



## Franchisees suing Cardinal Health over agreements

By JoANNE VIVIANO , 03.09.10, 05:05 PM EST

COLUMBUS, Ohio -- Medicine Shoppe and Medicap pharmacists in seven states sued **Cardinal Health** in federal court Tuesday, alleging the health care products distributor failed to make good on promises it made when it asked them to switch to a new franchise agreement.

The lawsuit filed in U.S. District Court says franchise holders who agreed to the change offered in March 2009 are paying lower fees than others, while all are getting fewer supports and services from the Cardinal-owned Medicine Shoppe International Inc. and Medicap Pharmacies Inc. It says many who have the lower fees were charged "grossly unfair" penalties to switch from their old agreements.

Pharmacists want a return of penalties paid and for all franchisees to be charged the lower fees or be allowed to cancel their franchise agreements, said St. Louis attorney David Harris, who represents the pharmacists. Current plaintiffs include Medicine Shoppe franchise holders in California, South Dakota and Kansas and Medicap franchisees in Pennsylvania, [Idaho](#), Iowa and [North Carolina](#).

Harris said the suit seeks class-action status and could include more than 600 franchises that account for \$1 billion in drug sales for the suburban Columbus-based Cardinal. Most signed 20-year agreements with Medicine Shoppe, he said.

"Many of them are seeing their revenue decline, their costs go up and seeing when they get to [retirement age](#) that they can't sell their unit because nobody wants to buy a Medicine Shoppe pharmacy," Harris said.

The lawsuit says the old system amounted to an "unworkable and oppressive regime" and that Medicine Shoppe asked pharmacists to make a change "because, by its own admission, its franchise system was no longer viable and was in need of a transformation."

Pharmacists were asked to change to a system in which they paid a reduced royalty fee of \$499 per month, while paying an early termination penalty of 55 percent on their previous agreements, the suit says. It claims the company promised it would not go ahead with the changes unless more than 95 percent of franchise holders agreed.

Only about 54 percent of franchisees agreed, but the company went ahead with the move anyway, and "cut side-deals with some franchisees on better terms than it offered to the group as a whole," the pharmacists allege.

Terry Burnside, [Cardinal Health \( CAH - news - people \)](#)'s general manager and senior vice president for Medicine Shoppe and Medicap Pharmacy operations said in a Tuesday statement that the company is "dedicated to serving the needs of retail pharmacies and to helping them succeed" and believes the claims have no merit.

He said the new options were offered based on input from franchise holders.

"We firmly believe that our franchise options are fair and equitable and that franchisees were provided full opportunity to determine which option would be most beneficial for their business," he said. "Since introducing the new franchise agreement options in July 2009, Medicine Shoppe International has seen renewed interest in opening additional Medicine Shoppe and Medicap Pharmacy locations. We believe this to be proof of the success of the new options."

Harris said the Medicine Shoppe name was meant to represent a "Mom and Pop" neighborhood pharmacy where customers have a personal relationship with their pharmacist, but that the brand has no meaning to most customers because the franchise has been fragmented. The suit says there were more than 1,100 franchises in 1995 and fewer than 700 now, and Harris said the number continues to drop.

"The loss of close to 40 percent of the pharmacies is generally because people could no longer operate economically under the franchise model and that means the Mom and Pop pharmacy in town goes away," he said. He said the change also has meant customers have access to fewer and higher-priced prescriptions, no store-name over-the counter medications and fewer services, such as computer systems that provide information about prescription medications.

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