IN THE MATTER OF: **CASE NO. A-2022-0260**

Absolute Pharmacy, LLC **License No. 02-2450550**
16011 N. Nebraska Ave., #103
Lutz, FL 33549

SETTLEMENT AGREEMENT WITH THE OHIO BOARD OF PHARMACY

This Settlement Agreement (Agreement) is entered into by the Ohio Board of Pharmacy (Board) and Absolute Pharmacy, LLC for the purpose of resolving all issues between the parties relating to the Board investigation of controlled substances that were sold and shipped into Ohio. Together, the Board and Absolute Pharmacy, LLC 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. Absolute Pharmacy, LLC is a licensed Terminal Distributor of Dangerous Drugs under license number 02-2450550.

FACTS

1. The Board initiated an investigation of Absolute Pharmacy, LLC, Terminal Distributor of Dangerous Drugs license number 02-2450550, related to Absolute Pharmacy, LLC's sale and shipment of testosterone cypionate, a controlled substance, into Ohio during the time frame of 2017 through 2020.

2. On or about June 9, 2023, the Board sent a Notice of Opportunity for Hearing to Absolute Pharmacy, LLC, 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. On or about February 27, 2025, the Board sent an Amended Notice of Opportunity for Hearing.

3. On or about June 29, 2023, Absolute Pharmacy, LLC, through counsel Todd Newkirk, timely requested an administrative hearing, which was subsequently scheduled for January 8, 2024. The matter was continued to November 4, 2025 for settlement negotiations and was settled via this Agreement in lieu of 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. Absolute Pharmacy, LLC neither admits nor denies the allegations stated in the Amended Notice of Opportunity for Hearing letter dated February 27, 2025; 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. Absolute Pharmacy, LLC agrees to pay to the Board a monetary penalty the amount of $50,000. This fine will be attached to the license record for Absolute Pharmacy, LLC and must be paid no later than 180 days from the effective date of this Agreement. To pay this fine, a representative for Absolute Pharmacy, LLC must login to www.elicense.ohio.gov and process the items in the cart.

4. The Board hereby imposes a written reprimand on Absolute Pharmacy, LLC's TDDD license, number 02-2450550.

5. Absolute Pharmacy, LLC 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. Absolute Pharmacy, LLC 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 Absolute Pharmacy, LLC 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 Absolute Pharmacy, LLC by the Board and will NOT discharge Absolute Pharmacy, LLC from any obligation under the terms of this Agreement.

7. Absolute Pharmacy, LLC agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.

8. Absolute Pharmacy, LLC 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 Absolute Pharmacy, LLC will operate.

10. Absolute Pharmacy, LLC 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:

Andreas Dettlaff, on behalf of, Absolute Pharmacy, LLC, Respondent	10-31-2025 Date of Signature
Todd Newkirk, Attorney for Respondent	Date of Signature
Jeff Huston, RPh, President, Ohio Board of Pharmacy	11.04.2025 Date of Signature

-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. Schierholt, Esq., Executive Dir.
Date: 2/27/2025
-MUST HAVE BOARD SEAL TO BE OFFICIAL-

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

IN THE MATTER OF:

Absolute Pharmacy, LLC
c/o Mr. David Joseph, RPh
16011 N. Nebraska Ave., #103
Lutz, FL 33549

CASE NO. A-2022-0260

License No. 02-2450550

February 27, 2025

Dear Absolute Pharmacy and Mr. Joseph:

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. Absolute Pharmacy, LLC located at 16011 N. Nebraska Ave., #103, Lutz, FL 33549, has an active TDDD license with the Board under license number 02-2450550, which lists David Joseph, RPh as the Responsible Person.

ALLEGATIONS

1. An investigation of Absolute Pharmacy, a non-resident mail order pharmacy located at 16011 N. Nebraska Ave., #103, Lutz, FL, revealed prior discipline in various states, including:

    a. On or about August 11, 2020, Absolute Pharmacy entered a consent order for informal disposition with the Idaho Board of Pharmacy for dispensing controlled substances to Idaho residents pursuant to prescription drug orders issued by non-resident prescribers who were not licensed to practice medicine in the State. Absolute Pharmacy agreed to

pay a fine of $12,000 to the Board on or before November 4, 2020. Absolute Pharmacy also agreed to perform electronic verification of a practitioners' DEA and Idaho controlled substance registration any time the pharmacy dispensed into the State. Case No. BOP-20-001.

b. On or about May 17, 2021, Absolute Pharmacy entered a settlement agreement with the Iowa Board of Pharmacy for 1) compounding essentially copies of approved drugs without the documentation showing the relevant change and significant clinical difference for the individual patient, and 2) shipping controlled substances into Iowa without an active controlled substance (CSA) registration. Absolute Pharmacy was ordered to pay a civil penalty in the amount of $15,000 within 30 days of the Order and submit a report, on a quarterly basis, to the Board listing all compounded preparations dispensed to Iowa patients for that quarter. The report must include a notation from the prescriber if the compounded drugs are essentially copies of approved drugs. Case No. 2020-0112.

c. The following discipline was discovered on the NABP database and was not reported to the Board:
    i. On or about April 27, 2021, Pennsylvania Board of Pharmacy disciplined Absolute Pharmacy for the Idaho discipline (bootstrap discipline). Absolute Pharmacy paid a $1,500 fine.

    ii. On or about January 6, 2018, Maine Board of Pharmacy issued Absolute Pharmacy a warning and a $250 fine for not notifying the Board of a change on PIC within seven days, as required.

    iii. On or about April 27, 2015, FDA issued a warning letter due to inspection violations, including producing drugs in violation of the Food, Drug and Cosmetic Act.

2. It was discovered that many of the compounded testosterone prescriptions appeared to have been dispensed for testosterone cypionate 210 mg/mL. The commercially available form of testosterone cypionate (Depo-testosterone) was available as a 200 mg/mL product. There was no indication listed on the prescriptions as to why the patient(s) required a compounded 210 mg/mL testosterone product instead of the commercially available testosterone product.

3. The conduct described in Allegation 2 is identical to the conduct described in the Iowa Board of Pharmacy's disciplinary actions against Absolute Pharmacy, as outlined in Allegation 1.

POTENTIAL VIOLATIONS OF LAW

1. Such conduct as set forth in the Allegations Section, if proven, constitutes a violation of each of the following divisions of Section 4729.55 of the ORC, as effective May 20, 2011, April 6, 2017 and March 22, 2020 and March 31, 2021, TDDD license requirements, each violation punishable by a maximum penalty of $1,000: 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 4729.55(C).

2. Such conduct as set forth in the Allegations Section, if proven, constitutes a violation of each of the following divisions of Section 4729.57(B) of the ORC, as effective April 6, 2017 and September 29, 2017, 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. Except as provided in section 4729.89 of the Revised Code, violating any provision of the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, or Chapter 3715. of the Revised Code, ORC Section 4729.57(B)(4); and/or

    d. Violating any provision of the federal drug abuse control laws or Chapter 2925. or 3719. of the Revised Code, ORC Section 4729.57(B)(5); and/or

    e. Ceasing to satisfy the qualifications of a terminal distributor of dangerous drugs set forth in section 4729.55 of the Revised Code, ORC Section 4729.57(B)(7); and/or

    f. 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, constitutes a violation of each of the following divisions of Section 4729.57(A) of the ORC, as effective March 13, 2013, each violation punishable by a maximum penalty of $1,000:

    a. Violating any rule of the board, ORC Section 4729.57(A)(2); and/or

    b. Violating any provision of this chapter, ORC Section 4729.57(A)(3); and/or

    c. Violating any provision of the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, or Chapter 3715. of the Revised Code, ORC Section 4729.57(A)(4); and/or

d. Violating any provision of the federal drug abuse control laws or Chapter 2925. or 3719. of the Revised Code, ORC Section 4729.57(A)(5); and/or

e. Ceasing to satisfy the qualifications of a terminal distributor of dangerous drugs set forth in section 4729.55 of the Revised Code, ORC Section 4729.57(A)(7).

4. Such conduct as set forth in the Allegations Section, if proven, each constitutes a violation of the following sections of Rule 4729:5-8-03 of the OAC, as effective March 1, 2019, each violation punishable by a maximum penalty of $1,000: A nonresident terminal distributor of dangerous drugs shall:

   a. Comply with all the statutory and regulatory requirements of the state of Ohio for controlled substances, including those that are different from federal law, unless such compliance would cause the nonresident terminal distributor of dangerous drugs to violate the statutory or regulatory requirements of the state in which it is located, OAC Rule 4729:5-8-03(B); and/or

   b. Comply with all statutory and regulatory requirements of the state of Ohio for the compounding of dangerous drugs, including those that are different from federal law, unless such compliance would cause the nonresident terminal distributor of dangerous drugs to violate the statutory or regulatory requirements of the state in which it is located, OAC Rule 4729:5-8-03(C); and/or

   c. Supply, within three business days of a request, all information needed by the board of pharmacy to carry out its responsibilities as a licensing, regulatory, and drug law enforcement agency of the state of Ohio, OAC Rule 4729:5-8-03(D); and/or

   d. Supply, within three business days of a request, all information needed by the board of pharmacy and any local, state, or federal agency to carry out its responsibilities in enforcing the federal and state laws governing the distribution of drugs in the state of Ohio, OAC Rule 4729:5-8-03(E).

5. Such conduct as set forth in the Allegations Section, if proven, each constitutes a violation of the following sections 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. Except as provided in section 4729.89 of the Revised Code, violating any provision of the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, or Chapter 3715. of the Revised Code, OAC Rule 4729:5-4-01(B)(4); and/or

d. Violating any provision of the federal drug abuse control laws or Chapter 2925. or 3719. of the Revised Code, OAC Rule 4729:5-4-01(B)(5); and/or

e. Ceasing to satisfy the qualifications of a terminal distributor of dangerous drugs set forth in section 4729.55 of the Revised Code, OAC Rule 4729:5-4-01(B)(7); and/or

f. Being 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, personally furnishing, compounding, supplying or selling a controlled substance or other dangerous drug, OAC Rule 4729:5-4-01(B)(14)(b).

6. Such conduct as set forth in the Allegations Section, if proven, constitutes a violation of Rule 4729-9-19(A)(7) of the OAC, as effective October 5, 2015, each violation punishable by a maximum penalty of $1,000: Has been disciplined by any professional licensing board.

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.

The Board is in receipt of your request for a hearing dated June 29, 2023; no additional request for a hearing is necessary. Per the previous scheduling notice, your hearing was scheduled for February 2025 was continued to July 9, 2025 for settlement negotiations.

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: Todd Newkirk, toddnewkirklaw@gmail.com