



# OHIO STATE BOARD OF PHARMACY

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## SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY

(Docket No. D-040510-068)

In The Matter Of:

**DWAYNE STEVEN VARNER, R.Ph.**

134 Windsor Drive

Johnstown, Pennsylvania 15904

(R.Ph. No. 03-2-13990)

This Settlement Agreement is entered into by and between Dwayne Steven Varner 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.

Dwayne Steven Varner 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. Dwayne Steven Varner 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, Dwayne Steven Varner is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about May 10, 2004 and May 12, 2004, pursuant to Chapter 119. of the Ohio Revised Code, Dwayne Steven Varner 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. Dwayne Steven Varner requested a hearing; it was scheduled. The May 10, 2004, Notice of Opportunity for Hearing and May 12, 2004 Amendment, contain the following allegations or charges:

- (1) Records of the State Board of Pharmacy indicate that Dwayne Steven Varner was originally licensed by the State of Ohio as a pharmacist on March 24, 1981, pursuant to reciprocity, and is currently licensed to practice pharmacy in the State of Ohio.
- (2) Dwayne Steven Varner was, on or about October 10, 2002, convicted of one count of Failure to Keep Records, an "Upgraded Misdemeanor," and four counts of Theft by Unlawful Taking, misdemeanors of the first degree. Commonwealth of Pennsylvania vs. Dwayne Varner, Case No. 0508-2002, Cambria County Common

Pleas Court (Pennsylvania). Dwayne Steven Varner was sentenced to six months probation and fined \$10,000.00 on the first count, and sentenced to six months house arrest with eleven months probation on the remaining four counts. Such conduct constitutes being guilty of gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or convicted of a misdemeanor related to or committed in the practice of pharmacy within the meaning of Section 4729.16 of the Ohio Revised Code.

- (3) Dwayne Steven Varner was, on or about October 23, 2002, disciplined by the Pennsylvania Board of Pharmacy. Commonwealth of Pennsylvania, Bureau of Professional and Occupational Affairs vs. Dwayne Steven Varner, R.Ph. Docket No. 1290-54-03, File No. 01-54-06715. Dwayne Steven Varner admitted being impaired in that he "suffers from chemical abuse or dependence on narcotics" and, the Pennsylvania Board noted his criminal conviction. Such conduct constitutes abusing drugs to such a degree as to render Dwayne Steven Varner unfit to practice pharmacy within the meaning of Section 4729.16 of the Ohio Revised Code.

Whereas, 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, Dwayne Steven Varner knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

- (A) Dwayne Steven Varner must abide by the conditions as set forth in the Consent Agreement and Order of the Pennsylvania Board of Pharmacy dated September 16, 2003.
- (B) Until such time as the Pennsylvania Board of Pharmacy removes all conditions from Dwayne Steven Varner's license to practice pharmacy, Dwayne Steven Varner's license to practice pharmacy in the State of Ohio will be placed on probation.
- (C) Dwayne Steven Varner must notify the Ohio State Board of Pharmacy if he plans to return to Ohio to practice pharmacy in Ohio; whereupon, an administrative hearing will be held to determine Dwayne Steven Varner's compliance with his Consent Agreement and Order of the Pennsylvania Board.

If, in the judgment of the Board, Dwayne Steven Varner 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.

Dwayne Steven Varner 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.

Dwayne Steven Varner 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. Dwayne Steven Varner 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.



Dwayne Steven Varner, R.Ph., Respondent

12/14/2004

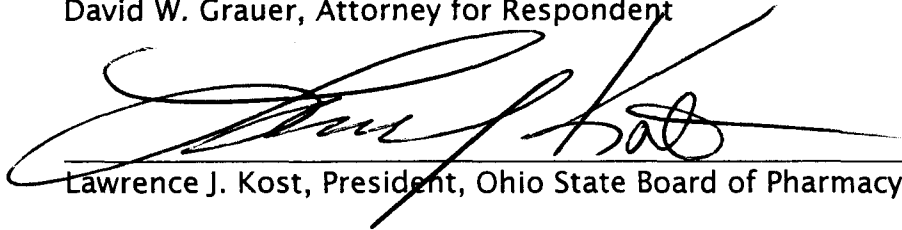
Date of Signature



David W. Grauer, Attorney for Respondent

12-26-2004

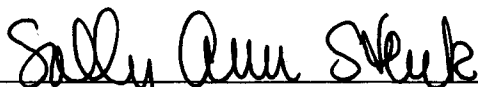
Date of Signature



Lawrence J. Kost, President, Ohio State Board of Pharmacy

1-3-05

Date of Signature



Sally Ann Steuk, Ohio Assistant Attorney General

1/3/05

Date of Signature