



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

URL: <http://www.pharmacy.ohio.gov>

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY

(Docket No. D-051021-042)

In The Matter Of:

PHILIP BRIAN SMITH, R.Ph.

1486 Slate Ridge

Canal Winchester, Ohio 43110

(R.Ph. No. 03-2-19630)

This Settlement Agreement is entered into by and between Philip Brian Smith 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.

Philip Brian Smith 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. Philip Brian Smith 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, Philip Brian Smith is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about October 21, 2005, pursuant to Chapter 119. of the Ohio Revised Code, Philip Brian Smith 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. Philip Brian Smith requested a hearing; it was scheduled. The October 21, 2005, Notice of Opportunity for Hearing contains the following allegations or charges:

- (1) Records of the State Board of Pharmacy indicate that Philip Brian Smith was originally licensed by the State of Ohio as a pharmacist on October 27, 1992, pursuant to examination, and is currently licensed to practice pharmacy in Ohio.

- (2) Philip Brian Smith did, on or about February 15, 2005, dispense a drug pursuant to a prescription without having the correct directions for use indicated on the label affixed to the container, to wit: when dispensing Rx #6769843, Philip Brian Smith did not indicate the directions for use of the drug as was prescribed by the physician. The physician prescribed ciprofloxacin 500 mg to be taken one tablet daily; however, the label affixed to the vial indicated that the patient should ingest three tablets every twelve hours. The patient was subsequently harmed. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code and Rule 4729-5-16 of the Ohio Administrative Code.

A third paragraph alleging misconduct is dismissed as unfounded.

Philip Brian Smith neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated October 21, 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, Philip Brian Smith knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

- (A) Philip Brian Smith agrees to the imposition of a monetary penalty of two hundred fifty dollars (\$250.00) due and owing within thirty days from the effective date of this Agreement. Checks should be made payable to the "Treasurer, State of Ohio" and mailed with the enclosed forms to the State Board of Pharmacy, 77 South High Street, 17th Floor, Columbus, Ohio 43266-0320.
- (B) Philip Brian Smith must obtain, within one year from the effective date of this Order, two hours of continuing pharmacy education (0.2 CEUs) on Patient Counseling or Medication Errors, which may not also be used for license renewal.

Philip Brian Smith 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.

Philip Brian Smith 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. Philip Brian Smith 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.

Philip Brian Smith, R.Ph., Respondent

05/23/2006
Date of Signature

Mary Barley-McBride, Attorney for Respondent

05/24/2006
Date of Signature

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

06/05/2006
Date of Signature

Sally Ann Steuk, Ohio Assistant Attorney General

06/05/2006
Date of Signature