

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

BOARD OF REGISTRATION  
IN PHARMACY

In the Matter of	)	PHA-2012-0131
Rogers Pharmacy Inc.	)	PHA-2012-0164
Registration No. DS14170	)	PHA-2013-0168
Expires December 31, 2015	)	

**CONSENT AGREEMENT FOR PROBATION**

The Massachusetts Board of Registration in Pharmacy ("Board") and Rogers Pharmacy Inc. ("Rogers" or "Pharmacy"), DS14170, 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 three complaints have been opened by the Board against its Massachusetts pharmacy registration related to the conduct set forth in Paragraph 2, identified as Docket Nos. PHA-2012-0131, PHA-2012-0164 and PHA-2012-0168.<sup>1</sup>
2. The Board and the Pharmacy acknowledge and agree to the following facts:
  - a. On or about May 24, 2012, the Pharmacy incorrectly labeled and dispensed two prescriptions written for the same patient for Zyprexa 10 mg and Zyprexa 20 mg, which were packaged in blister cards, resulting in a quality related event.
  - b. On or about June 12, 2012, the Pharmacy dispensed a prescription written for clonidine 0.1 mg ½ tablets in a blister card that was incorrectly packaged with whole tablets, resulting in a quality related event.

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

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- c. During a compliance inspection on or about September 6, 2013, Board Investigators observed multiple violations of Board regulations pertaining to the practice of pharmacy, including but not limited to the following:
- i. Failure to maintain required records and perform required inventories of controlled substances in violation of 247 CMR 6.07(1)(b), 9.01(1), and 9.01(14).
  - ii. Failure to store controlled substances within the prescription area in violation of 247 CMR 6.02(6)(b).
  - iii. Failure to store controlled substances in Schedules II through V in a securely locked and substantially constructed cabinet, or to disperse the prescription drug storage area throughout the stock of Schedule VI controlled substances in violation of 247 CMR 6.02(6)(c).
  - iv. Failure to provide proper preservation and storage of prescription drug products in violation of Board Policy 2011-01 *Proper Storage of Refrigerated and Frozen Medications in a Pharmacy*.
  - v. Failure to properly store, handle, and dispose of hazardous medications, in violation of United States Pharmacopeia ("USP") standards pertaining to non-sterile compounding.
  - vi. Failure to conduct pharmacy operations in a clean and sanitary manner, in violation of 247 CMR 6.02(1) and 247 CMR 9.01(1). Specifically, the sink was dirty, unsanitary, and blocked with sugar packets, elastic bands, hair, and dirt.
  - vii. Failure to comply with Board Policy 2002-01 *Policy on Return for Redispensing of Medications from Long Term Care Facilities*.
- d. On December 6, 2013, Board Investigators re-inspected Rogers Pharmacy and observed additional and/or persisting violations including but not limited to the following:

- i. Visible residue and staining on the sink and the lack of a barrier to separate the sink from the main pharmacy work bench.
  - ii. Pharmacy prescription pads not compliant with 105 CMR 721.020
  - iii. Expired Schedule III through V controlled substances stored in an unsecured box in the pharmacy.
  - iv. A non-compliant refrigeration policy.
3. The Pharmacy agrees that its registration shall be placed on PROBATION for at least one (1) year ("Probationary Period"), commencing with the date on which the Board signs this Agreement ("Effective Date").
4. The Pharmacy agrees that its registration shall remain on probation unless and until it demonstrates implementation of a satisfactory plan of correction designed to minimize medication errors and undergoes a re-inspection demonstrating it is in compliance with Board regulations.
5. During the Probationary Period, the Pharmacy further agrees that it shall comply in all material respects with all laws and regulations governing the practice of pharmacy and the United States Pharmacopeia.
6. 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 Complaints.
7. If the Pharmacy does not materially comply with each requirement of this Agreement, or if the Board opens a Subsequent Complaint<sup>2</sup> 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:

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<sup>2</sup> 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.

- 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 7(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.
8. The Pharmacy agrees that if the Board suspends its registration in accordance with Paragraph 7, it will immediately return its current Massachusetts registration to the Board, by hand or certified mail. The Pharmacy further agrees that upon said suspension, they 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.
9. The Pharmacy understands that it has a right to formal adjudicatory hearing concerning the Complaints 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.

10. The Pharmacy acknowledges that it has been at all times free to seek and use legal counsel in connection with the Complaints and this Agreement.
11. 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.
12. 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.
13. 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.

Mark Fack 12/5/14  
Witness (sign and date)

Kenneth G. Minty 12-5-14  
Signature and Date

Kenneth G. Minty  
Print Name  
Rogers Pharmacy Inc.

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

12/10/2014  
Effective Date of Probation Agreement

**Fully Signed Agreement Sent to Registrant on December 12, 2014 by Certified**

**Mail No. 7014 0510 0001 0374 6649.**