

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

BOARD OF REGISTRATION
IN PHARMACY

In the Matter of)
Walgreens Pharmacy #2063)
License No. DS1741)
Expires December 31, 2015)

Docket No. PHA-2014-0245

CONSENT AGREEMENT FOR REPRIMAND

The Massachusetts Board of Registration in Pharmacy ("Board") and Walgreens Pharmacy #2063 located at 29 New Derby Street in Salem, Massachusetts ("Licensee" or "Pharmacy"), a pharmacy licensed by the Board, license number DS1741 ("License"), 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 License related to the conduct set forth in Paragraph 2, identified as Docket Number PHA-2014-0245 ("Complaint").
2. The Board and the Pharmacy acknowledge and agree to the following facts:
 - a. On or about June 20, 2014, Office of Public Protection investigators conducted a compliance inspection of the Pharmacy ("Inspection I") and observed the following regulatory and Board policy deficiencies:
 - i. Pharmacy disclosed protected health information by failing to properly store return to stock vials in violation of 247 CMR 9.01(19);
 - ii. Pharmacy failed to conspicuously display its United States DEA Controlled Substance Registration in violation of 247 CMR 6.02(3)(c);
 - iii. Pharmacy failed to post a sign complying with 247 CMR 9.07(3)(c), informing customers of their rights to counseling by a pharmacist;

- iv. Pharmacy failed to reconcile expired Schedule II controlled substances within perpetual inventory at least once every ten days in violation of 247 CMR 9.01(14);
 - v. Pharmacy failed to correctly respond after seven days to non-receipt of a hard copy of an emergency prescription received on May 25, 2014 in violation of 247 CMR 5.03(4);
 - vi. Pharmacy failed to maintain premises in a clean and sanitary manner in violation of 247 CMR 6.02(1); and
 - vii. Pharmacy failed to comply with United States Pharmacopoeia (USP) Compounding Standards <795> for Non-Sterile Compounding in violation of 247 CMR 9.01(3) by failing to: (i) properly label Omeprazole suspension with a Beyond Use Date of 72 days, (ii) label multiple open bottles with bottle open dates, (iii) maintain complete Compound Formulation Records.
- b. On or about October 8, 2014, Office of Public Protection investigators conducted a second compliance inspection of the Pharmacy ("Inspection II") and observed the following regulatory and Board policy deficiencies:
- i. Pharmacy failed to consistently complete Schedule II controlled substances inventory at least once every ten days in violation of 247 CMR 9.01(14); and
 - ii. Pharmacy failed to maintain premises in a clean and sanitary manner in violation of 247 CMR 6.02(1).
- c. On or about February 23, 2015, Office of Public Protection investigators conducted a third compliance inspection of the Pharmacy ("Inspection III") and observed the following regulatory and Board policy deficiencies:
- i. Pharmacy failed to maintain premises in a clean and sanitary manner in violation of 247 CMR 6.02(1); and
 - ii. Pharmacy failed to comply with United States Pharmacopoeia (USP) Compounding Standards <795> for Non-Sterile Compounding in violation of 247 CMR 9.01(3) by exceeding

Walgreens Pharmacy
DS1741
PHA-2014-0245

Beyond Use Date in USP <795> recommendations without supporting data.

- d. On or about April 30, 2015, Office of Public Protection investigators conducted a fourth compliance inspection of the Pharmacy ("Inspection IV") and observed the following regulatory and Board policy deficiency:
 - i. Pharmacy failed to consistently sign daily refill logs for controlled substances Schedules III through IV in violation of 247 CMR 9.04(6).
 - e. The foregoing facts warrant disciplinary action by the Board under M.G.L. c. 112 §§ 42A, 247 CMR 10.03(1)(v), and 247 CMR 10.03(1)(b).
3. The Pharmacy agrees that the Board shall impose a REPRIMAND on its pharmacy license based on the facts admitted in Paragraph 2, effective as of the date on which the Board signs this Agreement ("Effective Date").
 4. The Board requires an updated Plan of Correction containing provision for District Manager oversight.
 5. 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.
 6. 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 its right to a formal adjudication of the Complaint.
 7. 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.
 8. 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

Walgreens Pharmacy
DS1741
PHA-2014-0245

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.

9. 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.
10. 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.

Patricia M Oleg 8/17/15
Witness (sign and date)

Rubel Pal SL
Walgreens Pharmacy #2063
(sign and date)

RICHARD GATEJ
(print name)

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

9/2/15
Effective Date of Reprimand Agreement

Fully Signed Agreement Sent to Licensee on 9/3/15 by

Certified Mail No. 7014 2120 0002 1353 5893

Walgreens Pharmacy
DS1741
PHA-2014-0245