



# OHIO STATE BOARD OF PHARMACY

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## SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY

(Docket No. D-940922-018)

In The Matter Of:

**DAVID P. ACCONCIA, R.Ph.**

111 Jacobs Drive

Wapakoneta, Ohio 45895

(R.Ph. No. 03-2-12574)

This SETTLEMENT AGREEMENT is entered into by and between DAVID P. ACCONCIA (hereinafter "MR. ACCONCIA") and the OHIO STATE BOARD OF PHARMACY (hereinafter "THE BOARD"), a state agency charged with enforcing the Pharmacy Practice Act and Dangerous Drug Distribution Act, Chapter 4729. of the Ohio Revised Code.

MR. ACCONCIA 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 considered herein, and the right to appeal. MR. ACCONCIA acknowledges that by entering into this AGREEMENT he has waived his rights under Chapter 119. of the Revised Code.

WHEREFORE, the parties, in consideration of the mutual covenants and promises contained herein, and in lieu of any further formal proceedings at this time, and intending to be bound by said covenants, agree as follows:

- (1) 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 of R.C. 4729.16.
- (2) MR. ACCONCIA is licensed to practice pharmacy in the state of Ohio.
- (3) On or about September 22, 1994, pursuant to Chapter 119. of the Ohio Revised Code, MR. ACCONCIA 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. Further, a hearing was requested and held on December 9 and 10, 1994, pursuant to the allegations or charges filed against MR. ACCONCIA. A copy of the September 22, 1994, Notice of Opportunity for Hearing is attached hereto and incorporated herein by this reference as Exhibit A (hereinafter, the "Notice of Opportunity for Hearing").
- (4) THE BOARD found, upon consideration of the evidence presented during MR. ACCONCIA's adjudication hearing on December 9 and 10, 1994, the allegations set forth in the Notice of Opportunity for Hearing to be substantiated.

(5) THE BOARD hereby SUSPENDS the pharmacist identification card, No. 03-2-12574, held by MR. ACCONCIA indefinitely and such suspension is effective as of February 27, 1995. Pursuant to Rule 4729-9-01(F) of the Ohio Administrative Code, MR. ACCONCIA may not be employed by or work in a facility licensed by THE BOARD to possess or distribute dangerous drugs during such period of suspension.

(6) On August 27, 1995, THE BOARD will reinstate MR. ACCONCIA's license to practice pharmacy in Ohio provided that he has taken and successfully completed the federal drug law and state jurisprudence examinations offered by THE BOARD prior to that date. However, if MR. ACCONCIA has not successfully completed the examinations prior to August 27, 1995, his license will remain under suspension until this condition has been achieved.

(7) THE BOARD hereby imposes a monetary penalty of seven thousand five hundred dollars (\$7,500.00), to be paid in ten equal installments of seven hundred fifty dollars (\$750.00) each, due and owing by February 27, and August 27, 1996, 1997, 1998, 1999, and 2000. The monetary penalties should be made payable to the "Treasurer, State of Ohio" and mailed to the State Board of Pharmacy, 77 South High Street, 17th Floor, Columbus, Ohio 43266-0320, with the enclosed forms.

(8) Further, upon reinstatement of his license, MR. ACCONCIA's identification card will be placed on probation for five years. The terms of probation are as follows:

(a) MR. ACCONCIA must not violate the drug laws of the state of Ohio, any other state, or the federal government.

(b) MR. ACCONCIA must abide by the rules of the Ohio State Board of Pharmacy.

(c) MR. ACCONCIA must comply with the terms of this AGREEMENT.

(d) Pursuant to paragraph (D)(1) of Rule 4729-3-01 of the Ohio Administrative Code, the BOARD hereby declares that MR. ACCONCIA's pharmacist identification card is not in good standing and thereby denies the privilege of being a preceptor and training pharmacy interns while on probation.

(e) THE BOARD further stipulates that MR. ACCONCIA may not serve as a responsible pharmacist while on probation.

(f) THE BOARD may at any time for cause revoke probation, modify the conditions of the probation, and reduce or extend the period of probation.

(9) MR. ACCONCIA further understands and agrees that Division (B) of Section 4729.16 of the Ohio 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.

(10) MR. ACCONCIA, with intention of binding himself and his successors in interest and assigns, hereby RELEASES, and holds harmless from liability and forever discharges the State of Ohio, THE BOARD, the Ohio Attorney General, and any and all of their present and former members, officers, attorneys, agents and employees, personally and in their official capacities, from any and all claims, demands, causes of actions, judgments, or executions that MR. ACCONCIA ever had, or now has or may have, known or unknown, or that anyone claiming through or under him may have or claims to have, created by, or arising out of the allegations or charges filed by THE BOARD against MR. ACCONCIA, set forth in the Notice of Opportunity for Hearing.

(11) MR. ACCONCIA 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.

(12) This AGREEMENT embodies the entire agreement between and of the parties. There are no express or implied promises, guarantees, terms, covenants, conditions, or obligations other than those contained herein; and this AGREEMENT supersedes all previous communications, representations or agreements, either verbal or written, between the parties.

(13) The parties hereto acknowledge that this AGREEMENT shall be considered a public record as that term is used in Section 149.43 of the Ohio Revised Code.

In witnesses thereof, the parties have set their hands to this AGREEMENT ... and shall become effective on the last date of signature below.

**SIGNED AND EFFECTIVE FEBRUARY 27, 1995**