

STATE OF RHODE ISLAND AND
PROVIDENCE PLANTATIONS

DEPARTMENT OF HEALTH
DIVISION OF HEALTH SERVICES REGULATION
BOARD OF PHARMACY

In the Matter of:
CVS/Pharmacy #493
LICENSE #PHA00469

CONSENT ORDER

Pursuant to Rhode Island General Laws § 5-19.1-21 and the Rules and Regulations promulgated thereunder, the Department of Health (Department), Board of Pharmacy (Board) has investigated a complaint charging CVS #493 (hereinafter "Respondent"), with violations of RIGL § 5-19.1-21, and § 27 of the Rules and Regulations Pertaining to Pharmacists, Pharmacies and Manufacturers, Wholesalers and Distributors ("Rules"). After consideration by the Board, the following constitutes the Findings of Fact with respect to the professional performance of the Respondent:

1. Respondent is licensed as a retail pharmacy in the State of Rhode Island and holds license #PHA000469.
2. That on March 13, 2013 an unannounced inspection was conducted by the Department at Respondent pharmacy at its registered location of 99 East Main Road, Middletown.
3. The March 13, 2013 inspection resulted in discovery of the following violations:
 - a. Holding for dispensing and sale misbranded drugs in violation of RIGL § 21-31-3 and *Rules* R5-19.1-PHAR- § 13.29(b). Fifteen drug articles were observed in the dispensable inventory which did not bear beyond use dates in addition to multiple "return to stock" drug articles which were re-labeled with an expiration date greater than 6 months.
 - b. Holding for dispensing and sale expired drugs in violation of *Rules* R5-19.1-PHAR-§ 13.3.1. Three articles were observed to be held in the dispensable inventory beyond the labeled expiration date and were not segregated from dispensable stock.
 - c. Pharmacy area not kept in a clean, sanitary, and orderly manner in violation of *Rules* R5-19.1-PHAR-§ 13.4. Pharmacy shelving and pharmaceutical

product observed to be soiled, stained, and dusty in addition to compounding equipment dusty with residue.

- d. Prescription drug refrigerator did not have a thermometer to measure drug storage conditions in violation of *Rules R5-19.1-PHAR-§ 13.3*.
4. Pursuant to § 5-19.1-21, this conduct constitutes unprofessional conduct in the State of Rhode Island.

Based on the foregoing, the parties agree as follows:

1. Respondent is a retail pharmacy 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 Board 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 Board;
 - b) The right to produce witnesses and evidence on behalf of the facility at a hearing;
 - c) The right to cross-examine witnesses;
 - d) The right to have subpoenas issued by Board and or 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 Board 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, and
 - 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 Board and or 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.
 7. Respondent shall be subject to a random unannounced inspection by the Department within six (6) months of the ratification of this Order.
 8. Respondent hereby agrees to a Formal Reprimand of its retail pharmacy license.
 9. That should Respondent violate the terms of this Consent Order, Respondent shall be subject to further disciplinary sanctions.

11/13/14
Date

Laura B. Phaud
CVS/Pharmacy #0493
License # PHA00469

11/20/14
Date

Katherine Kelly Orr
Kelly Orr, Pharm.D., RPh, Chairperson
Rhode Island Board of Pharmacy