

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

BOARD OF REGISTRATION
IN PHARMACY

In the Matter of)
CVS Pharmacy #4073)
Registration No. DS89722)
Expires December 31, 2019)
_____)

Docket No. PHA-2018-0036

CONSENT AGREEMENT FOR REPRIMAND

The Massachusetts Board of Registration in Pharmacy ("Board") and CVS #4073 Pharmacy ("Pharmacy"), a pharmacy registered by the Board, registration number DS89722 ("Registration"), 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 docket number PHA-2018-0036 (the "Complaint").
2. The Board and the Pharmacy acknowledge and agree that:
 - a. On or about April 26, 2018, the Pharmacy untimely submitted to the Office of Public Protection ("OPP") a final Report of Loss of Controlled Substances and a DEA Form 106 Report of Theft or Loss of Controlled Substances for a loss of #5 Fentanyl 70 mcg patches and #10 Fentanyl 50 mcg patches, Schedule II controlled substances, discovered on or about March 28, 2018 (the "controlled substance loss").
 - b. After investigation, the Pharmacy determined the controlled substance loss was due to a pharmacist inadvertently returning the Fentanyl 70 mcg and 50mcg patches to the supplier.
 - c. On April 9, 2018, OPP investigators conducted a retail compliance inspection of the Pharmacy and observed the following deficiencies:
 - i. The MOR was absent from the Pharmacy in violation of 247 CMR 6.02(6)(f).

- ii. Pharmacy moved refrigerated products to the front store walk-in refrigerator for about 35 hours in violation of 247 CMR 6.02(6)(b) and 247 CMR 9.01(5).
 - iii. Pharmacy failed to reconcile perpetual inventory at least every 10 days for 2 of 6 drugs reviewed in violation of 247 CMR 9.01(14).
3. The Pharmacy acknowledges that the foregoing facts warrant disciplinary action by the Board under M.G.L. c. 112, §§42A and 61 and under 247 CMR 10.03(1)(a) and (v).
4. The Pharmacy agrees that the Board shall impose a REPRIMAND on its Registration based on the facts admitted in Paragraph 2, effective as of the date on which the Board signs this Agreement ("Effective Date").
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. The Pharmacy understands that it has a right to formal adjudicatory hearing concerning the Complaint and that during said adjudication the Pharmacy 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.* The Pharmacy further understands that by executing this Agreement the Pharmacy is knowingly and voluntarily waiving its right to a formal adjudication of the Complaint.
7. The Pharmacy acknowledges it has used legal counsel in connection with the Complaint and this Agreement.
8. The Pharmacy acknowledges that after the Effective Date, the Agreement constitutes a public record of disciplinary action by the Board subject to the Commonwealth of Massachusetts' Public Records Law, M.G.L. c. 4, §7. The Board may forward a copy of this Agreement to other licensing boards, law enforcement entities, and other individuals or entities as required or permitted by law.

CVS Pharmacy #4073
DS89722
PHA-2018-0036

9. 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.
10. 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.

Sung J Kim
Witness (sign and date) 3/22/19

[Signature] 3/22/19
CVS Pharmacy #4073
(sign and date)

Leo LACIVIERE
(print name)

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

April 5, 2019
Effective Date of Reprimand Agreement

Fully Signed Agreement Sent to Registrant on 4/5/19 by

Certified Mail No. 7017 2620 0000 0142 2185

CVS Pharmacy #4073
DS89722
PHA-2018-0036