

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

BOARD OF REGISTRATION
IN PHARMACY

In the Matter of)
Rite Aid #10151)
License Number: DS3122)
Expiration: December 31, 2017)

PHA-2015-0124

Received
APR 14 2016
BOARD OF
PHARMACY

CONSENT AGREEMENT FOR REPRIMAND

The Massachusetts Board of Registration in Pharmacy (“Board”) and Rite Aid #10151 (“Pharmacy” or “Licensee”), a pharmacy licensed by the Board, license number DS3122, 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 Massachusetts license related to the conduct set forth in Paragraph 2, identified as Docket Number PHA-2015-0124 (“Complaint”).
2. The Board and the Pharmacy acknowledge and agree to the following facts:
 - a. Board investigators inspected the Pharmacy on or about November 19, 2014. During the inspection, Board investigators observed the following deficiencies:
 - i. One pharmacy technician trainee worked more than 1000 hours prior to obtaining a Board pharmacy technician license, in violation of 247 CMR 8.03(3).
 - ii. Investigators observed one pharmacist supervising two technicians and one technician in training, in violation of 247 CMR 8.06(3).
 - iii. The pharmacy was not maintained in a clean and sanitary manner, in violation of 247 CMR 6.02(1). Specifically, investigators observed mold on ceiling and walls, a freezer stained with substance that looked like dirt or coffee grounds, and dirt and dust in the prescription area.
 - iv. The refrigerator contained condensation and the refrigerator and freezers were not defrosted, in violation of 247 CMR 9.01(5) and Board Policy 2011-01.
 - v. Beyond use dating was not consistent with USP 795 requirements, in violation of 247 CMR 9.01(3).

- vi. The pharmacy did not have a compounding record for a non-sterile compounded medication, in violation of 247 CMR 9.01(3).
 - vii. Label on a compounded medication did not contain statement “this is a compounded preparation,” in violation of M.G.L. c. 94C, § 21.
- b. Following the inspection, Board investigators reviewed staffing schedules from approximately August 15, 2014 until January 31, 2015. The staffing schedules revealed numerous dates on which the Pharmacy was not compliant with minimum staffing ratios, in violation of 247 CMR 8.03(3).
3. The Pharmacy acknowledges that the foregoing facts warrant disciplinary action by the Board under M.G.L. c. 12, §§ 42A and 61 and under 247 CMR 10.03(a)&(v).
4. The Board acknowledges the receipt of documentation demonstrating that the Pharmacy’s Manager of Record read and reviewed 247 CMR 8.00. Licensee and the Board acknowledge that the Board’s receipt of said documentation was a precondition to be met before the Board entered into this Agreement.
5. The Pharmacy agrees that the Board shall impose a REPRIMAND on its license based on the facts admitted in Paragraph 2, effective as of the date on which the Board signs this Agreement (“Effective Date”).
6. 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.
7. 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 it’s right to a formal adjudication of the Complaint.

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8. 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.
9. 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.
10. 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.
11. 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.

April 11, 2016
 Witness (sign and date)

Daniel Miller
 Rite Aid #10151
 (sign and date)

Daniel Miller
 (print name)

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

5-11-16
 Effective Date of Reprimand Agreement

Fully Signed Agreement Sent to Registrant on 5/12/16 by
 Certified Mail No. 7015 3010 0001 6944 5598

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