

Received

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General Counsel

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

BOARD OF REGISTRATION
IN PHARMACY

In the Matter of)
Domenic Potenzzone, RPh)
PH24510)
Expires 12/31/2024)

Docket No. PHA-2022-0104

**CONSENT AGREEMENT FOR
SUSPENSION FOLLOWED BY PROBATION**

The Massachusetts Board of Registration in Pharmacy ("Board") and Domenic Potenzzone, RPh ("Licensee"), a Registered Pharmacist licensed by the Board, License No. PH24510, do hereby stipulate and agree that the following information shall be entered into and become a permanent part of the Licensee's record maintained by the Board:

1. The Licensee acknowledges that the Board opened a complaint against his Massachusetts Pharmacist license¹ related to the conduct set forth in paragraph 2, identified as Docket No. PHA-2022-0104 ("the Complaint").
2. The Licensee and the Board agree to resolve this Complaint without making any admissions or findings and without proceeding to a formal adjudicatory hearing. The Complaint alleges the following:
 - a. Licensee was employed by Stop & Shop Pharmacy from at least July 23, 2021 through April 7, 2022, at which time he was terminated from his employment for misadministration of vaccines.
 - b. Licensee processed fraudulent prescriptions for 16 individuals for COVID-19 vaccines that were never administered, including for the Licensee, and for which video review did not support the prescription records.
 - c. Information regarding these fraudulent prescriptions were submitted to the Massachusetts Immunization Information System (MIIS).
 - d. The Vaccine Administration Records (VAR) for these fraudulent prescriptions do not exist.

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

- e. In some cases involving these 16 individuals, COVID-19 test kits were also processed and not supported by review of the video footage.
- f. 1 of the 16 patients (Patient "D") has a [REDACTED] and had prescriptions processed on the same date and time as another patient (Patient "C"). Patient "D" and Patient "C" have the same last name. Patient "C" [REDACTED].
- g. The [REDACTED] of 1 of the 16 patients (Patient "N") admitted to BORP investigators [REDACTED] brought Patient "N" to the Licensee's home for administration of COVID-19 vaccination(s), and that the vaccine was in a syringe and was being stored in the refrigerator at the Licensee's home. [REDACTED] could not produce Patient "N's" CDC COVID-19 Vaccine Record Card.^{2,3}
- h. On September 1, 2022, Licensee participated via telephone in an Investigative Conference (IC) during the M.G.L. c. 112 §65C Session of the Board meeting. During the IC the Licensee admitted to the following facts:
 - i. In April 2022, Licensee took a COVID-19 vaccine from Stop & Shop Pharmacy and administered said vaccine to a [REDACTED];
 - ii. Licensee took COVID-19 vaccines home from Stop & Shop Pharmacy to administer to patients "definitely more than one" time;
 - iii. On the occasions that Licensee would take COVID-19 vaccines home from Stop & Shop to administer to patients, Licensee would draw up the vaccine in a syringe, place the syringe in his jacket pocket at the end of the day, and go to various patients' homes to administer the vaccine. Further, Licensee did not mark or label the syringes he took from the Pharmacy as containing COVID-19 vaccine.⁴

² Based on information received from Stop & Shop, the pharmacy had just received a full box of Pfizer-BioNTech Pediatric vaccine at the time Patient "N" allegedly received [REDACTED] first dose; however, the full box of vaccine was still unopened in Stop & Shop inventory after the dose was supposed to have been administered to the [REDACTED].

³ Patient "N" is the only [REDACTED] included in the 16 patients alleged in the Complaint.

⁴ Licensee provided conflicting information when asked if he also took and/or had access to rescue medications when administered vaccine(s) outside the pharmacy setting.

3. The Licensee agrees the conditions described in Paragraph 2 constitute violations of M.G.L. c. 94C, 247 CMR 9.00, and 247 CMR 15.00, and warrant disciplinary action by the Board under M.G.L. c. 112, §§ 42A & 61, and 247 CMR 10.03(1)(a), (b), (k), (l), (v), (x) and (cc).
4. The Licensee agrees to SUSPENSION of his Pharmacist License for one (1) day ("Suspension Period"), commencing with the date on which the Board signs this Agreement ("Effective Date").
5. After the Suspension Period, Licensee agrees that his license shall be placed on PROBATION for a period of five (5) years ("Probationary Period").
6. During the Probationary Period, the Licensee further agrees that he shall comply with all of the following requirements to the Board's satisfaction:
 - a. Comply in all material respects with all laws and regulations governing the practice of pharmacy and the United States Pharmacopeia.
 - b. Notify the Board in writing within ten (10) days of each change in his name and/or address.
 - c. Timely renew his pharmacy license.
 - d. Licensee will not participate in immunization in any way, including the administration, processing, and/or documentation of administration.
 - e. Licensee will (re)take and successfully complete the American Pharmacists Association (APhA) immunization delivery certificate training program.
 - f. Licensee will not serve as Manager of Record (MOR) of any licensed pharmacy or pharmacy department.
 - g. Licensee will not serve as preceptor for or supervise any pharmacy intern and/or student.

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- h. Submit documentation demonstrating successful completion of at least the following remedial continuing education (CE) courses within ninety (90) days of the Effective Date of this Agreement:
 - i. 2 CE credits in ethics; and
 - ii. 2 CE credits in patient safety.
- 7. If and when the Board determines that the Licensee has complied to the Board's satisfaction with all the requirements contained in Paragraph 5, and no earlier than five (5) years after the date of Effective Date, the Board shall send written notice to the Licensee which shall terminate the Probationary Period.
- 8. If the Licensee does not comply with each requirement of this Agreement, or if the Board opens a Subsequent Complaint⁵ during either the Suspension Period or the Probationary Period, the Licensee agrees to the following:
 - a. The Board may upon written notice to the Licensee, as warranted to protect the public health, safety, or welfare:
 - i. EXTEND the Suspension Period and/or the Probationary Period; and/or
 - ii. MODIFY the Suspension Period and/or the Probationary Period requirements; and/or
 - iii. IMMEDIATELY SUSPEND the Licensee's Pharmacy license.
 - b. If the Board suspends the Licensee's Pharmacy license pursuant to Paragraph 8(a)(iii), the suspension shall remain in effect until:
 - i. the Board gives the Licensee written notice that the Probationary Period is to resume and under what terms; or
 - ii. the Board and the Licensee sign a subsequent agreement; or

⁵ The term "Subsequent Complaint" applies to a complaint opened after the Effective Date, which (1) alleges that the Licensee engaged in conduct that violates Board statutes or regulations, and (2) is substantiated by evidence, as determined following the complaint investigation during which the Licensee shall have an opportunity to respond.

- 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.
9. The Licensee agrees if the Board suspends his Pharmacist license in accordance with Paragraph 8, he will immediately return his current Massachusetts license to practice as a Pharmacist to the Board, by hand or certified mail. The Licensee further agrees that during the Suspension Period and/or upon suspension, he will no longer be authorized to engage in the practice of Pharmacy in the Commonwealth of Massachusetts and shall not in any way represent himself as a Pharmacist until such time as the Board reinstates his license.⁶
10. The Board agrees that in return for the Licensee's execution and successful compliance with all the requirements of this Agreement, it will not prosecute the Complaint.
11. The Licensee understands that he has a right to formal adjudicatory hearing concerning the Complaints and that during said adjudication he would possess the right to confront and cross-examine witnesses, to call witnesses, to present evidence, to testify on his 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 Licensee further understands that by executing this Agreement he is knowingly and voluntarily waiving his right to a formal adjudication of the Complaints.
12. The Licensee acknowledges that he has been at all times represented by legal counsel in connection with the Complaint and this Agreement.
13. The Licensee 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.

⁶ Any evidence of unlicensed practice or misrepresentation as a Pharmacist during the Suspension period and/or after the Board has notified the Licensee of his license 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.

14. The Licensee certifies that he has read this Agreement. The Licensee understands and agrees that entering into this Agreement is a voluntary and final act and not subject to reconsideration, appeal or judicial review.

Betzie De La Rocha 8/22/23
Witness (sign and date)



Domenic Potenzzone 8-22-2023
Domenic Potenzzone
Licensee (sign and date)

David Sencabaugh

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

08-24-23

Effective Date of Suspension followed by Probation Agreement

Fully Signed Agreement Sent to Licensee on 8/24/2023 by
Certified Mail No. 7020 0090 0000 1273 1417

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