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D.C. 06 2010

BOARD OF
PHARMACY

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

BOARD OF REGISTRATION
IN PHARMACY

In the Matter of _____)
CVS/Pharmacy #137)
Pharmacy Registration No. 2951)

Docket No. PHA20100073

CONSENT AGREEMENT

The Board of Registration in Pharmacy ("Board") and CVS/pharmacy #137 (Pharmacy Registration No. 2951), located at 626 Southern Artery in Quincy, Massachusetts ("Pharmacy"), do hereby stipulate and agree that the following information shall be entered into and become a permanent part of the file of the Pharmacy that is maintained by the Board:

1. The parties enter into this Consent Agreement ("Agreement") to resolve disputed matters arising out of complaint pending against the Pharmacy before the Board as Docket No. PHA20100073 ("Complaint").
2. The Pharmacy acknowledges and agrees that Board Investigators inspected the Pharmacy on February 18, 2010 and observed multiple statutory and regulatory violations pertaining to the practice of pharmacy, including, but not limited to:
 - a. 247 CMR 9.01(14) – The Pharmacy failed to maintain, and have available for inspection, a perpetual inventory of each Schedule II controlled substance received, dispensed or disposed of, with reconciliations performed at least once every ten days;
 - b. 247 CMR 6.07(1)(i) – The Pharmacy failed to maintain, and have available for inspection, an inventory of controlled substances in Schedules II -V, reconciled in accordance with federal biennial inventory requirements, in violation of 21 CFR §1304.11;
 - c. 247 CMR 8.06(3) – The Pharmacy failed to conduct the practice of pharmacy, including delegation of pharmacy duties and responsibilities to support personnel, in compliance with supervisory ratio requirements;
 - d. 247 CMR 8.00 – The Pharmacy failed to conduct the practice of pharmacy by appropriately licenced or registered Pharmacy personnel, in compliance with state and federal statutes and regulations;

- e. 247 CMR sections 6.01(5)(a)5., 6.01(5)(b) and 9.01(3) – The Pharmacy failed to store internal and external medications were separately;
- f. 247 CMR 9.01(3) – The Pharmacy failed to provide necessary and appropriate storage space for medications and maintain equipment necessary to conduct the practice of pharmacy accordance with the current United States Pharmacopoeia (USP);
- g. 247 CMR sections 6.01(5)(a)7. and 6.02(1) – The Pharmacy failed to provide appropriately store cleaning products by intermingling such products with internal and external compounding supplies. The Pharmacy compounding area was a multipurpose area that included food and cleaning supplies;
- h. 247 CMR 9.01(3) – The Pharmacy failed to observe current USP compounding standards (USP 795 – non-sterile compounding);
- i. 247 CMR 9.01(5) – The Pharmacy failed to provide adequate refrigerated storage space for the amount of product stored and resulting in inadequate convection; and
- j. 247 CMR 6.03(1) – The Pharmacy failed to submit a timely “Change of Manager” application to the Board.

3. Accordingly, the Pharmacy agrees to the following:

- a. that the statutory and regulatory violations described in Paragraph 2 constitute pharmacy practice below accepted professional practice standards warranting disciplinary action by the Board, pursuant to M.G.L. c.112, sections 42A and 61 and 247 CMR sections 9.01(1), 10.03(1)(a), 10.03(1)(b), 10.03 (1)(k), 10.03(1)(v), and 10.03 (1)(w);
- b. that the Pharmacy is hereby **REPRIMANDED** by the Board; and
- c. to submit to the Board within thirty (30) days of the Effective Date of the Agreement, a detailed certification of completion of corrective action implemented by the Pharmacy (Pharmacy Manager of Record attestation).

4. The Agreement and its contents shall be incorporated into the records maintained by the Board. The Agreement is a public record subject to disclosure to the public and equivalent state licensing boards.

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

6. The Pharmacy 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.
7. The Pharmacy acknowledges that legal counsel was consulted in connection with the decision to enter into the Agreement or, if not, that the Pharmacy had an opportunity to do so.
8. The Pharmacy acknowledges by executing this Agreement, the Pharmacy is waiving the right to a formal hearing at which the Pharmacy would possess the rights to confront and cross-examine witnesses, to call witnesses, to present evidence, to offer testimony 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.* The Pharmacy representative executing this Agreement states that in executing this document entitled "Consent Agreement", the Pharmacy is knowingly and voluntarily waiving all right to a formal hearing and to all of the above listed rights.

CVS/pharmacy #137

Pharmacy Registration No. 2951

By: William J. H. H.

Title: Director Regulatory Compliance

Date: 11-22-10

**BOARD OF REGISTRATION
IN PHARMACY**

By: Joanne M. Trifone

Joanne M. Trifone, R.Ph.

President

Effective Date: 12/15/10

Decision ID. No. 2327