

**STATE OF RHODE ISLAND
AND PROVIDENCE PLANTATIONS**

**DEPARTMENT OF HEALTH
HEALTH SERVICES REGULATION
BOARD OF PHARMACY**

vs.

RICHARD BACKER, RPH (RPH02043)

CONSENT ORDER

Pursuant to Rhode Island General Laws Section 5-19.1-21 and the Rules and Regulations promulgated thereunder, the Department of Health, Board of Pharmacy (hereinafter "Department") has investigated a complaint charging Richard Backer, RPh (hereinafter "Respondent"), with violations of Chapter 5-19.1 of the Rules and Regulations. After consideration by the Department, the following constitutes the Findings of Fact with respect to the professional performance of the Respondent:

1. Respondent is a registered pharmacist licensed to operate in the State of Rhode Island.
2. An inspection conducted by the Department on December 7, 2010 and July 12, 2011 at Respondent's facility, East Side Prescription Center located at 632 Hope Street, Providence, RI, revealed the following violations:
 - Accepting for return from an end user, previously dispensed controlled substances and legend drugs dispensed by another licensed pharmacy.
 - Accepting for return from end users, previously dispensed legend prescription drugs. Inspection resulted in the discovery of numerous

opened blister packed medications which were returned and not separated or quarantined from the dispensable inventory.

- Holding for dispensing and sale misbranded drugs. Inspection resulted in discovery of over fifty (50) repackaged prescription and over-the-counter drugs in blister cards without appropriate labeling displaying drug contents, expiration date, or lot number.
- Presence of expired drugs and compounding chemicals in dispensable inventory (#43 articles on 12/7/10 and #11 articles on 7/12/11).

3. Respondent is, and was at the time of inspections, the Pharmacist-In-Charge of East Side Prescription Center located at 632 Hope Street, Providence, RI.

Pursuant to Section 5-19.1-21, this conduct constitutes unprofessional conduct in the State of Rhode Island.

The parties agree as follows:

1. Respondent is a registered pharmacist and is able to conduct business under and by virtue of the laws of the State of Rhode Island.
2. Respondent admits to the jurisdiction of the Department and hereby agrees to remain under the jurisdiction of the Department.
3. Respondent has read this Consent Order and understands that it is a proposal of the Department and is subject to the final ratification by the Department. This Consent Order and the contents thereof are not binding on Respondent until final ratification by the Department.
4. Respondent hereby acknowledges and waives:

- a) The right to appear personally or by counsel or both before the Department;
 - b) The right to produce witnesses and evidence in his behalf at a hearing;
 - c) The right to cross-examine witnesses;
 - d) The right to have subpoenas issued by the Department;
 - e) The right to further procedural steps except for those specifically contained herein;
 - f) Any and all rights of appeal of this Consent Order;
 - g) Any objection to the fact that this Consent Order will be presented to the Department for consideration and review;
 - h) Any objection to the fact that it will be necessary for the Department to become acquainted with all evidence pertaining to this matter in order to adequately review this Consent Order;
 - i) Any objection to the fact that the Department reviewing this Consent Order may be the same as the hearing committee presiding over this matter should it later be brought to an administrative hearing.
 - j) Any objection to the fact that potential bias against the Respondent may occur as a result of the presentation of this Consent Order to the Department.
5. This Consent Order shall become part of the public record of this proceeding once it is accepted by all parties and accepted by the Department.
6. Acceptance by the Respondent and approval by the Department of this Consent Order constitutes an admission of the facts contained herein, as stated below;

- a. The Respondent admits accepting for return from an end user, previously dispensed controlled substances and legend drugs dispensed by another licensed pharmacy.
 - b. The Respondent does not admit, but enters an Alford admission, that he accepted for return from end users previously dispensed legend prescription drugs. Inspection resulted in the discovery of numerous opened blister packed medications which were returned and not separated or quarantined from the dispensable inventory
 - c. Respondent admits holding for dispensing and sale misbranded drugs. Inspection resulted in discovery of over fifty (50) repackaged prescription and over-the-counter drugs in blister cards without appropriate labeling displaying drug contents, expiration date, or lot number.
 - d. The Respondent does not admit, but enters an Alford admission, that he had in his presence expired drugs and compounding chemicals in dispensable inventory (#43 articles on 12/7/10 and #11 articles on 7/12/11).
7. Respondent shall be suspended for a period of six (6) months, effective upon the date of ratification of this Consent Order; provided, however, said suspension shall be stayed.
 8. Respondent agrees to a six (6) month period of probation of his registered pharmacist license. The probationary term is to commence upon ratification of this Order by the Board and will abate for the duration of any period in which Respondent ceases to be employed as a pharmacist.

9. That should Respondent fail to comply with the laws and regulations governing the practice of pharmacy during his six (6) month probationary term, the stay on the suspension of his license as set forth above shall be lifted and his license as a pharmacist shall be suspended for a period of six (6) months.
10. Respondent shall, in writing, request relief from probation in order to return to active unrestricted status upon completion of the six (6) month period of probation. Once Respondent's request is approved by the Department, Respondent may return to full and unrestricted status provided that he operates in conformity with all laws and regulations governing the practice of pharmacy in this State.

April 3, 2012
Date

Richard Backer, RPH
Richard Backer, RPh
License # RPH02043

Approved on this 17 day of May 2012

Jonathan M. Mundy
Jonathan M. Mundy, RPh
Chairperson
Rhode Island Board of Pharmacy