



Pharmacists sue Cardinal Health; Cardinal: no merit to claims

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Seven Medicine Shoppe and Medicap independent pharmacy franchise owners are suing [Cardinal Health Inc.](#) and its two franchising companies, seeking to undo agreements renegotiated last year through Cardinal's "heavy-handed ways" and "predatory pricing on pharmaceuticals."

When the pharmacists tried to renegotiate franchise and distribution agreements with Cardinal Health in light of significant industry challenges, the drug and healthcare product supplier responded by strong-arming them into long-term agreements with draconian terms, according to the suit filed in [U.S. District Court in the Southern District of Ohio](#) in Columbus, Ohio.

Terry Burnside, general manager and senior vice president responsible for the [Medicine Shoppe International Inc.](#) and Medicap Pharmacies Inc. operations at Cardinal Health, [said in a statement](#): "We are disappointed that these seven franchisees have taken steps to file a lawsuit that largely addresses past issues and makes claims that we believe have no merit."

The lawsuit comes at a time when Cardinal Health is beginning to see positive results from an operational turnaround that included spinning off its [CareFusion](#) unit, paying \$34 million to settle Drug Enforcement Agency claims that it filled fake prescriptions, strengthening its nuclear medicine program and reorganizing its retail pharmacy franchise model last year, [according to Time/CNN](#).

The company's [financials are turning around, too](#). In late January, Cardinal Health beat security analysts' earnings expectations for the second fiscal quarter and raised its own earnings expectations for fiscal 2010.

Now, the pharmacists are seeking class action status for their suit so that more than 600 fellow franchisees could join in.

"We are independent pharmacists, taking care of hundreds of thousands of patients across the country, who feel that our franchiser has taken every opportunity to hurt our business and the brand we share," Stan Winters, who owns the [Medicine Shoppe in Artesia, California](#), said in a [written statement by Franchisees for Fair Value](#). "We intend for this legal action to clear the slate with Cardinal Health, put an end to their heavy-handed ways and roll back the predatory pricing on pharmaceuticals that many stores are forced to accept."

Recognizing that many independent pharmacies have closed in the last several years because of industry challenges, Cardinal Health “proactively implemented new franchise agreement options” last year, seeking and receiving substantial input from franchisees, Burnside said. “We firmly believe that our franchise options are fair and equitable, and that the franchisees were provided full opportunity to determine which option would be most beneficial to their business,” he said.

The suing pharmacists disagree. They said “Option 1 Stores” were offered some new contracts that included early termination fees of \$1 million or more and agreements to purchase only from Cardinal Health for more than a dozen years without a competitive bid. “Option 3 stores” that declined Cardinal’s new offerings have suffered “arbitrary reduction of services,” they said.

Cardinal Health and one of its franchising companies, Medicine Shoppe Inc., “further damaged the overall franchise by introducing a new offer for a flat \$499 per month, in stark contrast to the existing agreements which continue to require payments up to \$25,000 per month or more to carry the Medicine Shoppe or Medicap brand,” the pharmacists said.

Since introducing its new franchise options in July, “Medicine Shoppe International has seen renewed interest in opening additional Medicine Shoppe and Medicap Pharmacy locations,” Burnside said. “We believe this to be proof of the success of the new options.”

The pharmacists want a return of the early termination penalties they paid and cancellation of promissory notes to pay the penalties, as well as damages, according to the lawsuit. They also want all franchisees to be charged the lower fees or be allowed to cancel their franchise agreements, [attorney David Harris told the Associated Press](#) in a news story hosted by Google.