



OHIO STATE BOARD OF PHARMACY

77 South High Street, Room 1702; Columbus, OH 43215-6126

-Equal Opportunity Employer and Service Provider-

TEL: 614/466-4143

E-MAIL: exec@bop.state.oh.us

FAX: 614/752-4836

TTY/TDD: Use the Ohio Relay Service: 1-800/750-0750

www.pharmacy.ohio.gov

Settlement Agreement With The State Board Of Pharmacy

Docket Number: D-050324-056

in the matter of:

DONNA RENEE SCHMITTGEN, R.PH.
18525 Lomond Boulevard
Shaker Heights, Ohio 44122

R.Ph. Number 03-1-22839

This Settlement Agreement is entered into by and between Donna Renee Schmittgen 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.

Donna Renee Schmittgen voluntarily enters into this Agreement being fully informed of her 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. Donna Renee Schmittgen acknowledges that by entering into this agreement she has waived her 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, Donna Renee Schmittgen is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about March 24, 2005 pursuant to Chapter 119. of the Ohio Revised Code, Donna Renee Schmittgen was notified of the allegations or charges against her, her right to a hearing, her rights in such hearing, and her right to submit contentions in writing. Donna Renee Schmittgen requested a hearing; it was scheduled and continued. The March 24, 2005, Notice of Opportunity for Hearing contains the following allegations or charges:

- (1) Records of the State Board of Pharmacy indicate that Donna Renee Schmittgen was originally licensed by the State of Ohio as a pharmacist on February 27, 1998, pursuant to examination, and is currently licensed to practice pharmacy in Ohio.
- (2) Donna Renee Schmittgen did, on or about January 19, 2004, misbrand a drug, to wit: when Donna Renee Schmittgen received a refill for Rx #1007163, she

compounded and dispensed 15 mg/ml of Cytosan Elixir with directions for use to give 10 ml each morning for a 3-year-old patient, a concentration and quantity which had not been specifically prescribed by the physician, resulting in 3.75 times the prescribed daily dose. The patient was subsequently harmed, the extent of which remains unknown. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.

Donna Renee Schmittgen neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter May 24, 2005; 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, Donna Renee Schmittgen knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

- (A) Donna Renee Schmittgen agrees to the imposition of a monetary penalty of two hundred-fifty dollars (\$250.00) and payment of the monetary penalty is due and owing within thirty (30) days from the effective date of this Agreement. The remittance 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 43215-6126.
- (B) Donna Renee Schmittgen must obtain, within six months from the effective date of this Order, two hours of continuing pharmacy education (0.2 CEUs) on Medication Errors and (0.1 CEU) on Compounding, which may not also be used for license renewal.

If, in the judgment of the Board, Donna Renee Schmittgen 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.

Donna Renee Schmittgen acknowledges that she 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.

Donna Renee Schmittgen waives any and all claims or causes of action she 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. Donna Renee Schmittgen 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.

/s/
Donna Renee Schmittgen, R.Ph., Respondent

/d/ 09/10/05
Date of Signature

/s/
Suzanne R. Eastman, President, Ohio State Board of Pharmacy

/d/ 10/11/05
Date of Signature

/s/
Sally Ann Steuk, Ohio Assistant Attorney General

/d/ 10/11/05
Date of Signature