

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

BOARD OF REGISTRATION
IN PHARMACY

In the Matter of)
Walgreens Pharmacy #3337)
License Number: DS2626)
Expiration: December 31, 2017)

PHA-2016-0007

CONSENT AGREEMENT FOR REPRIMAND

The Massachusetts Board of Registration in Pharmacy ("Board") and Walgreens Pharmacy #3337 ("Pharmacy"), a pharmacy licensed by the Board, license number DS2626, 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-2016-0007 ("Complaint").
2. The Board and the Pharmacy acknowledge and agree to the following facts:
 - a. On or about August 13, 2015, a Board investigator inspected the Pharmacy and noted the following deficiencies:
 - i. The Pharmacy failed to comply with minimum staffing ratios, in violation of 247 CMR 8.06(3);
 - ii. The Pharmacy did not have a sign stating "patient consultation area," in violation of 247 CMR 6.01(5)(d);
 - iii. Unsanitary conditions, including multiple stained ceiling tiles, in violation of 247 CMR 6.02(1); and
 - iv. Inconsistent beyond-use-dates, in violation of 247 CMR 9.01(3) and USP 795.
 - b. On or about November 9, 2015, a Board investigator conducted a repeat inspection of the pharmacy and noted the following deficiencies:
 - i. The Pharmacy failed to comply with minimum staffing ratios, in violation of 247 CMR 8.06(3);
 - ii. An authorization for emergency dispensing of controlled substances for a Schedule II medication lacked a written prescription, in violation of 247 CMR 5.03(4); and

- iii. Unsanitary conditions, including multiple stained ceiling tiles, in violation of 247 CMR 6.02(1).
 - c. On or about December 31, 2015, a Board investigator inspected the Pharmacy and observed the following deficiencies:
 - i. A pharmacy technician was practicing with an expired license, in violation of 247 CMR 8.07(3)(b);
 - ii. The Pharmacy failed to comply with minimum staffing ratios, in violation of 247 CMR 8.06(3);
 - iii. The Pharmacy failed to reconcile its perpetual inventory every ten days, in violation of 247 CMR 9.01(14); and
 - iv. Incorrect beyond-use-dates, in violation of 247 CMR 9.01(3) and USP 795.
 - d. Further analysis of staffing schedules from November 5, 2015 through February 10, 2016 revealed 69 hours of non-compliance with minimum staffing requirements over the course of 39 days, in violation of 247 CMR 8.06(3).
3. The Pharmacy acknowledges that the foregoing facts warrant disciplinary action by the Board under M.G.L. c. 12, §§ 42A & 61 and 247 CMR 10.03(1)(a), (d) & (v).
4. 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").
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.

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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 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 Moberg 8/24/16
 Witness (sign and date)

Richard Paul Gates
 Walgreens #3337
 (sign and date) 8/24/16

Richard Paul Gates
 (print name)

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

9-6-16
 Effective Date of Reprimand Agreement

Fully Signed Agreement Sent to Registrant on 9/8/16 by
 Certified Mail No. 7015 1660 0001 1911 4678

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