations Section, if proven, each constitutes a violation of the following sections of Rule 4729:5-2-01 of the OAC, as effective April 25, 2022, each violation punishable by a maximum penalty of \$1,000: Unless otherwise approved by the board, a terminal distributor shall not have a responsible person who: Has been the subject of any of the following by the drug enforcement administration or licensing agency of any state or jurisdiction: A disciplinary action that was based, in whole or in part, on the person's inappropriate prescribing, dispensing, diverting, administering, storing, securing, personally furnishing, compounding, supplying or selling a controlled substance or other dangerous drug, OAC Rule 4729:5-2-01(F)(10)(b).
2. Such conduct as set forth in Allegations Section, if proven, constitutes a violation of each of the following divisions of Section 4729.57(B) of the ORC, as effective April 4, 2023, 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. 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 Allegations Section, if proven, each constitutes a violation of the following sections of Rule 4729:5-4-01 of the OAC, as effective April 25, 2022, 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. Violation of any restrictions placed by the state board of pharmacy on a license or violating any terms of a board order issued against the licensee, OAC Rule 4729:5-4-01(B)(10); and/or
 - d. Employs a responsible person that does not meet the requirements set forth in rule 4729:5-2-01 of the Administrative Code, OAC Rule 4729:5-4-01(B)(19).

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 service of this notice.

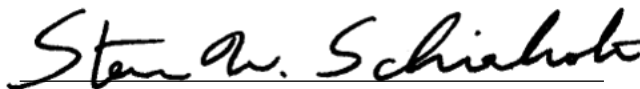
IF YOU DESIRE A HEARING, such request shall either be mailed to the State of Ohio Board of Pharmacy, Attn: Legal, 77 South High Street, 17th Floor, Columbus, Ohio 43215-6126 or an e-mail request may be sent to legal@pharmacy.ohio.gov (**please note faxes will not be accepted**). **YOUR REQUEST MUST**

BE RECEIVED ON OR PRIOR TO THE 30TH DAY FOLLOWING THE SERVICE 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 business entity, including but not limited to a corporation, limited liability company, or a limited partnership, 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 service of this notice, the State of Board of Pharmacy, upon consideration of the aforementioned allegations against you, may take action without such a hearing, and may adopt a final order that contains the board's findings. In the final order, the board may impose any of the sanctions listed in division RC 4729.57(A).

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

cc: Brian Convery, via email: brian.convery@cvshealth.com

