

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

BOARD OF REGISTRATION
IN PHARMACY

In the Matter of)
CVS Pharmacy #498)
Registration No. DS3349)
Expires December 31, 2015)

PHA-2013-0153

CONSENT AGREEMENT FOR PROBATION

The Massachusetts Board of Registration in Pharmacy ("Board") and the CVS Pharmacy #498 ("Registrant" or "Pharmacy"), DS3349, 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 the Board opened a complaint against its Massachusetts pharmacy registration related to the conduct set forth in Paragraph 2, identified as Docket No. PHA-2013-0153.¹
2. The Board and the Pharmacy acknowledge and agree that during an October 16, 2013 inspection, the following conditions existed at the pharmacy:
 - a. Pharmacist to support personnel ratio was 1:6, in violation of 247 CMR 8.06(3)(a).
 - b. Pharmacy failed to provide documentation of ongoing education at least annually in the area of Continuous Quality Improvement, in violation of 247 CMR 15.02(1)(f).
 - c. Vaccines were stored in a refrigerator but the temperature was not recorded twice daily and the pharmacy did not have a policy or procedure to respond to any out of range temperature readings, in violation of Board Policy 2011-01 *Proper Storage of Refrigerated and Frozen Medications in a Pharmacy*.

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

- d. Pharmacy did not have a designated compounding area and the area used to store compounding ingredients was very dusty; compounding ingredients were stored next to cleaning supplies and cat litter; and expired compounded preparations were observed.
 - e. The pharmacy and medication packages were visibly dusty and dirty.
3. The Board and Pharmacy acknowledge and agree that the facts described in Paragraph 2 warrant disciplinary action by the Board under M.G.L. c. 112, §§ 42A & 61 and Board regulations at 247 CMR 10.03.
 4. The Pharmacy agrees that its registration shall be placed on PROBATION for three (3) years ("Probationary Period"), commencing with the date on which the Board signs this Agreement ("Effective Date").
 5. The Pharmacy further agrees to provide a plan of correction for maintaining staffing ratios, as required by 247 CMR 8.06(3)(a), that is satisfactory to the Board within 30 days of the Effective Date.
 6. During the Probationary Period, the Pharmacy agrees that it shall comply in all material respects with all laws and regulations governing the practice of pharmacy and the United States Pharmacopeia.
 7. During the Probationary Period, the Pharmacy further agrees that it shall not employ, hire, or allow to work in the pharmacy any Pharmacy Intern on rotation for academic credit.
 8. The Board agrees that in return for the Pharmacy's execution and successful compliance with the requirements of this Agreement it will not prosecute the Complaint.
 9. If the Pharmacy has complied to the Board's satisfaction with all the requirements contained in this Agreement, the Probationary Period will terminate three (3) years after the Effective Date upon written notice to the Pharmacy from the Board².

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.

10. If the Pharmacy does not materially comply with each requirement of this Agreement, or if the Board opens a Subsequent Complaint³ during the Probationary Period, the Pharmacy agrees to the following:
- a. The Board may upon written notice to the Pharmacy, as warranted to protect the public health, safety, or welfare:
 - i. EXTEND the Probationary Period; and/or
 - ii. MODIFY the Probation Agreement requirements; and/or
 - iii. IMMEDIATELY SUSPEND the Pharmacy's registration.
 - b. If the Board suspends the Pharmacy's registration pursuant to Paragraph 10(a)(iii), the suspension shall remain in effect until:
 - i. the Board provides the Pharmacy written notice that the Probationary Period is to be resumed and under what terms; or
 - ii. the Board and the Pharmacy sign 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.
11. The Pharmacy agrees that if the Board suspends its registration in accordance with Paragraph 10, it will immediately return its current Massachusetts registration to the Board, by hand or certified mail. The Pharmacy further agrees that upon said 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 registration or right to renew such registration.

³ The term "Subsequent Complaint" applies to a complaint opened after the Effective Date concerning acts, omissions, or events occurring 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.

12. The Pharmacy understands that it has a right to 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. The Pharmacy further understands that by executing this Agreement it is knowingly and voluntarily waiving its right to a formal adjudication of the Complaints.
13. 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.
14. The Pharmacy acknowledges that after the Effective Date, the Agreement constitutes a public record of disciplinary action by the Board. 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.
15. The Pharmacy Representative signing this Agreement certifies (1) that he/she is authorized to enter into this Agreement on behalf of the Pharmacy, and (2) that he/she has read this Agreement.

16. 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.

James [Signature] 8/26/14
Witness (sign and date)

[Signature] 8/26/14
Signature and Date
Christina Augst (Yesu)
Print Name
CVS Pharmacy #498

[Signature]
David Sencabaugh, R. Ph.
Executive Director
Board of Registration in Pharmacy
9-10-14
Effective Date of Probation Agreement

Fully Signed Agreement Sent to Registrant on September 12, 2014 by
Certified
Mail No. 47614 0570 0601 0374 8987