

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

BOARD OF REGISTRATION
IN PHARMACY

In the Matter of)
Donald B. Hess, R.Ph.)
Pharmacist Registration No. 15511)

Docket No. PHA20100224 SEP 14 2011

Received

BOARD OF
PHARMACY

CONSENT AGREEMENT

The Board of Registration in Pharmacy ("Board") and Donald B. Hess, R.Ph. ("Registrant"), a pharmacist registered by the Board (Pharmacist Registration No. 15511), do hereby stipulate and agree that the following information shall be entered into and become a permanent part of the file of the Registrant which is maintained by the Board:

1. The parties enter into this Consent Agreement ("Agreement") in order to resolve that certain complaint pending against the Registrant as Docket No. PHA20100224 ("Complaint").
2. The Complaint alleged that on or about September 8, 2010, the Registrant dispensed Seroquel 300mg, rather than ranitidine 300mg as prescribed, while employed at McClelland Health Systems, located at 85 Interstate Drive in West Springfield, Massachusetts.
3. Accordingly, the Registrant freely agrees to the following:
 - a. That Registrant's conduct described in Paragraph 2 constitutes professional misconduct warranting disciplinary action by the Board, pursuant to G.L. c. 112, §§ 42A and 61 and 247 CMR 9.01(1) and 10.03 (1)(a)(k);
 - b. Registrant's Massachusetts Pharmacist Registration is hereby **REPRIMANDED** by the Board for Registrant's conduct in this matter, effective as of the Effective Date of the Agreement;
 - c. Within thirty (30) days of the Effective Date of the Agreement, Registrant shall:
 - (1) complete two (2) hours of continuing education (CE) related to medication error prevention (which may not be used for license renewal in 2011/ 2012); and
 - (2) submit **original** CE certificate and a copy of the Agreement to the Board;
 - d. Within thirty (30) days of the Effective Date of the Agreement, Registrant shall file a Medication Error Report with the *Institute for Safe Medication Practices* (<https://www.ismp.org/orderforms/reporterrortoISMP.asp>) and submit a copy of the report to the Board along with a copy of the Agreement; and
 - e. Registrant shall return a signed copy of the Agreement to the Board within ten (10) days of receipt.

4. The Agreement and its contents shall become a part of the records maintained by the Board, and as such, are public records subject to disclosure to the public, other licensing boards, and the National Association of Boards of Pharmacy.
5. The Board agrees that in return for Registrant's execution of this Agreement, and compliance with the terms and conditions set forth in Paragraph 3, the Board will not advance the prosecution of Registrant 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. Registrant understands and agrees that the failure to abide by the terms of the Agreement shall nullify the representations contained in Paragraph 5 and permit the Board to initiate formal adjudicatory action under the State Administrative Procedure Act (G.L. c. 30A) and 801 CMR 1.00 *et. seq.*
7. The Registrant understands 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.
8. The Registrant states that Registrant has used legal counsel in connection with the decision to enter into this Agreement or, if Registrant did not, that an opportunity to do so was provided and that the decision to enter into this Agreement was freely made by Registrant.
9. Registrant certifies that Registrant has read this document entitled "Consent Agreement."
10. The Registrant understands that, by executing this Agreement, Registrant is waiving all rights to a formal hearing at which time Registrant would possess the right to confront and cross-examine witnesses, to call witnesses, to present evidence, to testify on her own behalf, to contest the allegations, to present oral argument, to appeal to the court in the event of an adverse ruling, and all other rights set forth in the State Administrative Procedure Act, G.L. c. 30A, and the Standard Adjudicatory Rules of Practice and Procedure, 801 CMR 1.01 *et seq.*

Ralph F. Hess
Witness (signature)

Ralph F. Hess
Witness (print name)

Dec. No. 2638

Donald B. Hess R.Ph.
Donald B. Hess, R.Ph.
Date: 9/14/2011

Board of Registration in Pharmacy
[Signature]
Stanley B. Walczyk, R.Ph.
President
Effective Date: 9/14/11