

STATE OF RHODE ISLAND
AND PROVIDENCE PLANTATIONS

DEPARTMENT OF HEALTH
HEALTH SERVICES REGULATION
BOARD OF PHARMACY

AUG 5 2013

vs

ROBERT POHOLEK, RPH (LICENSE #RPH01802)

CONSENT ORDER

Pursuant to Rhode Island General Laws § 5-19.1-21 and the Rules and Regulations promulgated pursuant to chapter 5-19, the Department of Health (Department), Board of Pharmacy (Board) has investigated a complaint charging Robert Poholek, RPh (Respondent), with violations of RIGL § 5-19.1-21 and Section 27 of the *Rules and Regulations Pertaining to Pharmacists, Pharmacies and Manufacturers, Wholesalers and Distributors*. 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 registered pharmacist in the State of Rhode Island and holds license #RPH01802.
2. That Respondent admitted to the diversion of various legend prescription pharmaceuticals for personal consumption while employed as a registered pharmacist at Rite Aid #10259, located at 452 Putnam Pike, Smithfield.
3. Pursuant to R.I. Gen. Laws § 5-19.1-21, this conduct constitutes unprofessional conduct.

Based on the foregoing, 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 Board and is subject to the final approval by the Department. This Consent Order and the contents thereof are not binding on Respondent until final approval 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 in his behalf at a hearing;
 - c) The right to cross-examine witnesses;
 - d) The right to have subpoenas issued by the 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 approved 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 agrees to a six (6) month period of probation of his registered pharmacist license. The probationary term is to commence upon approval of this

Order by the Department and will remain in full force pending further order or action of the Department. The probationary term will abate during periods where Respondent is not employed in the capacity of a registered pharmacist.

- 8. 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 active status provided that Respondent abides by all laws and regulations governing the practice of pharmacy in this State.
- 9. Respondent accepts a Formal Reprimand of his registered pharmacist license.
- 10. That should Respondent violate the terms of this Consent Order, Respondent shall be subject to further disciplinary sanctions.

8.1.13
Date

Robert J. Poholek
Robert Poholek, RPh
License # RPH01802

9/19/13
Date

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

Approved on this 11 day of October, 2013

Michael Fine
Michael Fine, MD
Director of Health
Rhode Island Department of Health