



The Commonwealth of Massachusetts
Executive Office of Health and Human Services
Department of Public Health
Division of Health Professions Licensure
239 Causeway Street, Suite 500, Boston, MA 02114

CHARLES D. BAKER
Governor

KARYN E. POLITO
Lieutenant Governor

Tel: 617-973-0800
TTY : 617-973-0988
www.mass.gov/dph/boards

MARYLOU SUDDERS
Secretary
MONICA BHAREL, MD, MPH
Commissioner

August 13, 2018

VIA FIRST CLASS & CERTIFIED MAIL NO. 7017 0530 0000 0551 9014,
RETURN RECEIPT REQUESTED

Pharmacy Manager of Record
CVS Pharmacy # 365
259 Main Street
Haverhill, MA 01830

RE: CVS # 365; DS3452; PHA-2017-0128

FINAL NOTICE: IMPOSITION OF DISCIPLINE AND MODIFICATION OF
LICENSURE CONDITIONS

Dear Manager of Record:

On November 13, 2017, CVS # 365 ("Pharmacy") entered into a Consent Agreement for Stayed Probation ("Agreement") with the Board of Registration in Pharmacy ("Board"). The Agreement obligates the Pharmacy to comply with specified licensure conditions during the period of time while its license is on a stayed probation. A copy of the Agreement is enclosed with this letter for your review.

On July 23, 2018, I sent you a Notice of Violation and Imposition of Discipline ("Notice"). A copy of the Notice is enclosed with this letter. The Notice informed you that the Pharmacy is in violation of the Agreement and listed the facts supporting the determination that it is in violation. The Notice also informed you that pursuant to the Board's vote on June 28, 2018, the Board authorized me to modify the terms of your Agreement. The Notice informed you that you had a right to a hearing on the limited issue of whether you are in compliance with, or in violation of, the terms of the Agreement. Lastly, the Notice informed you that to claim your right to a hearing, you needed to submit a written statement of facts and request for a hearing within seven days.

As of the date of this letter, the Board has not received from a written statement of facts or request for a hearing. Accordingly, CVS # 365 has waived its right to a hearing.

Effective today, August 13, 2018, the Licensure Conditions of the Agreement are MODIFIED as follows:

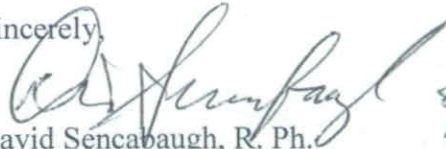
1. The stay of probation has been lifted in accordance with Paragraph 7(a)(i), resulting in the imposition of discipline. Accordingly, the license status of CVS # 365 has been changed to "probation."
2. The Probationary Period is extended to May 13, 2019 in accordance with Paragraph 7(a)(ii).

All other terms of the Agreement remain in effective until May 13, 2019. To be clear, CVS # 365 must continue to comply with the following requirements until May 13, 2019:

- a. Comply with all laws and regulations governing the practice of pharmacy in Massachusetts.
- b. Conduct an exact count of all benzodiazepine products at least once every 30 days until May 13, 2019. The Pharmacy shall maintain documentation of the exact counts. Said documentation shall be available for review by Board investigators during the Probationary Period.
- c. Maintain documentation demonstrating the area pharmacy supervisor or loss prevention manager reviewed the Pharmacy's balance on hand modification cover pages for all benzodiazepine products at least once every 30 days until May 13, 2019. Said documentation shall be available for review by Board investigators during the Probationary Period.

This notice constitutes a final agency action. You are hereby notified that pursuant to M.G.L. c. 30A, § 14, you have a right to appeal this *Final Notice* to the Superior Court for Suffolk County or the county where you reside within thirty (30) days of your receipt of this notice.

Sincerely,

 8/13/18
David Sencabaugh, R. Ph.
Executive Director

cc: Karen Fishman, Probation Monitor



The Commonwealth of Massachusetts
Executive Office of Health and Human Services
Department of Public Health
Division of Health Professions Licensure
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MARYLOU SUDDERS
Secretary
MONICA BHAREL, MD, MPH
Commissioner

July 23, 2018

VIA FIRST CLASS & CERTIFIED MAIL NO. 7016 1370 0001 4117 1815,
RETURN RECEIPT REQUESTED

Pharmacy Manager of Record
CVS Pharmacy # 365
259 Main Street
Haverhill, MA 01830

RE: CVS # 365; DS3452; PHA-2017-0128

NOTICE OF VIOLATION AND IMPOSITION OF DISCIPLINE

Dear Manager of Record:

On November 13, 2017, CVS # 365 ("Pharmacy") entered into a Consent Agreement for Stayed Probation ("Agreement") with the Board of Registration in Pharmacy ("Board"). The Agreement obligates the Pharmacy to comply with specified licensure conditions during the period of time while its license is on a stayed probation. A copy of the Agreement is enclosed with this letter for your review.

CVS # 365 in violation of the Agreement. Under Paragraph 7 of the Agreement, the Board may lift the stay on the probationary licensure status and impose formal discipline against the Pharmacy's license in the event that it violates any provision of the Agreement. At its meeting on June 28, 2018, the Board has authorized me to **place your license on PROBATION, a disciplinary status, effective in 7 days, and to extend the term of the probationary period for six months.** The Pharmacy's license shall remain on probation status for the remainder of the minimum monitoring period, which extends until May 13, 2019. You remain required to comply with all licensure conditions during this period.

The basis for the contention that you are in violation of the Agreement are as follows:

1. Per Paragraph 4b of the Agreement, the Pharmacy was required to conduct and exact count of all benzodiazepine products at least once every 30 days. Despite the exact

counts at least once every 30 days, on or about April 16, 2018, the Pharmacy lost approximately 907 lorazepam 1mg tablets and could not determine the cause of the loss.

2. Per Paragraph 4a of the Agreement, the Pharmacy was required to maintain documentation demonstrating the area pharmacy supervisor or loss prevention manager reviewed the Pharmacy's balance on hand modification cover pages for all benzodiazepines products at least once every 30 days. During an inspection on or about May 16, 2018, a Board investigator observed that the Pharmacy did not maintain documentation demonstrating the area pharmacy supervisor or loss prevention manager reviewed the Pharmacy's balance on hand modification cover pages for all benzodiazepines products at least once every 30 days.

The Pharmacy has a right to a hearing on the limited issue of whether it is in compliance with, or in violation of, the terms of the Agreement. You may claim your right to a hearing by submitting a written statement to the Board within 7 days of receipt of this letter. Your written statement must include specific facts which support the determination that you are in compliance, and not in violation, with the provisions of the Agreement identified above. Your written statement must also include a request for a hearing. Please send your written statement to:

Heather Engman
Board Counsel
239 Causeway Street
Boston, MA 02114

Your failure to submit a written statement of facts and request for a hearing within 7 days shall constitute a waiver of your right to a hearing on the issue of your violation of the Agreement.

Sincerely,



David Sencabaugh, R. Ph.
Executive Director

cc: Karen Fishman, Probation Monitor

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

BOARD OF REGISTRATION
IN PHARMACY

In the Matter of)
CVS Pharmacy #365)
Registration No. DS3452)
Expires December 31, 2017)

Docket No. PHA-2017-00128

NON-DISCIPLINARY
CONSENT AGREEMENT FOR STAYED PROBATION

The Massachusetts Board of Registration in Pharmacy ("Board") and CVS Pharmacy #365 ("Pharmacy"), a pharmacy registered by the Board, registration no. DS3452 ("Registration" or "license")¹, do hereby stipulate and agree that the following information shall be entered into and become a permanent part of the Pharmacy's record maintained by the Board:

1. The Pharmacy acknowledges that the Board opened a complaint against its Registration related to the conduct set forth in Paragraph 2, identified as PHA-2017-0128 (the "Complaint").
2. The Board and the Pharmacy acknowledge and agree to the following facts:
 - a. On or about April 17, 2017, the Pharmacy submitted a Board Report of Loss of Controlled Substances indicating a suspected unknown loss of 697 tablets of alprazolam 1 mg.
 - b. On April 18, 2017, the Pharmacy submitted a final Board Report of Loss of Controlled Substances and a DEA Form 106 Report of Theft or Loss of Controlled Substances for an unknown loss of 360 tablets of alprazolam 1 mg.

¹ The term "Registration" or "license" applies to both a current registration and the right to renew an expired registration.

- c. Later, the Pharmacy submitted reconciliation reports for the period between May 5th and July 11th of 2017 that showed a total loss of 16 tablets during that period.
 - d. The Pharmacy's investigation did not determine the cause of the loss of the alprazolam.
 - e. The foregoing facts warrant action by the Board under M.G.L. c. 112; §§ 42A and 61 and under 247 CMR 10.03(1)(v).
3. The Pharmacy agrees that its Registration shall be placed on PROBATION for no less than one (1) day, and that the probation shall be STAYED for one year ("Stayed Probationary Period"), commencing with the date on which the Board signs this Agreement ("Effective Date"). The Agreement shall be non-disciplinary until and unless the Board takes action pursuant to Paragraph 7 of the Agreement.
4. During the Stayed Probationary Period, the Pharmacy further agrees that it shall comply with all of the following requirements to the Board's satisfaction:
 - a. Comply with all laws and regulations governing the practice of pharmacy in Massachusetts.
 - b. Within 30 days from Effective Date, conduct an exact count of all controlled substances in Schedules III-V. The Pharmacy shall maintain documentation of the exact counts. Said documentation shall be available for review by Board investigators during the Stayed Probationary Period.
 - c. Conduct an exact count of all benzodiazepine products at least once every 30 days for a period of twelve (12) months following the Effective Date. The Pharmacy shall maintain documentation of the exact counts. Said documentation shall be available for review by Board investigators during the Stayed Probationary Period.
 - d. Submit documentation demonstrating all staff members were retrained in areas of inventory management, prescription production, and waiting bin management within 30 days from the Effective Date.

- a. Maintain documentation demonstrating the area pharmacy supervisor or loss prevention manager reviewed the Pharmacy's balance on hand modification cover pages for all benzodiazepine products at least once every 30 days for a period of twelve (12) months following the Effective Date. Said documentation shall be available for review by Board investigators during the Stayed Probationary Period.
5. The Board agrees that in return for the Pharmacy's execution and successful compliance with all the requirements of this Agreement, the Board will not prosecute the Complaint.
 6. If and when the Board determines that the Pharmacy has complied to the Board's satisfaction with all the requirements contained in this Agreement, the Stayed Probationary Period will terminate no sooner than one year after the Effective Date upon written notice to the Pharmacy from the Board, and the Pharmacy shall have no history of discipline upon its record related to this Agreement or the Complaint.²
 7. If the Pharmacy does not comply with each requirement of this Agreement, or if the Board opens a Subsequent Complaint during the Stayed Probationary Period, the Pharmacy agrees to the following:³
 - a. The Board may upon written notice to the Pharmacy, as warranted to protect the public health, safety, or welfare:
 - i. LIFT the stay, resulting in the imposition of PROBATION and rendering this Agreement disciplinary;
 - ii. EXTEND the Stayed Probationary Period or, if the stay is lifted, the Probationary Period; and/or
 - iii. MODIFY the Stayed Probation Agreement requirements; and/or

² In all instances where this Agreement specifies written notice to the Pharmacy from the Board, such notice shall be sent to the Pharmacy's address of record.

³ The term "Subsequent Complaint" applies to a complaint opened after the Effective Date, which (1) alleges that the Pharmacy engaged in conduct that violates Board statutes or regulations, and (2) is substantiated by evidence, as determined following the complaint investigation during which the Pharmacy shall have an opportunity to respond.

iv. IMMEDIATELY SUSPEND the Pharmacy's Registration.

b. If the Board suspends the Pharmacy's Registration pursuant to Paragraph 7(a)(iv), the suspension shall remain in effect until:

i. the Board gives the Pharmacy written notice that the Stayed Probation and/or Probationary Period is to be resumed and under what terms; or

ii. the Board and the Pharmacy enter into a subsequent agreement; or

iii. the Board issues a written Final Decision and Order following adjudication of the allegations (1) of noncompliance with this Agreement, and/or (2) contained in the Subsequent Complaint.

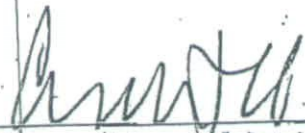
8. The Pharmacy agrees that if the Board lifts the stay and suspends its Registration in accordance with Paragraph 7, the Pharmacy will immediately return its Registration to the Board, by hand or certified mail. The Pharmacy further agrees that upon suspension, it will no longer be authorized to operate as a pharmacy in the Commonwealth of Massachusetts and shall not in any way represent itself as a pharmacy until such time as the Board reinstates its Registration.⁴

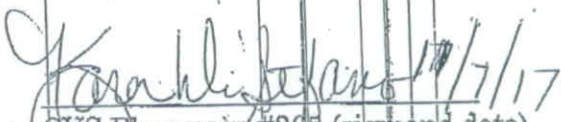
9. The Pharmacy understands that it has a right to a formal adjudicatory hearing concerning the Complaint and that during said adjudication it would possess the right to confront and cross-examine witnesses, to call witnesses, to present evidence, to testify on its own behalf, to contest the allegations, to present oral argument, to appeal to the courts, and all other rights as set forth in the Massachusetts Administrative Procedures Act, M.G.L. c. 30A, and the Standard Adjudicatory Rules of Practice and Procedure, 801 CMR 1.01 *et seq.*

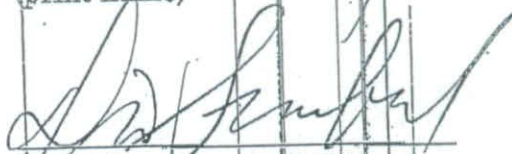
10. The Pharmacy further understands that by executing this Agreement it's knowingly and voluntarily waiving its right to a formal adjudication of the Complaint.

⁴Any evidence of unlicensed practice or misrepresentation as a Pharmacy after the Board has notified the Pharmacy of its registration suspension shall be grounds for further disciplinary action by the Board and the Board's referral of the matter to the appropriate law enforcement authorities for prosecution.

11. The Pharmacy acknowledges that it has been at all times free to seek and use legal counsel in connection with the Complaint and this Agreement.
12. The Pharmacy acknowledges that after the Effective Date, the Agreement constitutes a public record subject to the Commonwealth of Massachusetts' Public Records Law, M.G.L. c. 4, § 7.
13. The Pharmacy understands and agrees that entering into this Agreement is a voluntary and final act and not subject to reconsideration, appeal, or judicial review.
14. The individual signing this Agreement certifies that he/she is authorized to enter into this Agreement on behalf of the Pharmacy, and that he/she has read this Agreement:


 Witness (sign and date)
 1/26/17


 CVS Pharmacy #365 (sign and date)
 Director, Lic Reg Affairs
 KAREN D. STEHANS
 (print name)

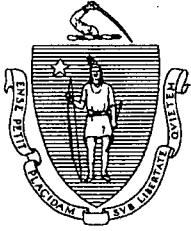

 David Sencabaugh, R.Ph.
 Executive Director
 Board of Registration in Pharmacy

11-13-2017
 Effective Date of Stayed Probation Agreement

Fully Signed Agreement Sent to Pharmacy on 11/13/17 by

Certified Mail No. 7016 1370 00014117 0276

CVS #365
 DS3452
 PHA-2017-0128



Commonwealth of Massachusetts
Executive Office of Health and Human Services
Department of Public Health
Bureau of Health Professions Licensure
Board of Registration in Pharmacy
239 Causeway Street, Suite 500, Boston, MA 02114

CHARLES D. BAKER
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TTY: 617-973-0988

www.mass.gov/dph/boards/pharmacy

MARYLOU SUDDERS
Secretary

MONICA BHAREL, MD, MPH
Commissioner

November 13, 2017

*By first-class and certified mail no. 7016 1370 0001 4117 0276,
return receipt requested*

Courtney Marshall, R.Ph.
or current Pharmacy Manager of Record
CVS Pharmacy #365
259 Main Street
Haverhill, MA 01830

Re: In the Matter of CVS #365, DS3452
Docket no. PHA-2017-0128

Dear Ms. Marshall:

Please find enclosed a fully executed Consent Agreement for Stayed Probation ("Agreement"), effective November 13, 2017. The Agreement constitutes full and final disposition of the above-referenced complaint.

Please note that as of the effective date, the pharmacy's registration status was changed to **Non-Disciplinary Conditions**. It will remain in this status until the Board notifies the Pharmacy of a change in license status in accordance with the terms of the agreement

You may contact me at (617) 973-0989 with any questions you have about the Agreement or the complaint.

Sincerely,

Samuel Leadholm
Board counsel

SWL/

Enclosure

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

BOARD OF REGISTRATION
IN PHARMACY

)
In the Matter of)
CVS Pharmacy #365)
Registration No. DS3452)
Expires December 31, 2017)
_____)

Docket No. PHA-2017-00128

NON-DISCIPLINARY
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CVS #365
DS3452
PHA-2017-0128

- c. Later, the Pharmacy submitted reconciliation reports for the period between May 5th and July 11th of 2017 that showed a total loss of 16 tablets during that period.
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CVS #365
DS3452
PHA-2017-0128

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6. If and when the Board determines that the Pharmacy has complied to the Board's satisfaction with all the requirements contained in this Agreement, the Stayed Probationary Period will terminate no sooner than one year after the Effective Date upon written notice to the Pharmacy from the Board, and the Pharmacy shall have no history of discipline upon its record related to this Agreement or the Complaint.²
7. If the Pharmacy does not comply with each requirement of this Agreement, or if the Board opens a Subsequent Complaint during the Stayed Probationary Period, the Pharmacy agrees to the following:³
 - a. The Board may upon written notice to the Pharmacy, as warranted to protect the public health, safety, or welfare:
 - i. LIFT the stay, resulting in the imposition of PROBATION and rendering this Agreement disciplinary;
 - ii. EXTEND the Stayed Probationary Period or, if the stay is lifted, the Probationary Period; and/or
 - iii. MODIFY the Stayed Probation Agreement requirements; and/or

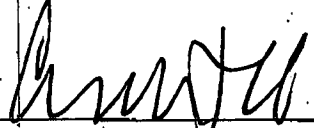
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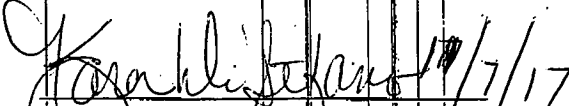
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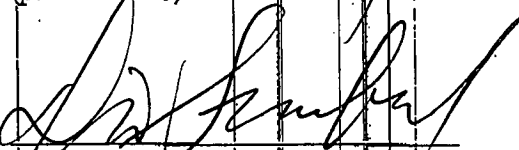
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- i. the Board gives the Pharmacy written notice that the Stayed Probation and/or Probationary Period is to be resumed and under what terms; or
 - ii. the Board and the Pharmacy enter into a subsequent agreement; or
 - iii. the Board issues a written Final Decision and Order following adjudication of the allegations (1) of noncompliance with this Agreement, and/or (2) contained in the Subsequent Complaint.
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- 12. The Pharmacy acknowledges that after the Effective Date, the Agreement constitutes a public record subject to the Commonwealth of Massachusetts' Public Records Law, M.G.L. c. 4, § 7.
- 13. The Pharmacy understands and agrees that entering into this Agreement is a voluntary and final act and not subject to reconsideration, appeal, or judicial review.
- 14. The individual signing this Agreement certifies that he/she is authorized to enter into this Agreement on behalf of the Pharmacy, and that he/she has read this Agreement.


 Witness (sign and date)
 1/2/17


 CVS Pharmacy #365 (sign and date)
 Director, Rx Reg. Affairs
 KAREN D. SKLAR
 (print name)


 David Sencabaugh, R.Ph.
 Executive Director
 Board of Registration in Pharmacy

11-13-2017
 Effective Date of Stayed Probation Agreement

Fully Signed Agreement Sent to Pharmacy on 11/13/17 by

Certified Mail No. 7016 1370 00014117 0276

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