



OHIO STATE BOARD OF PHARMACY

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SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY

(Docket No. D-040113-053)

In The Matter Of:

ALLEN BRUCE WEAVER, R.Ph.

15753 Balmoral Court
Strongsville, Ohio 44136
(R.Ph. No. 03-1-12438)

This Settlement Agreement is entered into by and between Allen Bruce Weaver 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.

Allen Bruce Weaver voluntarily 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, the right to a formal adjudication hearing on the issues contained herein, and the right to appeal. Allen Bruce Weaver acknowledges that by entering into this agreement he has waived his rights under Chapter 119. of the Revised Code.

Whereas, the Board 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 enforce a monetary penalty on the license holder for violation of any of the enumerated grounds therein.

Whereas, Allen Bruce Weaver is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about January 13, 2004, pursuant to Chapter 119. of the Ohio Revised Code, Allen Bruce Weaver was notified of the allegations or charges against him, his right to a hearing, his rights in such hearing, and his right to submit contentions in writing. Allen Bruce Weaver requested a hearing. The January 13, 2004, Notice of Opportunity for Hearing contains the following allegations or charges:

- (1) Records of the State Board of Pharmacy indicate that Allen Bruce Weaver was originally licensed by the State of Ohio as a pharmacist on August 10, 1977, pursuant to examination, and is currently licensed to practice pharmacy in Ohio. Records further reflect during the relevant time periods stated herein, Allen Bruce Weaver was the Responsible Pharmacist at Medic Discount Drug, 4507 Clark Avenue, Cleveland, Ohio, pursuant to Rule 4729-5-11 of the Ohio Administrative Code and Sections 4729.27 and 4729.55 of the Ohio Revised Code.
- (2) Allen Bruce Weaver as the Responsible Pharmacist did, on or about May 1, 2001 through May 6, 2003, violate a rule of the Board, to wit: Allen Bruce Weaver failed to assure adequate safeguards 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. One employee who admitted stealing controlled substances indicated to Board agents that "stealing drugs was easy because of poor security and recordkeeping." Audit results have revealed the following shortages:

<u>Drug</u>	<u>Strength</u>	<u>Shortage</u>	<u>% Short</u>
acetaminophen w/Codeine No. 3	30 mg	922	1.24%
acetaminophen w/Codeine No. 4	60 mg	1,519	8.33%
acetaminophen w/Codeine No. 2	15 mg	12	3.80%
alprazolam	.25 mg	1,063	5.09%
diazepam	10 mg	26,816	27.85%
diazepam	2 mg	1,741	17.91%
diazepam	5 mg	6,180	9.87%
Duragesic	100 ug/h	36	5.63%
Duragesic	25 ug/h	52	4.38%
Duragesic	50 ug/h	26	2.99%
Duragesic	75 ug/h	39	11.17%
Endocet	10/650 mg	1,105	18.58%
Endocet	7.5/500 mg	199	1.69%
hydrocodone w/acetaminophen	10/325 mg	98	2.78%
hydrocodone w/acetaminophen	10/500 mg	3,617	33.88%
hydrocodone w/acetaminophen	10/650 mg	4,138	25.01%
hydrocodone w/acetaminophen	10/660 mg	568	6.59%
hydrocodone w/acetaminophen	5/500 mg	2,556	1.82%
hydrocodone w/acetaminophen	7.5/325 mg	140	46.67%
hydrocodone w/acetaminophen	7.5/500 mg	80	2.20%
hydrocodone w/acetaminophen	7.5/750 mg	740	1.07%
Lorcet	10/650 mg	790	31.70%
Lortab	5/500 mg	100	100%
OxyContin	10 mg	47	0.56%
OxyContin	20 mg	403	1.02%
OxyContin	40 mg	1,204	5.96%
OxyContin	80 mg	170	5.80%
Percocet	10/325 mg	299	14.95%
Percocet	10/650 mg	307	35.90%
Percocet	2.5/325 mg	355	34.59%
Percocet	5/325 mg	89	1.88%
Percocet	7.5/325 mg	15	0.64%
Percocet	7.5/500 mg	304	15.73%
Roxicet	5/325 mg	960	0.56%
Tylenol with Codeine No. 3	30 mg	121	7.88%
Tylenol with Codeine No. 4	60 mg	32	4.57%
Valium	10 mg	2,783	60.90%
Valium	2 mg	55	55%
Viagra	100 mg	171	5.94%
Vicodin	5 mg	364	4.01%
Vicodin ES	75/750	6,186	45.69%
Vicodin HP	10/660	96	20.87%
Xanax	.25 mg	119	5.30%
Xanax	.5 mg	94	3.60%
Xanax	1 mg	190	100%

Such lack of safeguards is in violation of Rule 4729-9-11 of the Ohio Administrative Code.

- (3) Allen Bruce Weaver as the Responsible Pharmacist did, from May 1, 2001, through May 6, 2003, using a computerized recordkeeping system, fail in the capability of providing immediate retrieval (via CRT display and hard-copy printout or other mutually agreeable transfer medium) of patient profile information for all prescriptions filled within the previous twelve months and retrieval within three working days, excluding weekends and holidays, of all prescriptions dispensed within the previous thirty-six months which included the name of the prescriber, to wit: of 17,700 computer records generated during this time period, 3,369 prescriptions (19% of the records) did not have the name of the prescriber included therein. Such conduct is in violation of Rule 4729-5-28(A)(5) of the of the Ohio Administrative Code.
- (4) Allen Bruce Weaver as the Responsible Pharmacist did, from May 1, 2001, through May 6, 2003, dispense drugs pursuant to prescriptions with labels affixed thereto when the labels did not indicate the name of the prescriber, to wit: of 17,700 computer records generated during this time period, 3,369 prescriptions (19% of the records) did not have the name of the prescriber indicated on the label. Such conduct is in violation of Rule 4729-5-16(A)(3) of the Ohio Administrative Code.
- (5) Allen Bruce Weaver as the Responsible Pharmacist did, from May 1, 2001, through May 6, 2003, fail to maintain records of drugs dispensed, to wit: after having received a request from a Board agent, the pharmacy was unable to produce eight prescriptions for OxyContin, one prescription for alprazolam, and one prescription for acetaminophen with codeine; the prescriptions were not maintained in the pharmacy files. Such conduct is in violation of Section 3719.07 and 4729.37 of the Ohio Revised Code, and Rule 4729-5-27(F) of the Ohio Administrative Code.

Allen Bruce Weaver neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated January 13, 2004; however, the Board has evidence sufficient to sustain the allegations and hereby adjudicates the same.

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

- (B) Allen Bruce Weaver's pharmacist identification card, No. 03-1-12438, will be placed on probation for one (1) year, effective from the date of this Agreement. The terms of probation are as follows:
 - (1) The State Board of pharmacy hereby declares that Allen Bruce Weaver's pharmacist identification card is not in good standing.
 - (2) Allen Bruce Weaver must not violate the drug laws of the State of Ohio, any other state, or the federal government.
 - (3) Allen Bruce Weaver must abide by the rules of the Ohio State Board of Pharmacy.
 - (4) Allen Bruce Weaver must comply with the terms of this Agreement.
- (B) Allen Bruce Weaver must obtain, within one year from the effective date of this Order, three hours (0.3 CEUs) of approved continuing pharmacy education relating to pharmacy management and/or diversion issues, which may not also be used for

license renewal. If proof of successful completion is not submitted to the Board office before the end of the probation period, Allen Bruce Weaver will remain on probation until this condition is achieved.

If, in the judgment of the Board, Allen Bruce Weaver 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.

Allen Bruce Weaver 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.

Allen Bruce Weaver 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. Allen Bruce Weaver waives any rights of appeal pursuant to Chapter 119. of the Ohio Revised Code.

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 the Board President's signature below.

[Signed and effective July 13, 2004]

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