



OHIO STATE BOARD OF PHARMACY

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SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY

(Docket No. D-980210-041)

In The Matter Of:

JERRY H. STARR, R.Ph.

2575 Wendover Drive

Dayton, Ohio 45431

(R.Ph. No. 03-1-06551)

This Settlement Agreement is entered into by and between Jerry H. Starr 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.

Jerry H. Starr 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 and the right to a formal adjudication hearing on the issues contained herein.

Jerry H. Starr is knowingly and voluntarily acknowledging that, in order to settle the disciplinary charges that have been filed by the Board against him and in order to obviate the need to conduct an administrative hearing to consider possible disciplinary sanctions against his license to practice pharmacy in the state of Ohio, this Agreement is entered into on the basis of the following stipulations, admissions, and understandings:

- (A) The Ohio State Board of Pharmacy 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 impose a monetary penalty on the license holder for violation of any of the enumerated grounds.
- (B) Jerry H. Starr neither admits nor denies the allegations stated in the Notices dated February 10, 1998, and May 1, 1998; however, the Board has evidence sufficient to sustain the allegations and hereby adjudicates the same:
 - (1) Jerry H. Starr was originally licensed to practice pharmacy in the State of Ohio on August 5, 1957, pursuant to examination; and, on February 10, 1998, his license was summarily suspended in accordance with Section 3719.121(C) of the Ohio Revised Code.
 - (2) On or about December 8, 1997, Jerry H. Starr was found to be eligible for Treatment in Lieu of Conviction after pleading guilty to two counts of Illegal Processing of Drug Documents in violation of Section 2925.23 of the Ohio

Revised Code and three counts of Deception to Obtain Dangerous Drugs in violation of Section 2925.22 of the Ohio Revised Code. State of Ohio vs. Jerry H. Starr, Case No. 97-CR-1156, Montgomery County Common Pleas Court.

- (3) Jerry H. Starr did, from January 1, 1996, through January 31, 1997, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Howard's Long Term Care Pharmacy, beyond the express or implied consent of the owner, to wit: Jerry H. Starr stole an unknown quantity of hydrocodone 5mg with APAP 500mg. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (4) Jerry H. Starr did, on or about the following dates, intentionally make and/or knowingly possess false or forged prescriptions, to wit: Jerry H. Starr created the following documents purporting to be prescriptions when there had been no valid order from an authorized prescriber:

	<u>Date</u>	<u>Rx No.</u>	<u>Drug</u>
500mg	12/30/96	4233126	Hydrocodone 5mg w/ Acetaminophen
	01/03/96	4223007	DCTN-100 (propoxyphene/acetaminophen)
added]	10/30/95	4221070	Hydrocodone w/ Acetaminophen [refills
	06/06/95	4217303	Codiclear DH
	03/09/95	4214694	Lomotil

Such conduct is in violation of Section 2925.23(B) of the Ohio Revised Code.

- (5) Jerry H. Starr did, on or about the following dates, make or utter false or forged prescriptions for dangerous drugs, to wit: Jerry H. Starr created the following documents purporting to be prescriptions when there had been no valid order from an authorized prescriber:

<u>Date</u>	<u>Rx No.</u>	<u>Drug</u>	<u>Qty.</u>	<u>Refills</u>
07/22/96	6471975	Cephalexin 500mg	15	
05/18/96	6462532	CTM-8/120mg Pseudoephedrine	100	9
04/06/96	6455811	Ibuprofen 600mg	100	3
01/03/96	6439801	Cyclobenzaprine 10mg	50	5
04/24/95	6401508	Zestril 5mg	60	6
04/10/95	6399583	Doxycyline 100mg	20	
04/08/95	6399423	Sulindac 200mg	100	
02/23/95	6392376	Seldane 60mg	100	
02/04/95	6389148	Sulindac 200mg	100	6
01/19/95	6386896	Analpram HC 2.5%	1	3
01/07/95	6384936	Vancenase Pockethaler 7Gm	1	2
01/04/95	6384276	Cipro 500mg	20	3
10/06/94	6371612	Relafen 500mg	100	10
04/29/94	6350329	Lescol 40mg	60	6

Such conduct is in violation of Section 4729.61(C) [as was in effect at the time of the acts, currently Section 2925.23(A)] of the Ohio Revised Code.

Wherefore, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of a formal hearing at this time, Jerry H. Starr knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

- (A) The removal of the Summary Suspension Order issued February 10, 1998, pursuant to Section 3719.121(C) of the Ohio Revised Code.
- (B) The suspension of his pharmacist identification card, No. 03-1-06551, for six months, from the date of the Summary Suspension Order.
 - (1) Pursuant to Rule 4729-9-01(F) of the Ohio Administrative Code, Jerry H. Starr may not be employed by or work in a facility licensed by the Board of Pharmacy to possess or distribute dangerous drugs during such period of suspension.
 - (2) Division (B) of Section 4729.16 of the Revised Code provides that: "Any individual whose identification card is revoked, suspended, or refused, shall return his identification card and certificate of registration to the offices of the state board of pharmacy within ten days after receipt of the notice of such action." The certificate and identification card should be forwarded by certified mail, return receipt requested.
- (C) August 10, 1998, or thereafter, the Board will the Board will reinstate the license only if the following conditions have been met:
 - (1) Jerry H. Starr must enter into a contract with a limited treatment provider acceptable to the Board for a period of not less than five years from the effective date of this Agreement and, upon signing, submit a copy of the contract to the Board office. The contract must provide:
 - (a) random, **observed** urine drug screens shall be conducted at least every three months. The urine sample must be given within twelve hours of notification. The urine drug screen must report testing for alcohol and must also report testing for creatinine or specific gravity of the sample as the dilutional standard;
 - (b) regular attendance, at least three times per week, at an Alcoholics Anonymous, Narcotics Anonymous, and/or similar support group meetings, and at meetings of a professional support group, is required during outpatient treatment and/or during aftercare; and
 - (c) the program shall immediately report to the Board of Pharmacy any positive urine screens and/or other violations of the contract.

Results of urine screens must be negative. Any positive results, including those which may have resulted from ingestion of food, but excluding false positives which resulted from medication legitimately prescribed, indicates a violation of the contract and probation.

Jerry H. Starr is hereby advised that the Board may at any time revoke probation for cause, modify the conditions of probation, and reduce or extend the period of probation. At any time during this period of probation, the Board shall revoke

probation for any violation of the terms of this Agreement occurring during the probation period.

- (D) Jerry H. Starr agrees to the imposition of a monetary penalty of one thousand dollars (\$1,000.00) due and owing within thirty days from the effective date of this Agreement. The monetary penalty should be made payable to the "Treasurer, State of Ohio" and mailed with the enclosed form to the State Board of Pharmacy, 77 South High Street, 17th Floor, Columbus, Ohio 43266-0320.

If, in the judgment of the Board, Jerry H. Starr appears to have violated or breached any terms or conditions of this Agreement, the Ohio State Board of Pharmacy reserves the right to, at any time, revoke probation, modify the conditions of probation, and reduce or extend the period of probation, and/or the Board may institute formal disciplinary proceedings for any and all possible violations or breaches, including but not limited to, alleged violation of the laws of Ohio occurring before the effective date of this Agreement.

Jerry H. Starr 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.

Jerry H. Starr 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. Jerry H. Starr 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. Jerry H. Starr 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 Board President's signature below.

/s/ Jerry H. Starr
Jerry H. Starr, R.Ph.

/d/ 6/24/98
Date of Signature

/s/ Jay S. Cohen, Esq
Jay S. Cohen, Attorney for Respondent

/d/ 6/23/98
Date of Signature

/s/ Amonte B. Littlejohn
Amonte B. Littlejohn, President, Ohio State Board of Pharmacy

/d/ 7/7/98
Date of Signature

/s/ Sally Ann Steuk
Sally Ann Steuk, Ohio Assistant Attorney General

/d/ 7/7/98
Date of Signature