

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

BOARD OF REGISTRATION
IN PHARMACY

In the Matter of)
APOTHECARE SOUTH SHORE INC.)
Pharmacy Registration No. DS89659)
_____)

Docket No. PHA-2010-0119

CONSENT AGREEMENT

The **Board of Registration in Pharmacy** (Board) and **Apothecare South Shore Inc.** (Pharmacy), a Massachusetts corporation registered by the Board to operate a pharmacy at 720 Centre Street in Brockton, Massachusetts (Pharmacy Registration No. DS89659), do hereby stipulate and agree that the following information shall be entered into and become a permanent part of the files maintained by the Board:

1. The parties enter into this Consent Agreement ("Agreement") to resolve disputed matters arising out of a complaint pending against Registrant as Docket No. PHA-2010-0119 (Complaint).
2. The Pharmacy acknowledges that in connection with the investigation of the Complaint, Board investigators performed an inspection of the Pharmacy on May 20, 2010 and observed statutory and regulatory violations pertaining to the practice of pharmacy, including, but not limited to:
 - a. The Pharmacy failed to maintain a perpetual inventory of each Schedule II controlled substance received, dispensed or disposed of, with reconciliations performed at least once every ten days which complied with the requirements of 247 CMR 9.01(14);
 - b. The Pharmacy failed to maintain a biennial inventory that complied with the requirements of 247 CMR sections 6.07 (1)(i) and 11.13 . The Pharmacy was not able to provide a biennial inventory to Board investigators during the inspection; and
 - c. The Pharmacy failed to timely conduct a complete inventory of controlled substances at the time of change in manager of record on or about November 18, 2009, as required by 247 CMR 6.03(1)(a).
3. Accordingly, the Pharmacy acknowledges and agrees to the following:
 - a. that the improper recordkeeping practices described in Paragraph 2 constitute conduct warranting disciplinary action by the Board, pursuant to M.G.L. c.112, §§ 42A and 61 and 247 CMR sections 6.03(1)(a), 6.07(1)(i) and 9.01(14);

- b. that the Pharmacy is hereby placed on PROBATIONARY STATUS for a minimum one year period commencing on the Effective Date of the Agreement ("Probationary Period"). Termination of the Probationary Period shall be governed by Paragraph 4 of the Agreement;
- c. to provide written confirmation to the Board, within 30 days of the Effective Date of the Agreement, that all Pharmacy personnel engaged in the practice of filling of prescriptions shall have completed re-training regarding:
 - (i) recordkeeping requirements of 247 CMR sections 9.01(14) and 11.13;
 - (ii) Pharmacy procedures for insuring adequate and secure storage of Schedule II medications at the Pharmacy, in compliance with federal and state statutes and regulations; and
 - (iii) Pharmacy policies, with methods for monitoring compliance with such policies, that insure that all functions in prescription filling and dispensing are performed by individuals with the required Board issued license or registration who provide pharmacy services in compliance with relevant federal and state statutes and regulations;
- d. to submit to the Board, within thirty (30) days of the Effective Date of the Agreement, a statement certifying and detailing completion of all corrective action implemented by the Pharmacy, attested to by the Pharmacy Manager of Record; and
- e. that monthly during the twelve month period following the Effective Date of the Agreement, the Pharmacy Manager of Record must complete a Board "Self-Inspection Form" (signed and dated) and provide written verification of completion of the Self-Inspection Form to the Board by the last day of each month. Registrant must maintain a copy (signed and dated) of each monthly Self-Inspection Form at the Pharmacy, readily retrievable at Board request, for the twelve month following the Effective Date of the Agreement.

4. Registrant hereby acknowledges and agrees that a petition for termination of the Probationary Period shall be reviewed by the Board in accordance with the following requirements:

- a. written request shall be submitted to the Board requesting termination of the Probationary Period; and
- b. full compliance with all terms and conditions of the Agreement and meeting all other requirements for licensure.

5. This Agreement shall be incorporated into the records maintained by the Board. This Agreement and its contents are matters of public record subject to disclosure to the public and equivalent state licensing boards.

6. The Board agrees that in return for execution of this Agreement, the Board will not advance the prosecution of Registrant pursuant to the Complaint; any and all other rights of the Board to take action within the scope of its authority are expressly reserved.

7. Registrant understands and agrees that, at any time during the Probationary Period, upon a determination by the Board of any violation of any of the terms and conditions of this Agreement,

or any violation of the applicable laws, rules and regulations governing the practice of pharmacy, provided the Registrant has been provided an opportunity to respond to the determination of violation, the Board may suspend the registration of the pharmacy without the requirement of further proceedings pursuant to G.L. c. 30A for a period of time and upon such conditions as deemed necessary by the Board.

8. Registrant acknowledges and agrees that should the Pharmacy be found to have violated any of the statutes and/or regulations governing the practice of pharmacy for conduct occurring during the Probationary Period, the Board may consider the conduct described herein and more fully described in the Complaints in determining an appropriate sanction for the subsequent offense.

9. Registrant acknowledges and agrees that the decision to enter into the Agreement and to accept the terms and conditions herein described is a final act and is not subject to reconsideration or judicial review.

10. Registrant acknowledges that legal counsel was consulted in connection with the decision to enter into the Agreement.

11. Registrant acknowledges that by executing this Agreement, Registrant is waiving the right to a formal hearing at which Registrant would possess the right to confront and cross-examine witnesses, to call witnesses, to present evidence, to offer testify on its own behalf, to contest the allegations, to present oral argument, to appeal to court in the event of an adverse ruling, and all other rights set forth in G.L. c. 30A and 801 CMR 1.01 *et seq.* Registrant states that in executing this document entitled "Consent Agreement", Registrant understands and agrees that it is knowingly and voluntarily waiving its right and the right to a formal hearing and to all of the above-listed rights.

Apothecare South Shore Inc.
Pharmacy Registration No. DS89659

By: John H. Duval
Title: President
Date: 02/07/2011

**BOARD OF REGISTRATION
IN PHARMACY**

By: Stanley B. Walczyk, R.Ph.
President

Effective Date: 02/09/11

WITNESS: Stanley B. Walczyk
2/7/11

Dec. No. 2447