

Mission:

To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.

**Rick Scott**

Governor

John H. Armstrong, MD, FACS

State Surgeon General & Secretary

Vision: To be the Healthiest State in the Nation

July 15, 2014

John Bruce Williams
151 Redstone Avenue, S.E.
Crestview, FL 32539

RE: Request for Declaratory Statement

Dear Mr. Williams:

This is to advise that the above reference matter will be reviewed by the Board at their next scheduled meeting which is Tuesday, August 12, 2014. The meeting is being held at the DoubleTree by Hilton, 100 Fairway Drive, Deerfield Beach, FL 33441, (800) 624-3606. The meeting will begin at 1:00 p.m.

You are not required to appear; however, you are encouraged to do so. Issues are heard in the order they are listed on the agenda. We are unable to give you an exact time your request will be heard.

You may print a copy of the agenda which will be available on the Board of Pharmacy website a week before the meeting at: http://www.doh.state.fl.us/mqa/pharmacy/ph_meeting.html.

If you have any questions regarding this information, please contact me at 850-245-4444 ext: 3367.

Sincerely,

A handwritten signature in black ink, appearing to read "Jay Cumbie".

Jay Cumbie,
Regulatory Specialist II

Florida Department of Health

Board of Pharmacy
4052 Bald Cypress Way, Bin C-04 • Tallahassee, FL 32399
PHONE: 850/245-4292 • FAX 850/413-6982

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□ NORTH OKALOOSA
□□ MEDICAL CENTER
□□□

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK ANGEL SANDERS
DATE JUN 24 2014

To:
Department of Health's Agency Clerk's Office
4052 Bald Cypress Way, Bin #A02,
Tallahassee, Florida 32399-1703.

RE: Petition for Declaratory Statement by the Florida Board of Pharmacy
Date: 6-17-14

Firm Name: Crestview Hospital Corporation
Doing business as (d/b/a): North Okaloosa Medical Center
Address: 151 Redstone Ave SE, Crestview, FL 32539
Telephone number: (850) 689-8116 FAX number (850) 689-8415

Reference:
Chapter 64B16-28 General Requirements - Permits
Specifically: 64B16-28.602 Institutional Class II Dispensing

We are an acute care hospital with an "Institutional Class 2" license (PH13903), and a "Special Sterile Compounding Permit – (PH27483). [We have NO additional "Community Pharmacy" or "Modified" licenses]

Our question is whether or not our current licensing allows for post-surgical patients to be discharged to home while receiving an ongoing (2-3 day duration) infusion of non CS medication via elastomeric (single dose) pump device.

The infusion would be started in the OR immediately after surgery. The dose would infuse during the remainder of the patient's stay, and continue for up to 3 days after the patient's discharge. Follow-up care would be provided by the hospital's medical staff.

Please also include in your determination any differences in dispensing requirements, between a pump that delivers the medication infusion at a constant (fixed) rate, versus one that allows 'infusion rate adjustments' by the patient.

Sincerely,



John Bruce Williams, RPH | Director of Pharmacy | Office: (850) 689-8116

**Please respond to the address above "Attn: Director of Pharmacy" or send email to:
bruce williams@chs.net**

151 Redstone Avenue, S.E.
Crestview, Florida 32539-5352
Telephone: 850/689-8100
FAX: 850/689-8484

RECEIVED
JUN 24 2014
DEPARTMENT OF HEALTH
LEGAL OFFICE

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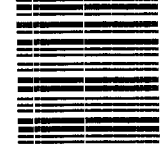
EP14F July 2013
OD: 12.5 x 9.5

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151 Redstone Ave SE,
Crestview, FL 32539

RECEIVED

JUN 24 2014

DEPARTMENT OF HEALTH
LEGAL OFFICE

TO:

Department of Health
Agency Clerk's Office
4052 Bald Cypress Way, Bin #A02,
Tallahassee, Florida 32399-1703.

FOR DOMESTIC AND INTERNATIONAL USE

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Mission:

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**Rick Scott**

Governor

John H. Armstrong, MD, FACS

State Surgeon General & Secretary

Vision: To be the Healthiest State in the Nation

July 15, 2014

Ruben V. Chavez
1475 West 49th Street
Hialeah, FL 33012

RE: Request for Declaratory Statement

Dear Mr. Chavez:

This is to advise that the above reference matter will be reviewed by the Board at their next scheduled meeting which is Tuesday, August 12, 2014. The meeting is being held at the DoubleTree by Hilton, 100 Fairway Drive, Deerfield Beach, FL 33441, (800) 624-3606. The meeting will begin at 1:00 p.m.

You are not required to appear; however, you are encouraged to do so. Issues are heard in the order they are listed on the agenda. We are unable to give you an exact time your request will be heard.

You may print a copy of the agenda which will be available on the Board of Pharmacy website a week before the meeting at: http://www.doh.state.fl.us/mqa/pharmacy/ph_meeting.html.

If you have any questions regarding this information, please contact me at 850-245-4444 ext: 3367.

Sincerely,

A handwritten signature in black ink, appearing to read "Jay Cumbie".

Jay Cumbie,
Regulatory Specialist II

Florida Department of Health

Board of Pharmacy
4052 Bald Cypress Way, Bin C-04 • Tallahassee, FL 32399
PHONE: 850/245-4292 • FAX 850/413-6982

www.FloridasHealth.com

TWITTER: HealthyFLA

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YOUTUBE: fldoh

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK

CLERK ANGEL SANDERS
DATE JUN 19 2014

STATE OF FLORIDA
BOARD OF PHARMACY

RECEIVED

IN RE: PETITION OF DECLARATORY
STATEMENT BEFORE THE FLORIDA
BOARD OF PHARMACY ON BEHALF
OF PALM SPRINGS GENERAL HOSPITAL

JUN 19 2014

Florida Board of Pharmacy

Petitioner, Palm Springs General Hospital, by its undersigned counsel, pursuant to Section 120.565, of the Florida Statutes and Rule 28-105.002, of the Florida Administrative Code petitions the Florida Board of Pharmacy (hereafter referred to as the "Board") for a Declaratory Statement regarding a determination on whether Containment Technologies Group, Inc. ("CTG"), MIC Dual Chamber Unit was not 797 USP compliant due to turbulent air previously installed by Palm Springs General Hospital. The particular set of circumstances pertaining to this petition are as follows:

1. A primary address for the Petitioner, Palm Springs General Hospital, is 1475 West 49th Street, Hialeah, FL 33012-3275. For purposes of notifications regarding this proceeding, the Petitioner's address and phone number shall be that of undersigned counsel.
2. Petitioner, Palm Springs General Hospital, owns and operates a pharmacy located at the subject facility. More specifically, the pharmacy is located at 1475 West 49th Street, Hialeah, FL 33012.
3. On or about the 20th day of June, 2013, the Department of Health initiated an administrative complaint citing various deficiencies, arising out of the subject pharmacy.

4. Shortly thereafter, a settlement agreement was entered into between the parties on or about the 3rd day of July, 2013, and said Settlement Agreement was approved by way of Final Order on the 23rd day of December 2013. See Final Order Approving Settlement, Settlement Agreement and Administrative Complaint attached hereto as Composite Exhibit A.
5. During the course of the above referenced process, Palm Springs General Hospital, contracted to purchase and MIC Dual Chamber Unit Model No. A2500S for use in its pharmacy.
6. During the course of the above referenced, as senior pharmacist investigator from the Department of Health confirmed that said equipment was not 797 UPS compliant due to turbulent air after a careful review of technical support and video provided by the technical department for Containment Technologies Group.
7. Our intentions were to obtain an MIC Isolator that was 100% compliant with the newest USP 797 standard to perfect on or about June 1, 2008.
8. Palm Springs General Hospital is currently compliant with all applicable pharmacy laws and rules given the Final Order Approving Settlement Agreement of this past December 4th, 2013; however, would seek a declaratory action consistent with the Settlement agreement that the aforementioned unit was not 100% compliant with the newest USP 797 standards.
9. Palm Springs General Hospital is substantially affected by the issue presented in this Declaratory Statement as the purchase of non-compliant equipment caused it to incur unnecessary expenses during the course of complying with the requirement set for by the Department of Health. Moreover, Palm Springs

General Hospital has a substantial interest in making and providing appropriate medicinal care to its patients to further its role of providing high quality healthcare to its patients as well as insuring that any investment in similar equipment at issue be deemed compliant with applicable rules and regulations.

WHEREFORE, Petitioner, Palm Springs General Hospital, respectfully request that Board of Pharmacy grant its Petition for Declaratory Statement, and/or find that the system previously inspected -- specifically, the MIC Dual Chamber Unit purchase from and installed by Containment Technologies Group, Inc. -- was not compliant with the latest 797 USP.

Respectfully submitted, this 9th day of April, 2014.

LAW OFFICES OF RUBEN V. CHAVEZ, P.A.

Attorney for Plaintiff

9100 S. Dadeland Blvd., Suite 1510

Miami, FL 33156

Telephone: (305) 358-0070

Facsimile: (305) 397-2433

By: 

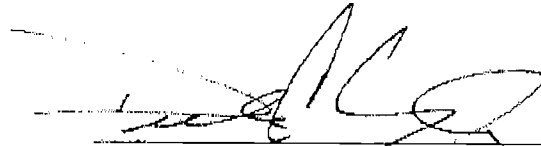
Ruben V. Chavez, Esquire

Florida Bar No.: 0148822

rchavez@chavezpa.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by overnight mail to: Acting Executive Director, Tammy Collins, Florida Board of Pharmacy, 4052 Bald Cypress Way, Bin C04, Tallahassee, FL 32399-3253; and David Flynn, Office of the Attorney General, Department of Legal Affairs, PL01 The Capitol, Tallahassee, FL 32399-1050, this 9th day of April, 2014.



RUBEN V. CHAVEZ

STATE OF FLORIDA
BOARD OF PHARMACY

Final Order No. DOH-13-211-**S** -MOA

FILED DATE - **DEC 26 2013**

Department of Health

By: *[Signature]*
Deputy Agency Clerk

DEPARTMENT OF HEALTH,
Petitioner,

vs.

CASE NO.: 2013-04842
LICENSE NO.: PH 2235

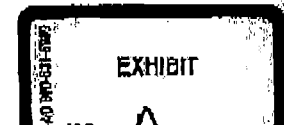
PALM SPRINGS GENERAL HOSPITAL,
Respondent.

FINAL ORDER APPROVING SETTLEMENT AGREEMENT

THIS CAUSE came before the Board of Pharmacy (hereinafter the "Board") pursuant to Section 120.57(4), Florida Statutes, on December 4, 2013 in Gainesville, Florida, for consideration of a Settlement Agreement (attached hereto as Exhibit A) entered into between the parties in the above-styled cause. Upon consideration of the Settlement Agreement, the documents submitted in support thereof, and being otherwise advised in the premises, it is hereby ordered and adjudged:

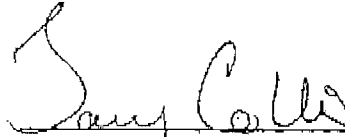
1. The Settlement Agreement as submitted is hereby approved, adopted and incorporated herein by reference. Accordingly, the parties shall adhere to and abide by all the terms of the Settlement Agreement;
2. As authorized by the Settlement Agreement the Board finds that the costs of investigation and prosecution are \$1,022.43

This Final Order shall take effect upon being filed with the Clerk of the Department of Health.



DONE AND ORDERED this 23rd day of DECEMBER, 2013.

BOARD OF PHARMACY



Tammy Collins, Acting Executive Director
For Albert Garcia, BPharm, Chair

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Final Order has been provided by U.S. mail to **Palm Springs General Hospital**, 1475 West 49th Street, Hialeah, Florida 33012-3275; and by electronic mail to **Miles A. McGrane, III, Esquire**, miles@mcgranelaw.com; **Matthew Witters**, Assistant General Counsel, Prosecution Services Unit, matthew.witters@doh.state.fl.us, and to **David D. Flynn**, Assistant Attorney General, Department of Legal Affairs, david.flynn@myfloridalegal.com this 26th day of DECEMBER, 2013.



Deputy Agency Clerk

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO. 2013-04842

PALM SPRINGS GENERAL HOSPITAL,

RESPONDENT.

SETTLEMENT AGREEMENT

Pursuant to Section 120.57(4), Florida Statutes, the parties offer this Settlement Agreement to the Board of Pharmacy (Board) as disposition of the Administrative Complaint, attached as Exhibit A, in lieu of further administrative proceedings.

STIPULATED FACTS

1. At all times material to this matter, Palm Springs General Hospital, was a licensed pharmacy in the state of Florida, having been issued license number PH 2235. Respondent's mailing address of record is 1475 West 49th Street, Hialeah, Florida 33012-3275.

2. Respondent was charged by an Administrative Complaint, filed by the Department of Health (Department) and properly served upon Respondent, with violations of Chapters 456 and 465, Florida Statutes.

STIPULATED LAW

1. Respondent admits that it is subject to the provisions of Chapters 456 and 465, Florida Statutes, and the jurisdiction of the Department.

2. Respondent admits that the allegations in the Administrative Complaint, if proven true, constitute violations of law and cause the Respondent to be subject to discipline by the Board of Pharmacy.

PROPOSED DISPOSITION

1. Appearance Respondent shall be present when this Settlement Agreement is presented to the Board and under oath shall answer all questions asked by the Board concerning this case and its disposition.

2. Fine The Board of Pharmacy shall impose an administrative fine of **TWO THOUSAND DOLLARS (\$2,000)**. The fine shall be paid by Respondent to the **Department of Health, Compliance Management Unit, Bin C76, Post Office Box 6320, Tallahassee, Florida 32314-**

6320, within 90 days from the date the Final Order approving and incorporating this Settlement Agreement (Final Order) is filed with the Department Clerk.

3. **Costs**- The Board of Pharmacy shall impose the total, administrative costs associated with the investigation and prosecution of this matter in an amount not to exceed **TWO THOUSAND DOLLARS (\$2,000)**. Total costs shall be assessed when the Settlement Agreement is presented to the Board. The costs shall be paid by Respondent to the **Department of Health, Compliance Management Unit, Bin C76, Post Office Box 6320, Tallahassee, Florida 32314-6320**, within 90 days from the date the Final Order is filed with the Department Clerk.

4. **Correction of Alleged Deficiencies** - At its sole expense, but without admitting any specific deficiency or violation, Respondent shall immediately, or at least forthwith, correct and address all deficiencies and violations listed or alleged in the Administrative Complaint, to the extent necessary to comply with Florida law.

5. **Future Conduct** - Respondent shall not violate Chapter 456, 465, 499, or 893, Florida Statutes; the rules promulgated pursuant thereto;

or any other state or federal law, rule, or regulation relating to the practice or to the ability to practice pharmacy.

6. **Violation of Terms** - It is expressly understood that a violation of the provisions of this Settlement Agreement as approved and incorporated into the Final Order of the Board of Pharmacy shall constitute a violation of an order of the Board for which disciplinary action may be initiated against Respondent pursuant to Chapter 465, Florida Statutes.

7. **No Force or Effect until Final Order** - It is expressly understood that this Settlement Agreement is subject to approval by the Board and has no force or effect until the Board incorporates the terms of this Settlement Agreement into its Final Order.

8. **Purpose of Agreement** - This Settlement Agreement is executed by Respondent for the purpose of avoiding further administrative action with respect to this particular case. In this regard, Respondent authorizes the Board to review and examine all investigative file materials concerning Respondent prior to, or in conjunction with, consideration of the Settlement Agreement. Petitioner and Respondent agree to support this Settlement Agreement at the time it is presented to the Board and shall offer no evidence, testimony, or argument that disputes or

contravenes any stipulated fact or conclusion of law. Furthermore, should this Settlement Agreement not be accepted by the Board, it is agreed that the presentation and consideration of this Settlement Agreement and other documents and matters by the Board shall not unfairly or illegally prejudice the Board or any of its members from further participation, consideration, or resolution of these proceedings.

9. **Not Preclude Additional Proceedings** - Respondent and the Department fully understand that this Settlement Agreement as approved and incorporated into the Final Order will not preclude additional proceedings by the Board or Department against Respondent for acts or omissions not specifically set forth in the Administrative Complaint.

10. **Waiver of Attorney's Fees and Costs** - Respondent waives the right to seek any attorney's fees and costs from the Department in connection with this disciplinary proceeding.

11. **Waiver of Procedural Rights** - Respondent waives all rights to further administrative procedure and to appeal and further review of this Settlement Agreement and the Final Order.

12. **Current Addresses** - Respondent shall keep current his mailing address and his practice address with the Board of Pharmacy and

the Compliance Officer and shall notify the Board of Pharmacy and the Compliance Officer of any change of mailing address or practice address within 10 days of the change.

13. **Time of the Essence** - Time is of the essence in all respects concerning this agreement.

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO. 2013-04842

PALM SPRINGS GENERAL HOSPITAL,

RESPONDENT.

ADMINISTRATIVE COMPLAINT

COMES NOW, Petitioner, Department of Health, by and through its undersigned counsel, and files this Administrative Complaint before the Board of Pharmacy against Respondent, Palm Springs General Hospital, and in support thereof alleges:

1. Petitioner is the state department charged with regulating the practice of pharmacy pursuant to Section 20.43, Florida Statutes; Chapter 456, Florida Statutes; and Chapter 465, Florida Statutes.

2. At all times material to this Complaint, Respondent was a permitted institutional class II pharmacy within the state of Florida, having been issued permit number PH 2235.

EXHIBIT

A

3. Respondent's address of record is 1475 West 49th Street, Hialeah, Florida 33012-3275.

4. At all times material to this Administrative Complaint, Respondent performed compounding sterile preparations (CSP) of low and medium risk.

5. On or about March 19, 2013, a Department inspector conducted an inspection of Respondent at 1475 West 49th Street, Hialeah, Florida 33012-3275, and observed one or more of the following deficiencies:

- a. Respondent pharmacy did not contain an Anteroom area maintained within ISO Class 8 level of particulate contamination;
- b. The Buffer Area (clean room) contained a sink and was not maintained within ISO Class 7 level of particulate contamination; and/or
- c. Laminar Airflow Workbench and Biological Safety Cabinet were not maintained to at least class 100 conditions.

COUNT I

6. Petitioner realleges and incorporates paragraphs one (1) through five (5) as if fully set forth herein.

7. Section 456.072(1)(k), Florida Statutes (2012), provides that failing to perform any statutory or legal obligation placed upon a licensee constitutes grounds for disciplinary action.

8. Rule 64B16-27.797(1)(a), Florida Administrative Code, provides that "anteroom" means an area where personnel perform hand hygiene and garbing procedures, staging of components, order entry, CSP labeling, and other high-particulate generating activities. It is also a transition area that provides assurance that pressure relationships are constantly maintained so that air flows from clean to dirty areas. The Anteroom area is to be maintained within ISO Class 8 level of particulate contamination.

9. On or about March 19, 2013, Respondent's compounding area did not contain an Anteroom area maintained within ISO Class 8 level of particulate contamination.

10. Based on the foregoing, Respondent has violated Section 456.072(1)(k), Florida Statutes (2012), by violating Rule 64B16-27.797(1)(a), Florida Administrative Code, which requires an Anteroom

area to be maintained within ISO Class 8 level of particulate contamination.

COUNT II

11. Petitioner realleges and incorporates paragraphs one (1) through five (5) as if fully set forth herein.

12. Section 456.072(1)(k), Florida Statutes (2012), provides that failing to perform any statutory or legal obligation placed upon a licensee constitutes grounds for disciplinary action.

13. Rule 64B16-27.797(1)(f), Florida Administrative Code, provides that a "buffer area" (clean room) is an area where the activities of CSP take place; it shall not contain sinks or drains. In High-Risk compounding this must be a separate room. The Buffer area is to be maintained within ISO Class 7 level of particulate contamination.

14. On or about March 19, 2013, Respondent's buffer area contained a sink and was not maintained within ISO Class 7 level of particulate contamination.

15. Based on the foregoing, Respondent has violated Section 456.072(1)(k), Florida Statutes (2012), by violating a rule of the Board of Pharmacy, through a violation of Rule 64B16-27.797(1)(f), Florida

Administrative Code, which requires the buffer area to be maintained within ISO Class 7 level of particulate contamination and not contain a sink or drain.

COUNT III

16. Petitioner realleges and incorporates paragraphs one (1) through five (5) as if fully set forth herein.

17. Section 456.072(1)(k), Florida Statutes (2012), provides that failing to perform any statutory or legal obligation placed upon a licensee constitutes grounds for disciplinary action.

18. Rule 64B16-27.797(5)(b)1., Florida Administrative Code, provides that the pharmacy compounding parenteral and sterile preparation shall have appropriate environmental control devices capable of maintaining at least class 100 conditions in the work place where critical objects are exposed and critical activities are performed; furthermore, these devices must be capable of maintaining class 100 conditions during normal activity. Examples of appropriate devices include laminar airflow hoods and zonal laminar flow of high efficiency particulate air (HEPA) filtered air.

19. On or about March 19, 2013, Respondent did not maintain its Laminar Airflow Workbench and Biological Safety Cabinet to at least class 100 conditions.

21. Based on the foregoing, Respondent has violated Section 456.072(1)(k), Florida Statutes (2012), by violating 64B16-27.797(5)(b)1., Florida Administrative Code, which requires that the pharmacy compounding parenteral and sterile preparation shall have appropriate environmental control devices capable of maintaining at least class 100 conditions in the work place where critical objects are exposed and critical activities are performed.

WHEREFORE, Petitioner respectfully requests that the Board of Pharmacy enter an order imposing one or more of the following penalties: permanent revocation or suspension of Respondent's license, restriction of practice, imposition of an administrative fine, issuance of a reprimand, placement of Respondent on probation, corrective action, refund of fees billed or collected, remedial education and/or any other relief that the Board deems appropriate.

SIGNED this 20th day of June, 2013.

JOHN H. ARMSTRONG, MD, FACS
 State Surgeon General and Secretary of Health



JUDSON SEARCY
 Assistant General Counsel
 Fla. Bar No. 98772
 Florida Department of Health
 Office of the General Counsel
 4052 Bald Cypress Way, Bin #C65
 Tallahassee, FL 32399-3265
 Telephone: (850) 245-4444 ex. 8100
 Facsimile: (850) 245-4683
 Email: judson_searcy@doh.state.fl.us

FILED
 DEPARTMENT OF HEALTH
 DEPUTY CLERK
 CLERK *Angel Sanders*
 DATE JUN 20 2013

PCP: G-20-13

PCP Members: *Mullens + Rusch*

NOTICE OF RIGHTS

Respondent has the right to request a hearing to be conducted in accordance with Section 120.569 and 120.57, Florida Statutes, to be represented by counsel or other qualified representative, to present evidence and argument, to call and cross-examine witnesses and to have subpoena and subpoena duces tecum issued on his or her behalf if a hearing is requested.

NOTICE REGARDING ASSESSMENT OF COSTS

Respondent is placed on notice that Petitioner has incurred costs related to the investigation and prosecution of this matter. Pursuant to Section 456.072(4), Florida Statutes, the Board shall assess costs related to the investigation and prosecution of a disciplinary matter, which may include attorney hours and costs, on the Respondent in addition to any other discipline imposed.



COMPAS DataMart Reporting System
New License Report for 2201 : Pharmacist
5/1/2014 - 6/30/2014

Sort Order: Original License Date

Processed: 7/1/2014 10:35:17AM

Page 1 of 10

| Rank | Lic Nbr | Issue Date | Licensee Name | Birth Date | EDU Provider | EDU Institution | PL Address | PL Location |
|------|---------|------------|--------------------------------|------------|--|-----------------|---|-----------------------------|
| PS | 51649 | 05/01/2014 | Nguyen, Dan Huy | 01/16/1987 | Campbell University Incorporated | | 716 N Us Highway 441/27 | The Villages, FL 32159 |
| PS | 51650 | 05/01/2014 | Oliszewski, Vicki Reagan | 08/13/1971 | Samford University | | 7946 Vaughn Rd | Montgomery, AL 36116 |
| PS | 51651 | 05/01/2014 | Otto, Jennifer A | 11/27/1967 | Purdue University Main Campus | | 12416 S Harlem Ave #305 | Palos Heights, IL 60463 |
| PS | 51652 | 05/01/2014 | Ortiz, Jeliza Amaez | 12/16/1980 | University Of Puerto Rico Medical Scienc | | 88 Road #2 | Manati, PR 00674 |
| PS | 51653 | 05/05/2014 | Robertson, Kristie Marie | 12/06/1987 | University Of Florida | | 1600 Ormsby Station Court | Louisville, KY 40223 |
| PS | 51654 | 05/05/2014 | Popovic, Natasa | 01/03/1987 | Northeastern University | | One Boston Medical Center Place | Boston, MA 02118 |
| PS | 51655 | 05/06/2014 | Sims, Ti'Shea Lemarah | 05/08/1988 | Florida A & M University | | 4181 Nw 45Th Ave | Lauderdale Lakes, FL 33319 |
| PS | 51656 | 05/06/2014 | Savirnov, Mirrela | 04/09/1983 | University Of Illinois At Chicago | | 1944 W. Albion Ave #2 | Chicago, IL 60626 |
| PS | 51657 | 05/06/2014 | Evertts, Kaila Autumn-Lee | 05/18/1989 | Suny At Buffalo | | 715 W. Brandon Blvd | Brandon, FL 33511 |
| PS | 51658 | 05/06/2014 | Johnson, Ashleigh Ruth | 05/15/1987 | Midwestern State University | | 19003 R H Johnson Blvd | Sun City West, AZ 85375 |
| PS | 51659 | 05/06/2014 | Kincaid, Michele Rae | 03/05/1971 | University Of Houston-Downtown | | 10500 San Jose Blvd Ste 36 | Jacksonville, FL 32257-6209 |
| PS | 51660 | 05/06/2014 | Nguyen, Lien Thuy | 05/01/1974 | University Of Colorado Health Sciences C | | 6960 Seascapc Dr. | Grand Prairie, TX 75054 |
| PS | 51661 | 05/06/2014 | Sands, Richard Allen | 05/12/1972 | University Of Florida | | 825 Eastlake Ave East | Seattle, WA 98109 |
| PS | 51662 | 05/06/2014 | Velez-Reyes, Judith M | 11/26/1986 | University Of Puerto Rico Medical Scienc | | Bldv De La Montana 334 Los Arboles De Montehiedra | San Juan, PR 00926 |
| PS | 51663 | 05/07/2014 | Youssef, John Gamal Amin | 12/11/1982 | Foreign Schools | | 6113 State Rd 54 | New Port Richey, FL 34653 |
| PS | 51664 | 05/07/2014 | Khan, Syed Ziauddin Ahmed | 08/16/1985 | Foreign Schools | | 3065 Rigsby Avenue | San Antonio, TX 78222 |
| PS | 51665 | 05/08/2014 | Garciaarena-Kraftchen ko, Mae | 04/01/1976 | Foreign Schools | | 6029 Pine Ridge Road | Naples, FL 34119 |
| PS | 51666 | 05/08/2014 | Gerena-Carrillo, Eniliz Eileen | 04/21/1985 | Nova Southeastern University | | Box 535 | San Sebastian, PR 00685 |
| PS | 51667 | 05/08/2014 | Hupp, Valerie Jo | 02/17/1961 | University Of South Carolina - Columbia | | 308 Deerfield Dr | Lugoff, SC 29078 |
| PS | 51668 | 05/08/2014 | James, Nancy Jean | 09/14/1957 | University Of Mississippi Main Campus | | 9052 Independence Ave | Daphne, AL 36526 |



COMPAS DataMart Reporting System
New License Report for 2201 : Pharmacist
5/1/2014 - 6/30/2014

Sort Order: Original License Date

Processed: 7/1/2014 10:35:17AM

Page 2 of 10

| Rank | Lic Nbr | Issue Date | Licensee Name | Birth Date | EDU Provider | EDU Institution | PL Address | PL Location |
|------|---------|------------|-----------------------------|------------|--|-----------------|--|----------------------------|
| PS | 51669 | 05/08/2014 | Pollard, Terry Wayne | 12/20/1955 | Samford University | | 2911 Mill Bay Road | Kodiak, AK 99615 |
| PS | 51670 | 05/08/2014 | Craner, Jeanne Marie | 05/19/1957 | Medical University Of South Carolina | | 5149 Fairfield Drive | Fort Myers, FL 33919 |
| PS | 51671 | 05/08/2014 | Leber, Michael Anthony | 10/11/1980 | University Of Rhode Island | | 1 Cvs Dr | Woonsocket, RI 02895 |
| PS | 51672 | 05/08/2014 | Ibrahim, Christine F | 01/17/1986 | Long Island University Brooklyn Campus | | 2801 John F Kennedy Blvd Apt #C5 | Jersey City, NJ 07306 |
| PS | 51673 | 05/12/2014 | Teconchuk-Yount, Amy Lynne | 04/15/1975 | Ohio Northern University | | 16703 Eagle Oak Drive | Odessa, FL 33556 |
| PS | 51674 | 05/12/2014 | Castle, Emma Catherine | 05/10/1962 | Samford University | | Hwy 100 | Nashville, TN 37271 |
| PS | 51675 | 05/12/2014 | Herring, Wendy Louise | 05/15/1984 | Auburn University Main Campus | | 3574 Montgomery Hwy | Dothan, AL 36303 |
| PS | 51676 | 05/12/2014 | Lee, Elise Nvera | 06/19/1987 | University Of Florida | | 5700 Overton Ridge Blvd | Fort Worth, TX 76132 |
| PS | 51677 | 05/12/2014 | Sabra, Ali Maarouf | 07/01/1982 | Ohio Northern University | | 6484 Grandmont Ave | Detroit, MI 48228 |
| PS | 51678 | 05/13/2014 | Jimenez Rosario, Jacqueline | 03/14/1984 | Nova Southeastern University | | Urb. Mirabella Village #D 79 Calle Amatista | Bayamon, PR 00961 |
| PS | 51679 | 05/14/2014 | Harvey, Alicia Natasha | 09/29/1974 | Nova Southeastern University | | 1778 23Rd Avenue | San Francisco, CA 94122 |
| PS | 51680 | 05/14/2014 | Ghogomu, Jinwi Tapisi | 04/02/1979 | Howard University | | 3041 Georgia Ave Nw | Washington, DC 20060 |
| PS | 51681 | 05/15/2014 | Minkovich, Irina | 06/19/1971 | Philadelphia College Of Pharmacy And Sci | | 9977 Bustleton Ave. | Philadelphia, PA 19115 |
| PS | 51682 | 05/16/2014 | De Jesus Torres, Irian | 11/29/1978 | Nova Southeastern University | | 8169 Calle Concordia Suite 410 Cond. San Vicente | Ponce, PR 00717 |
| PS | 51683 | 05/19/2014 | Hankel, Catherine A | 11/06/1973 | Rutgers The State University Central Of | | 120 Fieldcrest Ave | Edison, NJ 08837 |
| PS | 51684 | 05/19/2014 | Hankel, Jeffrey S | 02/17/1962 | Rutgers The State University Central Of | | 4011 Route 9 North | Howell, NJ 07731 |
| PS | 51685 | 05/19/2014 | Stinner, Nicole Diane | 05/05/1983 | University Of Missouri-Kansas City | | 11162 Renner Blvd | Lenexa, KS 66219 |
| PS | 51686 | 05/19/2014 | Riker, Gretchen | 07/18/1987 | Northwestern University | | 29 Silver Bluff Dr | Brunswick, GA 31523 |
| PS | 51687 | 05/19/2014 | Byard, Alan Richard | 02/22/1987 | University Of Florida | | 1849 Apataki Ct | Marco Island, FL 34145 |
| PS | 51688 | 05/20/2014 | Olds, Zachary Matthew | 09/16/1987 | Ohio Northern University | | Not Practicing In Florida P O Box 6320 | Tallahassee, FL 32314-6320 |
| PS | 51689 | 05/20/2014 | Scurro, Joseph Peter | 03/14/1960 | Palm Beach Atlantic University | | 3218 West Blue Ridge | Greenville, SC 29611 |



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|------|---------|------------|----------------------------|------------|---|-----------------------------------|--|----------------------------|
| PS | 51690 | 05/20/2014 | Bohunicky, Brian Anthony | 03/17/1986 | Albany College Of Pharmacy | | 37 Pennsylvania Ave | Binghamton, NY 13903 |
| PS | 51691 | 05/20/2014 | Edgell, Curtis Lyle | 02/13/1952 | University Of Kansas Main Campus | | 5000 Pauline Whitaker Parkway | Rogers, AR 72758 |
| PS | 51692 | 05/20/2014 | Fox, Diane Lynn | 04/16/1961 | South Dakota State University | | 1220 Nicholson St | Houston, TX 77008 |
| PS | 51693 | 05/20/2014 | Ujoodha, Robin Bhagwaduth | 04/24/1960 | University Of Cincinnati Main Campus | | 231 Clare Road | Mansfield, OH 44906 |
| PS | 51694 | 05/21/2014 | Garmer, Talane Lynn | 04/07/1967 | University Of Maryland School Of Pharmacy | | 219 South Washington St. | Easton, MD 21601 |
| PS | 51695 | 05/21/2014 | Brusco, Marian Ama | 04/07/1984 | University Of Arkansas For Medical Scien | | 7680 West Highway 98 Suite #8 | Pensacola, FL 32506 |
| PS | 51696 | 05/21/2014 | Lipshutz, Andrew Marc | 09/03/1989 | University Of Florida | | 110 Irving Street | Washington, DC 20010 |
| PS | 51697 | 05/21/2014 | Brasseale, Mendie Elise | 03/08/1983 | University Of Tennessee-Knoxville | | 4118 Lakepoint Drive | Tuscaloosa, AL 35405 |
| PS | 51698 | 05/21/2014 | Woods, Jessica Lynne | 01/18/1986 | University Of Charleston | | 6901 Miami Ave | Madeira, OH 45243 |
| PS | 51699 | 05/23/2014 | Rafferty, Kelly Denise | 10/21/1981 | University Of North Carolina Chapel Hill | | 7727 Lake Underhill Road | Orlando, FL 32822 |
| PS | 51700 | 05/23/2014 | Ricciardone, Anthony James | 08/16/1986 | Auburn University Main Campus | | Not Practicing In Florida P O Box 6320 | Tallahassee, FL 32314-6320 |
| PS | 51701 | 05/27/2014 | Terala, Soumya | 03/24/1983 | Nova Southeastern University | | Not Practicing In Florida P O Box 6320 | Tallahassee, FL 32314-6320 |
| PS | 51702 | 05/27/2014 | Hudka, Gopi Pintu | 11/02/1983 | Massachusetts College Of Phar & Allied H | | 311 Union Ave | Rutherford, NJ 07070 |
| PS | 51703 | 05/27/2014 | Campbell, Laurie Ann | 08/20/1963 | Northeastern University | | 3001 S. Priest Dr | Tempe, AZ 85282 |
| PS | 51704 | 05/28/2014 | Cao, John H | 03/15/1971 | | | Not Practicing In Florida P O Box 6320 | Tallahassee, FL 32314-6320 |
| PS | 51705 | 05/30/2014 | Marcinek, Jennifer Lynn | 04/26/1962 | | Lipscomb College Of Pharmacy | 347 Sw Main Blvd Suite 102 | Lake City, FL 32025 |
| PS | 51706 | 06/03/2014 | Bosch, John Lawrence | 07/31/1981 | University Of Kentucky | | 4568 Dixie Hwy | Fairfield, OH 45014 |
| PS | 51707 | 06/03/2014 | Church, Timothy Joseph | 08/14/1985 | Other | Northeast Ohio Medical University | 815 Promenade Way Apt 206 | Jupiter, FL 33458 |
| PS | 51708 | 06/03/2014 | Khaf, Benjamin | 04/15/1985 | Long Island University Central Office | | 103-19 68 Rd Apt 6 M | Forest Hills, NY 11375 |
| PS | 51709 | 06/03/2014 | Matiak, Amy Lynn | 12/26/1973 | University Of Minnesota Twin Cities | | 8100 West County Rd 42 | Savage, MN 55378 |
| PS | 51710 | 06/03/2014 | Pop, Marianne Karin | 10/04/1983 | Midwestern State University | | 1 Tampa General Cir. | Tampa, FL 33606 |



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|------|---------|------------|----------------------------|------------|--|-----------------------------------|---|----------------------------|
| PS | 51711 | 06/03/2014 | Almazan, Jordan | 03/28/1990 | University Of Florida | | 3343 Lakeville Cir. | West Palm Beach, FL 33406 |
| PS | 51712 | 06/03/2014 | Simon, Justin Ian | 02/03/1988 | University Of Texas At Austin | | Not Practicing In Florida P O Box 6320 | Tallahassee, FL 32314-6320 |
| PS | 51713 | 06/03/2014 | Reber, Dennis | 05/31/1958 | Drake University | | 831 N Main Street | Monticello, IN 47960 |
| PS | 51714 | 06/04/2014 | Gupta, Deepak | 12/14/1977 | | Guru Jambheshwar University | 5000 Lakewood Ranch Blvd | Bradenton, FL 34211 |
| PS | 51715 | 06/04/2014 | Alfonso Hernandez, Danay | 03/21/1985 | Foreign Schools | | 7235 Nw 19 St Bay D | Miami, FL 33126 |
| PS | 51716 | 06/05/2014 | Brenner, Robert James Iii | 06/11/1988 | Lake Erie Coll. Of Osteo Med. Sch. Of Pharm. | | 5804 Bee Ridge Road | Sarasota, FL 34233 |
| PS | 51717 | 06/05/2014 | Gantt, Tracy Carleen | 05/27/1982 | Ohio State University Main Campus | | 4872 Blazer Parkway | Dublin, OH 43017 |
| PS | 51718 | 06/05/2014 | Hagen, Kyle Stephen | 07/20/1988 | East Tennessee State University | | 10000 Bay Pines Blvd | Bay Pines, FL 33744 |
| PS | 51719 | 06/05/2014 | Mostafa, Heba | 09/26/1980 | Foreign Schools | | 2400 Feather Sound Dr #1325 | Clearwater, FL 33762 |
| PS | 51720 | 06/05/2014 | Phipps, John Darrell | 10/12/1975 | University Of Kentucky | | 9950 Barberich Drive | Florence, KY 41042 |
| PS | 51721 | 06/09/2014 | Kwon, Jessica B | 06/26/1987 | Roseman University | | 680 N Mccarran Blvd | Sparks, NV 89431 |
| PS | 51722 | 06/10/2014 | Kim, Ju Hyeun | 01/02/1988 | University Of Rhode Island | | 73 Ridge Dr | Exeter, RI 02822 |
| PS | 51723 | 06/11/2014 | Fohtung, Leticia Mbongo | 06/15/1977 | St Johns College Main Campus | | 401 NU S-75 | Denison, TX 75020 |
| PS | 51724 | 06/11/2014 | Hatfield, Adam Thomas | 06/16/1986 | University Of Missouri-Kansas City | | 1008 N. Main Street | Sikeston, MO 63801 |
| PS | 51725 | 06/11/2014 | Johnson, Gene Alan | 09/21/1968 | University Of Pittsburgh Central Office | | 5655 County Rd 13 | Centerburg, OH 43011 |
| PS | 51726 | 06/11/2014 | Mccurdy, Kelly Sue | 03/14/1967 | Other | Northeast Ohio Medical University | 2743 Gilchrist Rd | Akron, OH 44305 |
| PS | 51727 | 06/11/2014 | Mekhail, Basem Saad | 10/25/1978 | Foreign Schools | | 560 Ave C | Bayonne, NJ 07002 |
| PS | 51728 | 06/11/2014 | Veverka, Megan Marie | 07/18/1989 | Butler University | | 92 W Miller St | Orlando, FL 32806 |
| PS | 51729 | 06/11/2014 | Griffin, Shawn Patrick | 04/02/1989 | University Of North Carolina Chapel Hill | | 1600 Sw Archer Road | Gainesville, FL 32610 |
| PS | 51730 | 06/11/2014 | King, Jacqueline Jeanette | 09/14/1980 | University Of Florida | | 601 East Rollins Ave | Orlando, FL 32803 |
| PS | 51731 | 06/11/2014 | Rodriguez Miranda, Lisabel | 03/10/1987 | University Of Puerto Rico Medical Scienc | | 1601 Sw Archer Rd. Malcom Randall Va | Gainesville, FL 32608 |



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|------|---------|------------|---------------------------------|------------|--|-----------------|---|-------------------------------|
| PS | 51732 | 06/12/2014 | Crúz, Melinda | 09/08/1981 | University Of Illinois At Chicago | | 1255 Poston Place | Scherville, IN 46375 |
| PS | 51733 | 06/12/2014 | Truong, Minh Lam | 03/28/1979 | University Of Oklahoma | | Not Practicing In Florida P O Box 6320 | Tallahassee, FL 32314-6320 |
| PS | 51734 | 06/12/2014 | Huddgins, Nicole | 07/20/1974 | University Of Rhode Island | | 115 Cass Ave | Woonsocket, RI 02895 |
| PS | 51735 | 06/12/2014 | Blodgett, Erin Elizabeth | 02/13/1984 | Mercer University | | 6793 Grand Hickory Dr. | Braselton, GA 30517 |
| PS | 51736 | 06/12/2014 | Felder, Andre Lasonte | 09/18/1989 | University Of Florida | | 300 Sw 16Th Ave | Gainesville, FL 32601 |
| PS | 51737 | 06/12/2014 | Krbec, Jerry Robert | 12/18/1947 | University Of Illinois At Chicago | | 4755 South Ave | Toledo, OH 43615 |
| PS | 51738 | 06/12/2014 | Schutzenhofer, Richard Michael | 08/05/1966 | University Of Florida | | 2313 S. Mt. Prospect Rd | Des Plaines, IL 60018 |
| PS | 51739 | 06/12/2014 | Tenis, Vedia | 01/11/1968 | Foreign Schools | | 4138 Nw 88Th Ave Apt 106 | Coral Springs, FL 33065 |
| PS | 51740 | 06/12/2014 | Colley, Elizabeth Georgia | 06/24/1983 | University Of Florida | | 10920 Baymeadows Rd | Jacksonville, FL 32256 |
| PS | 51741 | 06/12/2014 | Mok, Eva | 04/04/1988 | University Of Florida | | 1670 Clairmont Road | Decatur, GA 30033 |
| PS | 51742 | 06/12/2014 | Zakaria, Alexander Sarkis | 10/15/1984 | Nova Southeastern University | | Not Practicing In Florida P O Box 6320 | Tallahassee, FL 32314-6320 |
| PS | 51743 | 06/16/2014 | Palmer, Darren James | 05/17/1976 | Albany College Of Pharmacy | | 1010 Seminole Dr. Suite 404 | Fort Lauderdale, FL 33304 |
| PS | 51744 | 06/16/2014 | Patel, Nitinkumar Parshotambhai | 08/19/1980 | Foreign Schools | | 4170 Taggart Cay South Apt #205 | Sarasota, FL 34233 |
| PS | 51745 | 06/17/2014 | Rezk, Christine Adel Thabet | 12/20/1983 | Foreign Schools | | 1015 State Rd 436 Suite 237 | Casselberry, FL 32707 |
| PS | 51746 | 06/17/2014 | Fleenor, Daniel Gayle II | 10/26/1976 | University Of West Virginia, Morgantown, | | 1330 N. Eisenhower Dr | Beckley, WV 25801 |
| PS | 51747 | 06/17/2014 | Oliver, Aisha | 11/12/1976 | Ohio Northern University | | 1116 Wheeeling Ave | Cambridge, OH 43725 |
| PS | 51748 | 06/19/2014 | Starkman, Andrew T | 09/18/1984 | Midwestern State University | | 1154 S. Clark St. | Chicago, IL 60605 |
| PS | 51749 | 06/19/2014 | Castro, Gerardo Ernesto | 05/29/1987 | University Of Florida | | 4608 Nw 114 Ave 1105 | Doral, FL 33178 |
| PS | 51750 | 06/20/2014 | Holton, Timothy James | 04/25/1983 | Auburn University Main Campus | | 6306 Burnham Wood Place | Mobile, AL 36608 |
| PS | 51751 | 06/23/2014 | Prewitt, Travis Seth | 02/13/1987 | University Of Kentucky | | 12797 Forest Hill Blvd | Wellington, FL 33414 |
| PS | 51752 | 06/23/2014 | Persaud, Rosemary A | 10/24/1988 | University Of Florida | | 1108 Byerly Way | Orlando, FL 32818 |



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|------|---------|------------|---------------------------|------------|---|---|---|-------------------------|
| PS | 51753 | 06/23/2014 | Shannon, Kathleen Teresa | 10/04/1988 | Butler University | | 242 E View St. | Lombard, IL 60148 |
| PS | 51754 | 06/23/2014 | Alday, Sarah Elizabeth | 05/23/1985 | University Of Florida | | 1000 36Th Street | Vero Beach, FL 32960 |
| PS | 51755 | 06/23/2014 | Verdell, Amber Jean | 10/03/1985 | University Of Tennessee-Central Office | | 2600 West Ina Rd. #235 | Tucson, AZ 85741 |
| PS | 51756 | 06/23/2014 | Bisio, Britney Jean | 04/17/1986 | University Of Florida | | 3039 Egret Terrace | Safety Harbor, FL 34695 |
| PS | 51757 | 06/23/2014 | Brown, Christine Estrosas | 07/09/1989 | University Of Florida | | 14444 Beach Blvd | Jacksonville, FL 32250 |
| PS | 51758 | 06/23/2014 | Dolemba, Janis Kaye | 03/01/1977 | University Of Florida | | 2424 Egrets Glade Drive | Jacksonville, FL 32224 |
| PS | 51759 | 06/23/2014 | Downing, Allison Anne | 10/29/1986 | University Of Florida | | 7225 Oxfordshire Ave | Jacksonville, FL 32219 |
| PS | 51760 | 06/23/2014 | Droste, William Dee | 08/08/1966 | University Of Florida | | 1510 Pawnee St | Orange Park, FL 32065 |
| PS | 51761 | 06/23/2014 | Hellinga, Robert Casey | 08/02/1987 | University Of Utah Salt Lake City, Utah | | 800 Prudential Drive Wolfson Children S Hospital | Jacksonville, FL 32207 |
| PS | 51762 | 06/23/2014 | Herring, Casey Elizabeth | 03/16/1980 | South Carolina College Of Pharmacy | | 1293 Fenwick Plantation Rd | Johns Island, SC 29455 |
| PS | 51763 | 06/23/2014 | Jacob, Bessy Ediculla | 01/05/1979 | Southwestern Oklahoma State University | | 2160 1St Ave | Maywood, IL 60153 |
| PS | 51764 | 06/23/2014 | Liu, Jenny | 11/16/1989 | University Of Florida | | 11174 Winding Pearl Way | Wellington, FL 33414 |
| PS | 51765 | 06/23/2014 | Connolly, Jeanette Eileen | 11/13/1977 | University Of Florida | | 825 7Th St S | Safety Harbor, FL 34695 |
| PS | 51766 | 06/23/2014 | Pickard, Lindsey Renee | 07/19/1984 | University Of Florida | | 3648 Scott Street | Port Orange, FL 32129 |
| PS | 51767 | 06/23/2014 | Tam, Ernest Ding-Jui | 06/22/1983 | Other | Midwestern University Chicago College Of Pharmacy | 3002 Dow Avenue Suite 104 | Tustin, CA 92680 |
| PS | 51768 | 06/23/2014 | Torrey, Krista Michele | 12/15/1985 | University Of Oklahoma | | 601 East Rollins Street | Orlando, FL 32803 |
| PS | 51769 | 06/23/2014 | Wright, Corey Alexander | 03/22/1989 | Appalachian College Of Pharmacy | | 205 Cedar Trace | Prestonsburg, KY 41653 |
| PS | 51770 | 06/23/2014 | Aftat, Jonathan Khanh Lam | 07/05/1986 | University Of Florida | | 11801 Classic Lake Way | Tampa, FL 33635 |
| PS | 51771 | 06/23/2014 | Chen, Ou | 10/13/1988 | University Of Florida | | 2800 Sw Williston Rd Apt 733 | Gainesville, FL 32608 |
| PS | 51772 | 06/23/2014 | Chichetto, John Francis | 07/30/1978 | University Of Florida | | 303 Se 17Th St | Ocala, FL 34471 |



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|------|---------|------------|------------------------------|------------|--|-----------------|--|----------------------------|
| PS | 51773 | 06/23/2014 | Glanzrock, Courtney Patricia | 07/28/1982 | University Of Florida | | 7071 Mitchell Blvd | New Port Richey, FL 34655 |
| PS | 51774 | 06/23/2014 | Gromelski, Jamie Nicole | 11/07/1981 | University Of Florida | | 1641 Wildwood Creek Ln | Jacksonville, FL 32246 |
| PS | 51775 | 06/23/2014 | Hart, Amber Marie | 05/29/1990 | University Of Florida | | 601 E. Rollins St. | Orlando, FL 32803 |
| PS | 51776 | 06/24/2014 | Brizendine, Jeanine Ann | 11/19/1960 | University Of Kansas Main Campus | | St. Joseph Hospital-Main 3001 W. Dr. Martin Luther King Blvd | Tampa, FL 33607 |
| PS | 51777 | 06/24/2014 | Bou-Miltri, Michelle Mounir | 07/30/1986 | Massachusetts College Of Phar & Allied H | | 5 Hampstead Rd | Salem, NH 03079 |
| PS | 51778 | 06/24/2014 | Furler, Paul Thomas | 11/20/1987 | Temple University | | 555 North Duke Street Department Of Pharmacy | Lancaster, PA 17604 |
| PS | 51779 | 06/24/2014 | Russie, Gregory Wayne | 02/12/1949 | Drake University | | 500 North Bishop Ave | Rolla, MO 65401 |
| PS | 51780 | 06/24/2014 | Walker, Andrew Alasdair | 07/17/1982 | St. John Fisher College Wegmans School Of Pharmacy | | 17 Pamela Ln Apt A | Rochester, NY 14618 |
| PS | 51781 | 06/24/2014 | Pyles, Eric Christopher | 11/07/1987 | University Of Florida | | 265 Quail Drive | Merritt Island, FL 32953 |
| PS | 51782 | 06/24/2014 | Steele, Kevin Michael | 09/21/1989 | University Of Florida | | 601 E Rollins Street | Orlando, FL 32803 |
| PS | 51783 | 06/24/2014 | Lucas, Anne Margaret | 09/17/1986 | University Of Florida | | 11829 Grand Isles Lane | Fort Myers, FL 33913 |
| PS | 51784 | 06/24/2014 | Rau, Erin Leigh | 04/08/1986 | University Of Florida | | 4525 Bay Spring Ct | Tampa, FL 33611 |
| PS | 51785 | 06/24/2014 | Roehm, Morgan Burch | 10/19/1988 | Auburn University Main Campus | | 688 Baldwin Ave | Defunjak Springs, FL 32435 |
| PS | 51786 | 06/24/2014 | Torgerson, Alyssa Renee | 12/23/1987 | University Of Florida | | 1 Tampa General Circle | Tampa, FL 33606 |
| PS | 51787 | 06/24/2014 | Yanni, Niveen | 07/14/1984 | Long Island University Brooklyn Campus | | 883 9Th Ave | New York, NY 10019 |
| PS | 51788 | 06/24/2014 | Tran, Roya | 03/08/1989 | University Of Florida | | 2280 Wood Street | West Melbourne, FL 32904 |
| PS | 51789 | 06/24/2014 | Videman, Thomas Keith | 06/18/1989 | University Of Florida | | 2340 Dover St | Dellona, FL 32738 |
| PS | 51790 | 06/24/2014 | Garrett, Katy Lynn | 01/25/1987 | University Of Kentucky | | 5201 Raymond Street | Orlando, FL 32803 |
| PS | 51791 | 06/24/2014 | Hoehn, Katie Jo | 06/12/1988 | University Of Florida | | 299 E International Speedway Blvd. | Deland, FL 32724 |
| PS | 51792 | 06/25/2014 | Carolan, Andrea Jean | 05/13/1981 | University Of South Carolina - Columbia | | 1421 Capstone Dr | Greenfield, IN 46140 |
| PS | 51793 | 06/25/2014 | Brito, Michael D | 08/13/1986 | University Of Florida | | 14330 58Th St N Apt 3304 | Clearwater, FL 33760 |
| PS | 51794 | 06/25/2014 | Hook, Lauren Paige | 05/20/1988 | University Of Florida | | 4285 Steed Terrace | Winter Park, FL 32792 |



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|------|---------|------------|---------------------------|------------|--|-----------------|---|----------------------------|
| PS | 51795 | 06/25/2014 | Joshi, Lopa | 07/02/1979 | University Of Georgia | | 1700 S. Tamiami Trail | Sarasota, FL 34239 |
| PS | 51796 | 06/25/2014 | Katz, Julie Meredith | 08/30/1989 | University Of Florida | | 762 Heritage Drive | Weston, FL 33326 |
| PS | 51797 | 06/25/2014 | Dao, Khanh Manh Tung | 12/08/1980 | Palm Beach Atlantic University | | 15 19 South Olive Ave #2 | West Palm Beach, FL 33401 |
| PS | 51798 | 06/25/2014 | Kutner, Sara Beth | 11/27/1989 | University Of Florida | | 1700 S Tamiami Trail | Sarasota, FL 34239 |
| PS | 51799 | 06/25/2014 | Leblanc, Abbey Kristine | 10/12/1987 | University Of Florida | | 655 West 8Th Street | Jacksonville, FL 32209 |
| PS | 51800 | 06/25/2014 | Leonard, Kenneth Paul Ii | 09/19/1985 | University Of Florida | | 2552 10Th Street | Sarasota, FL 34237 |
| PS | 51801 | 06/25/2014 | Maron, Kathryn Joann | 09/21/1987 | University Of Florida | | 1700 Sw 16Th Court Apt G22 | Gainesville, FL 32608 |
| PS | 51802 | 06/25/2014 | Mcneill, Sarah Anne | 02/09/1984 | University Of Florida | | 2945 Sw 39Th Ave | Gainesville, FL 32608 |
| PS | 51803 | 06/25/2014 | Melanson, Elizabeth Sue | 09/23/1986 | University Of Florida | | 6152 Castleton Hollow Rd | Riverview, FL 33578 |
| PS | 51804 | 06/25/2014 | Fujinaka, Joy Milka | 01/30/1987 | University Of Florida | | 601 East Rollins Street | Orlando, FL 32803 |
| PS | 51805 | 06/26/2014 | Sangar, Raquel Devika | 11/29/1988 | Saint Johns University | | 3177 32Nd St, Apt 2C | Astoria, NY 11106 |
| PS | 51806 | 06/26/2014 | Allen, Mollie Lynn | 08/31/1985 | Mercer University | | Not Practicing In Florida P O Box 6320 | Tallahassee, FL 32314-6320 |
| PS | 51807 | 06/26/2014 | Ally, Saudia Alea | 07/15/1988 | University Of Florida | | 211 Curtis Ave | Groveland, FL 34736 |
| PS | 51808 | 06/26/2014 | Astle, Kathryn Elizabeth | 08/06/1990 | University Of Florida | | 1611 Sparkling Court | Dunedin, FL 34698 |
| PS | 51809 | 06/26/2014 | Bowman, Thomas William | 09/16/1988 | University Of Florida | | 4893 Town Center Pkwy | Jacksonville, FL 32246 |
| PS | 51810 | 06/26/2014 | Clarkson, Bradley Cole | 12/31/1987 | South Carolina College Of Pharmacy | | 4408 Ashfield Drive | Jacksonville, FL 32224 |
| PS | 51811 | 06/26/2014 | Morelli, Matthew Dominic | 05/08/1990 | University Of Florida | | 395 Cypress Creek Circle | Oldsmar, FL 34677 |
| PS | 51812 | 06/26/2014 | Cleaver, Joan Elizabeth | 05/13/1983 | University Of Arkansas For Medical Scien | | 1600 Sw Archer Road | Gainesville, FL 32608 |
| PS | 51813 | 06/26/2014 | Colucci, Kristofer Jordan | 08/11/1987 | University Of Florida | | 3017 Lawton Ct. | Panama City, FL 32405 |
| PS | 51814 | 06/26/2014 | Diep, Uyen Tu Ngoc | 08/23/1987 | University Of Florida | | 802 Riverboat Cir | Orlando, FL 32828 |
| PS | 51815 | 06/26/2014 | Estep, Petra Marie | 08/22/1985 | University Of Florida | | 3591 Kernan Blvd S #522 | Jacksonville, FL 32224 |
| PS | 51816 | 06/26/2014 | Fernando, Stephen John | 09/02/1979 | University Of Florida | | 22930 NW 11Th Rd | Newberry, FL 32669 |
| PS | 51817 | 06/26/2014 | Flore, Brittany Page | 08/10/1990 | University Of Florida | | 4405 Sw 28Th Place | Cape Coral, FL 33914 |



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| PS | 51818 | 06/26/2014 | Fleurima, Cindeline Tushia | 02/02/1989 | University Of Florida | | 2014 N 58Th Ave | Hollywood, FL 33021 |
| PS | 51819 | 06/26/2014 | Franskowsky, Kate Elizabeth | 03/03/1989 | University Of Florida | | 258 Casa Sevilla Ave | Saint Augustine, FL 32092 |
| PS | 51820 | 06/26/2014 | Giang, Tony | 09/30/1988 | University Of Florida | | 1000 36Th Street | Vero Beach, FL 32960 |
| PS | 51821 | 06/26/2014 | Hunt, Lindsay Nicole | 05/16/1989 | Belmont University | | 3880 N 9Th Avenue | Pensacola, FL 32503 |
| PS | 51822 | 06/26/2014 | Kinnunen, Amy Colleen | 05/06/1978 | University Of Florida | | 800 Prudential Drive | Jacksonville, FL 32207 |
| PS | 51823 | 06/26/2014 | Lanier, Wesley Alan | 03/15/1990 | University Of Florida | | 6226 West Pine Circle | Crystal River, FL 34429 |
| PS | 51824 | 06/26/2014 | Morris, Matthew Paul | 01/18/1989 | University Of Florida | | 6500 Bridge Water Way Unit 802 | Panama City Beach, FL 32407 |
| PS | 51825 | 06/26/2014 | Nguyen, Dan | 07/15/1988 | University Of Florida | | 7003 Presidents Drive Suite 250 | Orlando, FL 32809 |
| PS | 51826 | 06/26/2014 | Panchal, Rachna Ramesh | 05/06/1988 | University Of Georgia | | 7824 Kiverton Place | Atlanta, GA 30350 |
| PS | 51827 | 06/26/2014 | Patel, Ankita Virendra | 03/03/1989 | University Of Florida | | 4920 Tradition Drive | Lakeland, FL 33812 |
| PS | 51828 | 06/26/2014 | Peterson, Eric Wayne | 04/13/1990 | University Of Florida | | 7830 Lady Smith Ln. | Jacksonville, FL 32244 |
| PS | 51829 | 06/26/2014 | Vickery, Jennifer Lynn | 10/06/1989 | Campbell University Incorporated | | 417 North Briggs Ave Apt 732 | Sarasota, FL 34237 |
| PS | 51830 | 06/26/2014 | Vu, Nam | 09/02/1986 | University Of Florida | | 7727 Lake Underhill Rd | Orlando, FL 32822 |
| PS | 51831 | 06/26/2014 | Mussewhite, Kimberly Joanne | 01/30/1987 | University Of Florida | | 12020 Hood Landing Rd | Jacksonville, FL 32258 |
| PS | 51832 | 06/26/2014 | Misko, Michelle K | 09/02/1974 | Idaho State University | | 744 W. 100 N. | Blackfoot, ID 83221 |
| PS | 51833 | 06/26/2014 | Mccleary, Emily Jean | 08/12/1989 | University Of Florida | | 815 Ne 10Th Avenue Apt 1/2 | Gainesville, FL 32601 |
| PS | 51834 | 06/26/2014 | Kutner, Leslie Jean | 11/27/1989 | University Of Florida | | 1220 Sw 1St Avenue Apt# 307 | Gainesville, FL 32601 |
| PS | 51835 | 06/26/2014 | Justyn, Samantha Marie | 11/21/1985 | University Of Florida | | 1 Shircliff Way | Jacksonville, FL 32204 |
| PS | 51836 | 06/26/2014 | Branton, Joseph Michael Jr | 03/20/1987 | University Of Florida | | 3014 Old Village Way | Oldsmar, FL 34677 |
| PS | 51837 | 06/26/2014 | Bechtold, Carson Lyle | 10/12/1989 | Palm Beach Atlantic University | | 1161 East Main Street | Mount Joy, PA 17552 |
| PS | 51838 | 06/26/2014 | Adams, Chere Michelle | 09/22/1981 | University Of Florida | | 3119 Saint Johns Ave. | Jacksonville, FL 32205 |
| PS | 51839 | 06/30/2014 | Acquaviva, Carly Ann | 01/12/1989 | University Of Florida | | 1555 Port Malabar Blvd. Ne #101 | Palm Bay, FL 32905 |



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| Rank | Lic Nbr | Issue Date | Licensee Name | Birth Date | EDU Provider | EDU Institution | PL Address | PL Location |
|------|---------|------------|--------------------------|------------|---|-----------------|---|-------------------------------|
| PS | 51840 | 06/30/2014 | Huynh, Linh Ngoc | 03/26/1984 | University Of Mississippi Main Campus | | 102 Live Oak Cv | Brandon, MS 39047 |
| PS | 51841 | 06/30/2014 | Zhang, Yan | 09/27/1982 | University Of Florida | | 4616 Nw 32Nd Ave | Gainesville, FL 32606 |
| PS | 51842 | 06/30/2014 | Wilson, Daniel James | 04/01/1990 | Purdue University Main Campus | | Not Practicing In Florida P O Box 6320 | Tallahassee, FL 32314-6320 |
| PS | 51843 | 06/30/2014 | Wassif, Marina Ghaly | 11/26/1989 | Xavier University | | 615 W. 164Th St Apt 22 B | New York, NY 10032 |
| PS | 51844 | 06/30/2014 | Tuazon, Katrina | 06/29/1988 | University Of Florida | | 618 Cathcart Ave Apt. 1/2 B | Orlando, FL 32803 |
| PS | 51845 | 06/30/2014 | Tran, Steven Khanh Minh | 12/07/1990 | University Of Florida | | 530 Youth Camp Road | Groveland, FL 34736 |
| PS | 51846 | 06/30/2014 | Thompson, Daniel Lee | 12/14/1966 | University Of Connecticut | | 799- 824 Park Ave | Bloomfield, CT 06002 |
| PS | 51847 | 06/30/2014 | Sothoron, Conner Gregory | 11/27/1987 | University Of Maryland School Of Pharmacy | | 3160 B West Springs Dr | Ellicott City, MD 21043 |
| PS | 51848 | 06/30/2014 | Snyder, Mitchell Wayne | 03/27/1987 | University Of Florida | | 6669 27Th Street North | Saint Petersburg, FL 33702 |
| PS | 51849 | 06/30/2014 | Reinsch, Kristen Adele | 06/15/1989 | University Of Florida | | 8787 Southside Blvd Apt 5505 | Jacksonville, FL 32256 |

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Eligible Between 5/ 1/2014 - 6/30/2014

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| Profession | File Nbr | Licensee Name | Eligible Date | Exam Modifiers |
|------------|----------|----------------------------|---------------|----------------|
| 2201 | 44591 | Miller, Brigitta Christine | 05/01/2014 | |
| 2201 | 39352 | Victoria, Cynthia Louise | 05/05/2014 | |
| 2201 | 44531 | Prajapati, Naresh Gisaji | 05/05/2014 | |
| 2201 | 44603 | Bermel, Sarina Barbara | 05/05/2014 | |
| 2201 | 44392 | Belviso, Kelly Ann | 05/07/2014 | |
| 2201 | 44595 | Furey, Robert Patrick | 05/07/2014 | |
| 2201 | 44675 | Padgett, Daniel Lee | 05/07/2014 | |
| 2201 | 41508 | Zayas-Reyes, Mayra Enid | 05/08/2014 | |
| 2201 | 44485 | Stevens, Kyle Gibson | 05/08/2014 | |
| 2201 | 44590 | Wagner, Andrew Coleman | 05/08/2014 | |
| 2201 | 44689 | Baker, Allison Christine | 05/09/2014 | |
| 2201 | 44731 | Balluff, Daryl Andrew | 05/09/2014 | |
| 2201 | 44742 | Amin, Shivani Shailesh | 05/09/2014 | |
| 2201 | 44759 | Belhomme, Schamir Jean | 05/09/2014 | |
| 2201 | 44889 | Alberdi, Juan Carlos | 05/09/2014 | |
| 2201 | 44335 | Doremus, Lynda Jeanne | 05/12/2014 | |
| 2201 | 44471 | Vaknin, Brenda Kay | 05/12/2014 | |
| 2201 | 44529 | O'Neil, David Patrick | 05/12/2014 | |
| 2201 | 44678 | Osier, Tarik | 05/12/2014 | |
| 2201 | 44707 | Nakamoto, Kalina Elise | 05/12/2014 | |
| 2201 | 44711 | Brinda, Bryan Jeffrey | 05/12/2014 | |
| 2201 | 44719 | Mccartney, Michael Patrick | 05/12/2014 | |
| 2201 | 44723 | Muratagic, Maida | 05/12/2014 | |
| 2201 | 44739 | Falk, Chloe Christine | 05/12/2014 | |
| 2201 | 44740 | Doolin, James William | 05/12/2014 | |
| 2201 | 44746 | Moreau, Cynthia | 05/12/2014 | |
| 2201 | 44752 | Cho, Yeh-Hyon | 05/12/2014 | |
| 2201 | 44756 | Engin, Caroline | 05/12/2014 | |
| 2201 | 44762 | Lopez, Charleen Michelle | 05/12/2014 | |
| 2201 | 44776 | Michal, Allie May | 05/12/2014 | |
| 2201 | 44785 | Dwyer, Ashley Amber | 05/12/2014 | |
| 2201 | 44790 | Berrios, Patricia | 05/12/2014 | |
| 2201 | 44791 | Chacko, Sonya M | 05/12/2014 | |
| 2201 | 44793 | Montaad, John | 05/12/2014 | |
| 2201 | 44802 | Binnun, Jessica Rachel | 05/12/2014 | |
| 2201 | 44822 | Dwivedi, Ruti A | 05/12/2014 | |
| 2201 | 44828 | Feliciano, Sarah Elease | 05/12/2014 | |
| 2201 | 44836 | Cheung, Julie | 05/12/2014 | |
| 2201 | 44850 | Evans, Yoscatirin | 05/12/2014 | |
| 2201 | 44856 | Mestre, Jolie Ana | 05/12/2014 | |
| 2201 | 44860 | Eng, Brian Van | 05/12/2014 | |
| 2201 | 44862 | Chaviano, Yenmy | 05/12/2014 | |
| 2201 | 44879 | Beovich, Dominic Frank Iv | 05/12/2014 | |
| 2201 | 44892 | Yacoob, Fareza Aliya | 05/12/2014 | |
| 2201 | 44896 | Butler, Megan Michelle | 05/12/2014 | |



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| Profession | File Nbr | Licensee Name | Eligible Date | Exam Modifiers |
|------------|----------|-------------------------------|---------------|----------------|
| 2201 | 44904 | Lynn, Joshua L | 05/12/2014 | |
| 2201 | 44905 | Mustonen, Jordan Robert | 05/12/2014 | |
| 2201 | 44909 | Bohl, Angelica Lynn | 05/12/2014 | |
| 2201 | 44914 | Miller, Daryl Elizabeth | 05/12/2014 | |
| 2201 | 32904 | Nguyen, Huong Thi | 05/13/2014 | |
| 2201 | 44364 | Carto, Daniel Lawrence | 05/13/2014 | |
| 2201 | 44418 | Hemrajani, Leena Dharamdas | 05/13/2014 | |
| 2201 | 44422 | Phillips, Catherine Elizabeth | 05/13/2014 | |
| 2201 | 44497 | Walker, James Henry | 05/13/2014 | |
| 2201 | 44508 | Owens, Kelly Marie | 05/13/2014 | |
| 2201 | 44599 | Jankoviak, Melissa | 05/13/2014 | |
| 2201 | 44668 | Dollard, Eliza Westbrook | 05/13/2014 | |
| 2201 | 44698 | Piccicacco, Nicholas Donald | 05/13/2014 | |
| 2201 | 44703 | Hansen, Donald Wayne Jr | 05/13/2014 | |
| 2201 | 44705 | Gonzales, Kathrina Rose | 05/13/2014 | |
| 2201 | 44706 | Quffa, Lieth Hanna | 05/13/2014 | |
| 2201 | 44713 | Hernandez, Jaclyn Teresa | 05/13/2014 | |
| 2201 | 44722 | Good, Heather L | 05/13/2014 | |
| 2201 | 44724 | Hernandez, Jamison Stevens | 05/13/2014 | |
| 2201 | 44725 | Park, Eunice | 05/13/2014 | |
| 2201 | 44741 | Pietras, Robert | 05/13/2014 | |
| 2201 | 44750 | Patel, Monank H | 05/13/2014 | |
| 2201 | 44772 | Hitzel, Katie Jessica | 05/13/2014 | |
| 2201 | 44773 | Parker, Crystal Michelle | 05/13/2014 | |
| 2201 | 44774 | Hamilton, Tyler David | 05/13/2014 | |
| 2201 | 44778 | Freaney, Sarah Caitlin | 05/13/2014 | |
| 2201 | 44783 | Pender, William Bryant Iii | 05/13/2014 | |
| 2201 | 44787 | Patel, Virat R | 05/13/2014 | |
| 2201 | 44797 | Greenup, Jennifer Nicole | 05/13/2014 | |
| 2201 | 44811 | Hernandez, Daniel Adam | 05/13/2014 | |
| 2201 | 44812 | Patel, Puja | 05/13/2014 | |
| 2201 | 44825 | Pirasteh, Ameen Kazem | 05/13/2014 | |
| 2201 | 44829 | Orr, Roger Peter | 05/13/2014 | |
| 2201 | 44830 | Patel, Ektaa S | 05/13/2014 | |
| 2201 | 44833 | Patel, Jeenal | 05/13/2014 | |
| 2201 | 44844 | Patel, Khushbu P | 05/13/2014 | |
| 2201 | 44846 | Gallo, Rebecca Michelle | 05/13/2014 | |
| 2201 | 44851 | Harris, Tyler Forester | 05/13/2014 | |
| 2201 | 44866 | Gonzalez, Javier | 05/13/2014 | |
| 2201 | 44869 | Peesapati, Ratna Ravi Teja | 05/13/2014 | |
| 2201 | 44881 | Thalla, Adam | 05/13/2014 | |
| 2201 | 44923 | Polite, Leticia Alicia | 05/13/2014 | |
| 2201 | 44924 | Georgi, Marian R | 05/13/2014 | |
| 2201 | 44953 | Nguyen, My Quoc | 05/13/2014 | |
| 2201 | 44955 | Fosse, Peter Edward | 05/13/2014 | |



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| Profession | File Nbr | Licensee Name | Eligible Date | Exam Modifiers |
|------------|----------|--------------------------------|---------------|----------------|
| 2201 | 41003 | Eugene, Christina Marie Louise | 05/14/2014 | |
| 2201 | 44674 | Patel, Tithi Ashwin | 05/14/2014 | |
| 2201 | 44679 | Zeng, Qian Ya Lensa | 05/14/2014 | |
| 2201 | 44687 | Polk, James Patrick | 05/14/2014 | |
| 2201 | 44692 | Huynh, Michelle Dawn | 05/14/2014 | |
| 2201 | 44715 | Inderwiesen, Brett Allen | 05/14/2014 | |
| 2201 | 44728 | Johns, Benjamin Ernest Jr | 05/14/2014 | |
| 2201 | 44734 | Reilly-Rogers, Shane Thomas | 05/14/2014 | |
| 2201 | 44751 | Hobelmann, Aimee Lynn | 05/14/2014 | |
| 2201 | 44765 | Zoghi, Saveez | 05/14/2014 | |
| 2201 | 44766 | Hoggatt, Bridget Christine | 05/14/2014 | |
| 2201 | 44769 | Huyett Mcgowan, Julie | 05/14/2014 | |
| 2201 | 44770 | Johnson, Natalie Bickett | 05/14/2014 | |
| 2201 | 44780 | Jacob, Benjamin | 05/14/2014 | |
| 2201 | 44801 | Joiner, Jennifer M | 05/14/2014 | |
| 2201 | 44815 | James, Letha Allysun | 05/14/2014 | |
| 2201 | 44823 | Courtney, Cale Barton | 05/14/2014 | |
| 2201 | 44824 | Ivanova, Diana Krassimirova | 05/14/2014 | |
| 2201 | 44838 | Irwin, Matthew Scott | 05/14/2014 | |
| 2201 | 44841 | Hurley, Matthew Edward | 05/14/2014 | |
| 2201 | 44854 | Anderson, Eric Ivan | 05/14/2014 | |
| 2201 | 44857 | Razon, Ralph Ranie Arcilla | 05/14/2014 | |
| 2201 | 44865 | Huynh, Hoang Duc | 05/14/2014 | |
| 2201 | 44876 | Teelucksingh, Keith Horace | 05/14/2014 | |
| 2201 | 44898 | Tran, Nhi Nguyen | 05/14/2014 | |
| 2201 | 44964 | Xie, Min-Hua | 05/14/2014 | |
| 2201 | 34445 | Kehoe, Joy Marie | 05/15/2014 | |
| 2201 | 44661 | Haniff, Afshaun Gibraun | 05/15/2014 | |
| 2201 | 44688 | Wilson, Rebecca Ann | 05/15/2014 | |
| 2201 | 44695 | King, Suzanne Elizabeth | 05/15/2014 | |
| 2201 | 44704 | Shah, Vaishali Sailesh | 05/15/2014 | |
| 2201 | 44712 | Thatcher, Karin Lynne | 05/15/2014 | |
| 2201 | 44729 | Tse, Amanda Jocelyn | 05/15/2014 | |
| 2201 | 44733 | Terrell, Ashley Nicole | 05/15/2014 | |
| 2201 | 44737 | Tin, Win Myat | 05/15/2014 | |
| 2201 | 44738 | Garrett, Dana Leslie | 05/15/2014 | |
| 2201 | 44745 | Wilson, Robert Edward Jr | 05/15/2014 | |
| 2201 | 44747 | Thai, Jane Kim | 05/15/2014 | |
| 2201 | 44749 | Simmons, Jennifer Anne | 05/15/2014 | |
| 2201 | 44760 | Kurien, Erin Susan | 05/15/2014 | |
| 2201 | 44764 | Wadhvani, Sonam Dilip | 05/15/2014 | |
| 2201 | 44767 | Runjaic, Senka | 05/15/2014 | |
| 2201 | 44768 | Small, Amanda | 05/15/2014 | |
| 2201 | 44771 | Wat, Brandon Siujoe | 05/15/2014 | |
| 2201 | 44788 | Wolack, Jennifer Lynn | 05/15/2014 | |

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| Profession | File Nbr | Licensee Name | Eligible Date | Exam Modifiers |
|------------|----------|-------------------------------|---------------|----------------|
| 2201 | 44798 | Wendland, Christopher Leon | 05/15/2014 | |
| 2201 | 44800 | West, Amy Nicole | 05/15/2014 | |
| 2201 | 44804 | Krouskos, Randi Irene | 05/15/2014 | |
| 2201 | 44810 | Wynn, Jason H | 05/15/2014 | |
| 2201 | 44827 | Sachs, Julia Moriarty | 05/15/2014 | |
| 2201 | 44834 | Stewart, Casey Michelle | 05/15/2014 | |
| 2201 | 44837 | Seay, Kaley Renee | 05/15/2014 | |
| 2201 | 44845 | Rodriguez, Kellie Marie | 05/15/2014 | |
| 2201 | 44849 | Telford, Evan Daniel | 05/15/2014 | |
| 2201 | 44852 | Sacayanan, Mar Kevin Cadiente | 05/15/2014 | |
| 2201 | 44864 | Mankins, Natasha Vanessa | 05/15/2014 | |
| 2201 | 44868 | Reji, Sherin Mariam | 05/15/2014 | |
| 2201 | 44871 | Mixson, Amanda Joyce | 05/15/2014 | |
| 2201 | 44880 | Kessler, Amanda | 05/15/2014 | |
| 2201 | 44883 | Lai, Hali Ngoc | 05/15/2014 | |
| 2201 | 44885 | Smith, Jeffrey Leon | 05/15/2014 | |
| 2201 | 44891 | Sutton, Caroline Marie | 05/15/2014 | |
| 2201 | 44897 | Calvino Perez, Elyn | 05/15/2014 | |
| 2201 | 44911 | Lahey, Mark David | 05/15/2014 | |
| 2201 | 44913 | Khvan, Lyubov | 05/15/2014 | |
| 2201 | 44933 | Victor, Edline Alexandre | 05/15/2014 | |
| 2201 | 44935 | Robertson, Amy Jo | 05/15/2014 | |
| 2201 | 44936 | Scali, Stephanie | 05/15/2014 | |
| 2201 | 44989 | Kahn, Saira Ava | 05/15/2014 | |
| 2201 | 44991 | Kun, Katyani M | 05/15/2014 | |
| 2201 | 45040 | Robinson, Corey James | 05/15/2014 | |
| 2201 | 44779 | Tikhonova, Veronika Borisovna | 05/16/2014 | |
| 2201 | 44792 | Van Rees, Rachel Adriana | 05/16/2014 | |
| 2201 | 44839 | Valdes, Armando Antonio | 05/16/2014 | |
| 2201 | 44847 | Wang, Victor Muyian | 05/16/2014 | |
| 2201 | 44848 | Underwood, Danielle | 05/16/2014 | |
| 2201 | 44859 | Wynocker, Scott William | 05/16/2014 | |
| 2201 | 44921 | Worsfold, Matthew Paul | 05/16/2014 | |
| 2201 | 44937 | Thoguluva, Priya Madhusudan | 05/16/2014 | |
| 2201 | 44963 | Tibbetts, Kayla Anne | 05/16/2014 | |
| 2201 | 45024 | Tseng, Tiffany | 05/16/2014 | |
| 2201 | 45058 | Valand, Dhlona | 05/16/2014 | |
| 2201 | 44887 | Nguyen, Linh Tien | 05/19/2014 | |
| 2201 | 44906 | Gill, Stephen Parker | 05/19/2014 | |
| 2201 | 44915 | Patch, Megan Elizabeth | 05/19/2014 | |
| 2201 | 44926 | Lovell, Amanda Gail | 05/19/2014 | |
| 2201 | 44934 | Sridhara, Shashank | 05/19/2014 | |
| 2201 | 44959 | Tully, Joseph Peter | 05/19/2014 | |
| 2201 | 45018 | Moliver, Rachael Ashley | 05/19/2014 | |
| 2201 | 45035 | Dakus, Shelby Alice | 05/19/2014 | |



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| Profession | File Nbr | Licensee Name | Eligible Date | Exam Modifiers |
|------------|----------|--------------------------------|---------------|----------------|
| 2201 | 40997 | Kotecha, Palak | 05/20/2014 | |
| 2201 | 44368 | Nitzki-George, Diane Marie | 05/20/2014 | |
| 2201 | 44428 | Poe, Teresa Ruth | 05/20/2014 | |
| 2201 | 44632 | St Louis, Lisa | 05/20/2014 | |
| 2201 | 44755 | Abbatematteo, Joseph Michael | 05/20/2014 | |
| 2201 | 44863 | Lam, Vu | 05/20/2014 | |
| 2201 | 44912 | Rahemi, Arman Mehdi | 05/20/2014 | |
| 2201 | 44916 | Smith, Shylla Nazareth | 05/20/2014 | |
| 2201 | 44939 | Joy, Jamie Kay | 05/20/2014 | |
| 2201 | 44981 | Maranchick, Joseph Scott | 05/20/2014 | |
| 2201 | 45010 | Ludwig, Janelle Nicole | 05/20/2014 | |
| 2201 | 45012 | Lalla, Christina Dhavina | 05/20/2014 | |
| 2201 | 45030 | Johnson, Damaine F | 05/20/2014 | |
| 2201 | 45036 | Les, John Edward | 05/20/2014 | |
| 2201 | 45047 | Shahgaldi, Bitu | 05/20/2014 | |
| 2201 | 45084 | Lee, Hyun Joo | 05/20/2014 | |
| 2201 | 45089 | Rhoads, Jeannette Frances | 05/20/2014 | |
| 2201 | 45091 | Abdelmalek, Rami Magued Naguib | 05/20/2014 | |
| 2201 | 44503 | Twum-Fening, Kwasi Boateng | 05/21/2014 | |
| 2201 | 44564 | Lee, Meng Fei | 05/21/2014 | |
| 2201 | 44572 | Proctor, Leah Ann | 05/21/2014 | |
| 2201 | 44586 | Sadiq, Raimot Olubukola | 05/21/2014 | |
| 2201 | 44894 | Daley, Alesha | 05/21/2014 | |
| 2201 | 44943 | Lecroy, Nicholas Martin | 05/21/2014 | |
| 2201 | 44947 | Perez, Melissa | 05/21/2014 | |
| 2201 | 44958 | Knepper, Todd Cory | 05/21/2014 | |
| 2201 | 44977 | Carothers, William Chancey | 05/21/2014 | |
| 2201 | 45003 | Miller, Jennifer Ashley | 05/21/2014 | |
| 2201 | 45011 | Nguyen, Anne K | 05/21/2014 | |
| 2201 | 45034 | Oien, Paul David | 05/21/2014 | |
| 2201 | 45038 | Dao, Myle Thi | 05/21/2014 | |
| 2201 | 45041 | May, Andrew A | 05/21/2014 | |
| 2201 | 45048 | Muniz, Jonathan David | 05/21/2014 | |
| 2201 | 45060 | Nguyen, Paul T | 05/21/2014 | |
| 2201 | 45083 | Pauly, Douglas Reynold | 05/21/2014 | |
| 2201 | 45120 | Otero, Kassandra Lee | 05/21/2014 | |
| 2201 | 45125 | Braly, Melina Anastasia | 05/21/2014 | |
| 2201 | 45141 | Harris, Candice Rene | 05/21/2014 | |
| 2201 | 45146 | Talarico, Nicholas Victor | 05/21/2014 | |
| 2201 | 45180 | Smith, Shayna Alexandra | 05/21/2014 | |
| 2201 | 44622 | Mantel, Rivkah Dora | 05/22/2014 | |
| 2201 | 44666 | Adams, Jaslyn Ashlee | 05/22/2014 | |
| 2201 | 44670 | Gouda, Andrew Mohy Faik | 05/22/2014 | |
| 2201 | 44716 | Vaval, Jessica | 05/22/2014 | |
| 2201 | 44789 | Novotny, Paul Michael | 05/22/2014 | |



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|------------|----------|-------------------------------|---------------|------------------|
| 2201 | 44796 | Mcclellan, Byron Seth | 05/22/2014 | |
| 2201 | 44893 | Cabrera, Yisel Edith | 05/22/2014 | |
| 2201 | 44908 | Harrell, Janai Jessica | 05/22/2014 | |
| 2201 | 44920 | Barnes, Caitlin Marie | 05/22/2014 | |
| 2201 | 44925 | Aldeek, Abdullah | 05/22/2014 | |
| 2201 | 44928 | Peterson, Jessica Lauren | 05/22/2014 | |
| 2201 | 44932 | Batson, Bonnie Jean | 05/22/2014 | |
| 2201 | 44994 | Zassepskai, Evgenia | 05/22/2014 | |
| 2201 | 44996 | Rodriguez, Jacquelyn Yvonne | 05/22/2014 | |
| 2201 | 44999 | Grubbs, Chantel Regina | 05/22/2014 | |
| 2201 | 45000 | Tang, Andrew | 05/22/2014 | |
| 2201 | 45004 | Theoc, Cassie Alda | 05/22/2014 | |
| 2201 | 45007 | Warren, Lindsey Marie | 05/22/2014 | |
| 2201 | 45009 | Sander, Rachel Mariel | 05/22/2014 | |
| 2201 | 45015 | Scicchitano, Patrick John | 05/22/2014 | |
| 2201 | 45019 | Rodriguez, Dianna Maria | 05/22/2014 | |
| 2201 | 45021 | Spector, Selise Elizabeth | 05/22/2014 | |
| 2201 | 45062 | Taleho, Matthew John | 05/22/2014 | |
| 2201 | 45075 | Urbanek, Brian William | 05/22/2014 | |
| 2201 | 45079 | Campbell, Darionne Phylcia | 05/22/2014 | |
| 2201 | 45080 | Brown, Tosha Tyneikia | 05/22/2014 | |
| 2201 | 45081 | Schiel, Christopher Howard Jr | 05/22/2014 | |
| 2201 | 45086 | Rife, April Joann | 05/22/2014 | |
| 2201 | 45093 | Hayes, Kristine Gabrielle | 05/22/2014 | |
| 2201 | 45099 | Daoud, Sarah Hakim | 05/22/2014 | |
| 2201 | 45116 | Yoon, Haena | 05/22/2014 | |
| 2201 | 45145 | Easton, Shantoria | 05/22/2014 | |
| 2201 | 45223 | Augustin, Berline | 05/22/2014 | |
| 2201 | 43332 | Kolta, Nancy Edward | 05/23/2014 | |
| 2201 | 44922 | Bahnmler, Jennifer Marie | 05/23/2014 | |
| 2201 | 44930 | Lemu, Nabat | 05/23/2014 | |
| 2201 | 44944 | Falgons, Kathleen Marie | 05/23/2014 | |
| 2201 | 44946 | Buabeng, Isaac Kwadwo | 05/23/2014 | Military Veteran |
| 2201 | 44949 | Wilson, Laura Ann | 05/23/2014 | |
| 2201 | 44951 | Destin, Kenya | 05/23/2014 | |
| 2201 | 44961 | Narkhede, Saurabh Dilip | 05/23/2014 | |
| 2201 | 44962 | Flanagan, Hugh Jacob | 05/23/2014 | |
| 2201 | 44965 | Mikhail, Brittany Mary | 05/23/2014 | |
| 2201 | 44967 | Youssef, Tereze Joseph | 05/23/2014 | |
| 2201 | 44972 | Qin, Yujing | 05/23/2014 | |
| 2201 | 44973 | Malphurs, Lauren Wood | 05/23/2014 | |
| 2201 | 45006 | Mills, Marcilyn Nicole | 05/23/2014 | |
| 2201 | 45016 | Patel, Ektaa | 05/23/2014 | |
| 2201 | 45061 | Chamizo, Marianna | 05/23/2014 | |
| 2201 | 45107 | Khoo, Eugenia Xiao-Jun | 05/23/2014 | |



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| Profession | File Nbr | Licensee Name | Eligible Date | Exam Modifiers |
|------------|----------|------------------------------|---------------|----------------|
| 2201 | 45119 | Breeden, Joshua Michael | 05/23/2014 | |
| 2201 | 45218 | Burt, Jordan Rae | 05/23/2014 | |
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| 2201 | 44296 | Goodwin, Meredith Anne | 05/27/2014 | |
| 2201 | 44433 | Ali, Shaista | 05/27/2014 | |
| 2201 | 44513 | Le, Dung Tuan | 05/27/2014 | |
| 2201 | 44611 | Patel, Ronak | 05/27/2014 | |
| 2201 | 44677 | Holloway, Melissa Anne | 05/27/2014 | |
| 2201 | 44968 | Nguyen, Anh Viet Tran | 05/27/2014 | |
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| 2201 | 45031 | Hawks, Joshua Alexander | 05/27/2014 | |
| 2201 | 45037 | Rahman, Rezwanoor | 05/27/2014 | |
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| 2201 | 45045 | Azari, Austin | 05/27/2014 | |
| 2201 | 45052 | Veltri, Danielle Sauro | 05/27/2014 | |
| 2201 | 45056 | Spence, Earlene Elaine | 05/27/2014 | |
| 2201 | 45057 | Okon, Stephen | 05/27/2014 | |
| 2201 | 45077 | Cruz, Sarah Elizabeth | 05/27/2014 | |
| 2201 | 45078 | Gonzalez, Diana Carolina | 05/27/2014 | |
| 2201 | 45085 | Lawrence, Linda Carol | 05/27/2014 | |
| 2201 | 45095 | Wardley, Clarence O | 05/27/2014 | |
| 2201 | 45098 | Coffey, Travis Alan | 05/27/2014 | |
| 2201 | 44505 | Carroll, Mary Puckett | 05/28/2014 | |
| 2201 | 44519 | Workman, April Jones | 05/28/2014 | |
| 2201 | 44530 | Jones, Allison Jane | 05/28/2014 | |
| 2201 | 44548 | Thomas, Thomas Vadoppambil | 05/28/2014 | |
| 2201 | 44575 | Natera, Dayana Mirtha | 05/28/2014 | |
| 2201 | 44582 | Fairley, Patrick Neal | 05/28/2014 | |
| 2201 | 44667 | Patel, Kevin K | 05/28/2014 | |
| 2201 | 44672 | Valdes, Steven Andrew | 05/28/2014 | |
| 2201 | 44683 | Lee, Jenna Rie Anne | 05/28/2014 | |
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| 2201 | 44927 | Stamper, Benton James | 05/28/2014 | |
| 2201 | 44929 | Casanova, Octavio | 05/28/2014 | |
| 2201 | 44950 | Ollie, Amber Christen | 05/28/2014 | |
| 2201 | 44954 | Turner, Adrian Lea | 05/28/2014 | |
| 2201 | 44960 | Moore, Devonne S | 05/28/2014 | |
| 2201 | 44966 | Singh, Gurpreet | 05/28/2014 | |
| 2201 | 44971 | Waithe, Richard Rodney | 05/28/2014 | |
| 2201 | 45002 | Dunham, Alexis Leah | 05/28/2014 | |
| 2201 | 45072 | Yacoub, Carol | 05/28/2014 | |
| 2201 | 45101 | Fernberg, Sean M | 05/28/2014 | |
| 2201 | 45109 | Hawkins, Derrica Doraine | 05/28/2014 | |
| 2201 | 45112 | Waite, Lisa Rose | 05/28/2014 | |



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| Profession | File Nbr | Licensee Name | Eligible Date | Exam Modifiers |
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| 2201 | 45113 | St Hilaire, Stanley | 05/28/2014 | |
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| 2201 | 45117 | Gillham, Diavonni Martina | 05/28/2014 | |
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| 2201 | 45303 | Megano, Allison Manlulu | 05/28/2014 | |
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| 2201 | 45008 | Figueredo, Yaiseli | 05/30/2014 | |
| 2201 | 45020 | King, Julie Maire | 05/30/2014 | |
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| 2201 | 45046 | Burgos, Chadanse Ciara | 05/30/2014 | |
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| 2201 | 45296 | Miller, Mark Andrew | 05/30/2014 | |
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| 2201 | 44440 | Chu, Nhan Hoa Pham | 06/02/2014 | |
| 2201 | 44522 | Wieczorek, Malgorzata | 06/02/2014 | |
| 2201 | 44587 | Norris, Kevin Allen | 06/02/2014 | |
| 2201 | 44592 | Walko, Christine Marie | 06/02/2014 | |
| 2201 | 44646 | Gomez, Christopher | 06/02/2014 | |
| 2201 | 44654 | Mckenzie, Ryun S | 06/02/2014 | |
| 2201 | 44681 | Cortino, Thomas George | 06/02/2014 | |
| 2201 | 44808 | Cousins, Simone Racquel | 06/02/2014 | |
| 2201 | 44870 | Baet, Alyssa R | 06/02/2014 | |
| 2201 | 44907 | Hernandez, Maria Aurora | 06/02/2014 | |
| 2201 | 44917 | Wilson, Latrice Monet | 06/02/2014 | |

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|------------|----------|-------------------------------|---------------|----------------|
| 2201 | 44975 | Do, Dai Phuoc | 06/02/2014 | |
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| 2201 | 45133 | Villar, Joanna | 06/02/2014 | |
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| 2201 | 45142 | Bishop, Monique Trudy Ann | 06/02/2014 | |
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| 2201 | 45176 | Amin, Utsavbhai Sharadchandra | 06/02/2014 | |
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| 2201 | 45204 | Nicola, Monica Mourad | 06/02/2014 | |
| 2201 | 45205 | Regalado, Daniel Adam | 06/02/2014 | |
| 2201 | 45225 | Bartolome, Franchesca Renee | 06/02/2014 | |
| 2201 | 45235 | Francis, Sarah | 06/02/2014 | |
| 2201 | 45237 | Moore, Cassandra Jarita | 06/02/2014 | |
| 2201 | 45240 | Dzebo, Muamer | 06/02/2014 | |
| 2201 | 45241 | Balbadar, Ryan | 06/02/2014 | |
| 2201 | 45250 | D'Elia, Leidy Guadalupe | 06/02/2014 | |
| 2201 | 45254 | Regis, Kimberly | 06/02/2014 | |
| 2201 | 45263 | Bennett, Kadian Andrew | 06/02/2014 | |
| 2201 | 45272 | Sierra, Johanna Cristina | 06/02/2014 | |

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| 2201 | 45293 | Hibbert, Lotoya Tracy | 06/02/2014 | |
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| 2201 | 45321 | Stanciel, China Shuntanise | 06/02/2014 | |
| 2201 | 45322 | Chan, Chantal Theresa | 06/02/2014 | |
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| 2201 | 45327 | Johnson, Deatra Lasharn | 06/02/2014 | |
| 2201 | 45328 | Calilung, Christina Pua | 06/02/2014 | |
| 2201 | 45329 | Burgos, Jorge Luis | 06/02/2014 | |
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| 2201 | 44684 | Nguyen, Ngoc-Linh | 06/03/2014 | |
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| 2201 | 45069 | Oh, Stephanie Ashley | 06/03/2014 | |
| 2201 | 45092 | Nguyen, Tram Tran Mai | 06/03/2014 | |
| 2201 | 45100 | Larson, Keith Joseph Jr | 06/03/2014 | |
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| 2201 | 45177 | Raghunath, Ashley | 06/03/2014 | |
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| 2201 | 45199 | Patel, Vinita R | 06/03/2014 | |
| 2201 | 45203 | Puskar, Krisztina | 06/03/2014 | |
| 2201 | 45221 | Pandya, Krunal Dineshkumar | 06/03/2014 | |
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| 2201 | 45238 | Patel, Sarthey Vinaykumar | 06/03/2014 | |
| 2201 | 45243 | Perez, Nelson Edward Jr | 06/03/2014 | |
| 2201 | 45255 | Patel, Nirav Pravinbhai | 06/03/2014 | |
| 2201 | 45268 | Parish, David Preston | 06/03/2014 | |
| 2201 | 45297 | Putulyan, Raxana | 06/03/2014 | |
| 2201 | 45302 | Pandolfi, Giovanni | 06/03/2014 | |
| 2201 | 45310 | Patel, Vatsal Shailesh Kumar | 06/03/2014 | |
| 2201 | 45311 | Padgett, Danielle Lanette | 06/03/2014 | |
| 2201 | 45317 | Rayamazhi, Ajambar | 06/03/2014 | |
| 2201 | 45325 | Joolukuntla, Deepthi Reddy | 06/03/2014 | |
| 2201 | 45367 | Ramani, Bineshkumar Bhupatbhai | 06/03/2014 | |



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|------------|----------|----------------------------|---------------|----------------|
| 2201 | 44183 | Resto, Nicole Marie | 06/04/2014 | |
| 2201 | 44542 | Goodman, Allison Caroline | 06/04/2014 | |
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| 2201 | 44655 | Nobari, Arezou Hami | 06/04/2014 | |
| 2201 | 44673 | Ashton, Amy Davis | 06/04/2014 | |
| 2201 | 44682 | Kim, Sohee | 06/04/2014 | |
| 2201 | 44901 | Harmon, Emily Kathryn | 06/04/2014 | |
| 2201 | 44940 | Romero, Silvana | 06/04/2014 | |
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| 2201 | 44985 | Idarraga, Estefania | 06/04/2014 | |
| 2201 | 44986 | Hess, Thomas Daniel | 06/04/2014 | |
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| 2201 | 45017 | Nashed Khalil, Amira Attia | 06/04/2014 | |
| 2201 | 45044 | Smith, Terence Kelvin Jr | 06/04/2014 | |
| 2201 | 45051 | Jones, Kayla Ashley | 06/04/2014 | |
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| 2201 | 45102 | Thony, Isabelle | 06/04/2014 | |
| 2201 | 45103 | Logan, Todd Barrow | 06/04/2014 | |
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| 2201 | 45130 | Patel, Vidhi Jaymish | 06/04/2014 | |
| 2201 | 45132 | Garcia, Michael Angel | 06/04/2014 | |
| 2201 | 45134 | Lezcano, Bianca | 06/04/2014 | |
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| 2201 | 45155 | Jonathas, Myriam | 06/04/2014 | |
| 2201 | 45157 | Nguyen, Bao Hoai | 06/04/2014 | |
| 2201 | 45162 | Taylor, Iner Daram | 06/04/2014 | |
| 2201 | 45165 | Le, Thuy Hien Thi | 06/04/2014 | |
| 2201 | 45172 | Marsh, Stefani Ashley | 06/04/2014 | |
| 2201 | 45173 | Garcia, Jessalyn Gonzalez | 06/04/2014 | |
| 2201 | 45174 | Garcia, Shirley | 06/04/2014 | |
| 2201 | 45175 | Huynh, Benson Q | 06/04/2014 | |
| 2201 | 45181 | Giordano, Stephanie Lyn | 06/04/2014 | |
| 2201 | 45183 | Ho, Amy | 06/04/2014 | |
| 2201 | 45185 | Marthone, Charita E | 06/04/2014 | |
| 2201 | 45193 | Onwubiko, Judith I | 06/04/2014 | |
| 2201 | 45201 | Gohari, Ethan Simmon | 06/04/2014 | |
| 2201 | 45209 | Vuong, Thai Quoc | 06/04/2014 | |



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| 2201 | 45212 | Rodriguez, Javier Antonio | 06/04/2014 | |
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| 2201 | 45251 | Canaj, Silva | 06/05/2014 | |
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| 2201 | 44609 | Lansing, Jacquelyn Jessica | 06/09/2014 | |
| 2201 | 44664 | Weinrach, Joshua | 06/09/2014 | |
| 2201 | 44878 | Nemeth, Danielle Amy | 06/09/2014 | |
| 2201 | 44888 | Wong, Lianne Marie | 06/09/2014 | |

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| 2201 | 44979 | Silva, Anthony Paul | 06/09/2014 | |
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| 2201 | 44537 | Mahaffee, Meredith Paige | 06/11/2014 | |
| 2201 | 44573 | Houser, Stephanie Haeuptle | 06/11/2014 | |
| 2201 | 45090 | Murphy, Kaitlyn Ann | 06/11/2014 | |
| 2201 | 45104 | Chacko, Ciby O | 06/11/2014 | |



COMPAS DataMart Reporting System
Exam Eligibility Report For Board of 2201 : Pharmacist
Eligible Between 5/ 1/2014 - 6/30/2014

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| Profession | File Nbr | Licensee Name | Eligible Date | Exam Modifiers |
|------------|----------|--------------------------------|---------------|----------------|
| 2201 | 45232 | Fontrodona, Ana Esther | 06/11/2014 | |
| 2201 | 45282 | Pruitt, Joshua | 06/11/2014 | |
| 2201 | 45323 | Fernandez Estalella, Ana | 06/11/2014 | |
| 2201 | 45330 | Mcwhinnie, Shawn Michael | 06/11/2014 | |
| 2201 | 45331 | Rose, Michelle Marie | 06/11/2014 | |
| 2201 | 45335 | Jaivilasom, Roji J | 06/11/2014 | |
| 2201 | 45337 | Torres, Mayrim Nicole | 06/11/2014 | |
| 2201 | 45339 | Rivera-Torres, Nicole M | 06/11/2014 | |
| 2201 | 45340 | Alcalde, Jacqueline | 06/11/2014 | |
| 2201 | 45341 | Poole, Tyler James | 06/11/2014 | |
| 2201 | 45342 | Mead, Dylan Shane | 06/11/2014 | |
| 2201 | 45343 | Mitchell, Della M | 06/11/2014 | |
| 2201 | 45348 | Tasman, Ian Jacob | 06/11/2014 | |
| 2201 | 45353 | Wassie, Tibebe Tsegaye | 06/11/2014 | |
| 2201 | 45362 | Moparthi, Asha | 06/11/2014 | |
| 2201 | 45373 | Williamson, April Danielle | 06/11/2014 | |
| 2201 | 45393 | Yamsani, Archana | 06/11/2014 | |
| 2201 | 45395 | Wadiwala, Tanviben Hemantkumar | 06/11/2014 | |
| 2201 | 45398 | Sasenarine, Darshini Jyoti | 06/11/2014 | |
| 2201 | 45417 | Venkannagari, Srikanth R | 06/11/2014 | |
| 2201 | 45422 | Nazario, Mitchell | 06/11/2014 | |
| 2201 | 45440 | Moore, Corey Sean | 06/11/2014 | |
| 2201 | 44199 | Sadler, James Mich | 06/12/2014 | |
| 2201 | 44615 | Koronowski, Bryan Kendall | 06/12/2014 | |
| 2201 | 44663 | Saneeymehri, Seyyedeh S | 06/12/2014 | |
| 2201 | 45170 | Boktor, Ologia | 06/12/2014 | |
| 2201 | 45265 | Eaves, Shannon Marie | 06/12/2014 | |
| 2201 | 45281 | Marian, Christopher | 06/12/2014 | |
| 2201 | 45345 | Kochupurackal, Jency Mathen | 06/12/2014 | |
| 2201 | 45346 | Bissell, Brittany Dawn | 06/12/2014 | |
| 2201 | 45351 | White, David Ashley | 06/12/2014 | |
| 2201 | 45357 | Maclin, Erin Shenee | 06/12/2014 | |
| 2201 | 45358 | Davis, Brittany Lauren | 06/12/2014 | |
| 2201 | 45359 | Pappas, Demetrios Nicholas | 06/12/2014 | |
| 2201 | 45361 | Marchese, Talisa M | 06/12/2014 | |
| 2201 | 45363 | Revuri, Divya | 06/12/2014 | |
| 2201 | 45365 | Lawie, Kori M | 06/12/2014 | |
| 2201 | 45366 | Healy, Daniel James | 06/12/2014 | |
| 2201 | 45369 | Shehadeh, Mohamad Khader | 06/12/2014 | |
| 2201 | 45379 | Mclain, Scott Raymond | 06/12/2014 | |
| 2201 | 45394 | Batzold, Amber L | 06/12/2014 | |
| 2201 | 41043 | Hollis, Maristel Alma | 06/16/2014 | |
| 2201 | 43623 | Asprer, Maria Luisa Dela Rosa | 06/16/2014 | |
| 2201 | 44620 | Garcia, Lea Danielle | 06/16/2014 | |
| 2201 | 44671 | Hedrick, Ricky Paul li | 06/16/2014 | |

COMPAS DataMart Reporting System
Exam Eligibility Report For Board of 2201 : Pharmacist
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| Profession | File Nbr | Licensee Name | Eligible Date | Exam Modifiers |
|------------|----------|-------------------------------|---------------|----------------|
| 2201 | 44988 | St Fleur, Rosenie | 06/16/2014 | |
| 2201 | 45094 | Miranda, Raven Rachelle | 06/16/2014 | |
| 2201 | 45184 | Cepeda, Christina Marie | 06/16/2014 | |
| 2201 | 45316 | Anastasia, Emily Jeanne | 06/16/2014 | |
| 2201 | 45372 | Fernandez, Marlene | 06/16/2014 | |
| 2201 | 45375 | Parker, Breanne Nicole | 06/16/2014 | |
| 2201 | 45376 | Allen, Samantha Suzanne | 06/16/2014 | |
| 2201 | 45377 | Golic, Dragana | 06/16/2014 | |
| 2201 | 45383 | Moghabghab, Michele Lindsey | 06/16/2014 | |
| 2201 | 45384 | Patel, Anand | 06/16/2014 | |
| 2201 | 45385 | Lopez, Melissa | 06/16/2014 | |
| 2201 | 45386 | Nieves, Yesenia Isabel | 06/16/2014 | |
| 2201 | 45387 | Damore, Christine Ann | 06/16/2014 | |
| 2201 | 45391 | Ortiz, Roberto Jr | 06/16/2014 | |
| 2201 | 45399 | Cross, Lauren Hice | 06/16/2014 | |
| 2201 | 45434 | Garcia, Robert | 06/16/2014 | |
| 2201 | 41319 | Phan, Yvonne Le | 06/17/2014 | |
| 2201 | 44379 | Mcmahan, Richard K | 06/17/2014 | |
| 2201 | 44469 | Spagnolo, Vanita Suzanne | 06/17/2014 | |
| 2201 | 44613 | Cartmell, Bryan Michael | 06/17/2014 | |
| 2201 | 44640 | Gordon, Timothy Wayne | 06/17/2014 | |
| 2201 | 44969 | Shiple, Travis Michael | 06/17/2014 | |
| 2201 | 45050 | Frazier, Andria Gabrielle | 06/17/2014 | |
| 2201 | 45066 | Dillon, Amanda Nichole | 06/17/2014 | |
| 2201 | 45068 | Blumin, Flora Lee | 06/17/2014 | |
| 2201 | 45144 | Lange, Alexander Vincent | 06/17/2014 | |
| 2201 | 45349 | Do, Lam | 06/17/2014 | |
| 2201 | 45352 | Toussaint, Vanessa | 06/17/2014 | |
| 2201 | 45392 | Liu, Mengxing | 06/17/2014 | |
| 2201 | 45396 | Curbelo Vega, Diorel Yarian | 06/17/2014 | |
| 2201 | 45402 | Tribiano, Kristin Lindsay | 06/17/2014 | |
| 2201 | 45403 | Roland, Thomas Louis | 06/17/2014 | |
| 2201 | 45405 | Serrano Irizarry, Yendi Lenid | 06/17/2014 | |
| 2201 | 45406 | Bellam, Sireesha | 06/17/2014 | |
| 2201 | 45409 | Wilburn, Fantasia Sheanell | 06/17/2014 | |
| 2201 | 45411 | Nguyen, Kim-Phu Thi | 06/17/2014 | |
| 2201 | 45420 | Fadeyi, Sallam Oladipo | 06/17/2014 | |
| 2201 | 45421 | Smith, India Quanisha | 06/17/2014 | |
| 2201 | 45426 | Menyonga, Ijang Agnes | 06/17/2014 | |
| 2201 | 45453 | Perry, Shanae Lashel | 06/17/2014 | |
| 2201 | 45512 | Jacob, Joseph | 06/17/2014 | |
| 2201 | 45527 | Gammon, Corey Jonathan | 06/17/2014 | |
| 2201 | 45540 | Mclaurin, Bernice | 06/17/2014 | |
| 2201 | 27667 | Reyes Torres, Ivette C | 06/18/2014 | |
| 2201 | 44580 | Birney, Patrick John | 06/18/2014 | |

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| Profession | File Nbr | Licensee Name | Eligible Date | Exam Modifiers |
|------------|----------|-----------------------------|---------------|----------------|
| 2201 | 44604 | Botti, Kyle C | 06/18/2014 | |
| 2201 | 44656 | Gratz, Stuart | 06/18/2014 | |
| 2201 | 44873 | Novak, Erik Thomas | 06/18/2014 | |
| 2201 | 44976 | Covino, Tara Michele | 06/18/2014 | |
| 2201 | 44978 | Alarcon, Daisy | 06/18/2014 | |
| 2201 | 45210 | Akinbo, Tolulope Eniola | 06/18/2014 | |
| 2201 | 45355 | Dipaola, Tiffany Rae | 06/18/2014 | |
| 2201 | 45364 | Werner, Allison Lee | 06/18/2014 | |
| 2201 | 45370 | Mrzygut, Steven Alan li | 06/18/2014 | |
| 2201 | 45378 | Dhanjal, Sonia K | 06/18/2014 | |
| 2201 | 45408 | Archie, Alexandra Nicole | 06/18/2014 | |
| 2201 | 45412 | Gutierrez, Adolfo | 06/18/2014 | |
| 2201 | 45414 | Estrin, Jenny | 06/18/2014 | |
| 2201 | 45415 | Hall, Heidi Hope | 06/18/2014 | |
| 2201 | 45416 | Nimeh, Michael Jr | 06/18/2014 | |
| 2201 | 45427 | Stravinsky, Victoria Marie | 06/18/2014 | |
| 2201 | 45448 | Blanchette, Amy Catherine | 06/18/2014 | |
| 2201 | 45450 | Miraka, Jonida | 06/18/2014 | |
| 2201 | 45459 | Bravo-Garcia, Sergio Joseph | 06/18/2014 | |
| 2201 | 45460 | Almassian, Kevin Fazl | 06/18/2014 | |
| 2201 | 45462 | Chen, David | 06/18/2014 | |
| 2201 | 45468 | Baldwin, Jessica Lea | 06/18/2014 | |
| 2201 | 45476 | Anderson, Caitlin Marian | 06/18/2014 | |
| 2201 | 45493 | Aikara, Tijo Jose | 06/18/2014 | |
| 2201 | 45501 | Meshreki, Heidi | 06/18/2014 | |
| 2201 | 45520 | Beck, Edward Deason | 06/18/2014 | |
| 2201 | 45529 | Akhoondan, Mandana | 06/18/2014 | |
| 2201 | 43734 | Nguyen, Trang Ngoc | 06/19/2014 | |
| 2201 | 45423 | Slowek, Jennifer Diane | 06/19/2014 | |
| 2201 | 45424 | Ayre, Denise M | 06/19/2014 | |
| 2201 | 45425 | Jones, Amie Rene | 06/19/2014 | |
| 2201 | 45429 | Curry, Danielle Elaine | 06/19/2014 | |
| 2201 | 45430 | Daniel, Jordan Thomas | 06/19/2014 | |
| 2201 | 45432 | Eberhardt, Sydnie Nicole | 06/19/2014 | |
| 2201 | 45433 | Jackson, Joshua Lee | 06/19/2014 | |
| 2201 | 45436 | Malave, Jose A | 06/19/2014 | |
| 2201 | 45438 | Ruden, Michael Leonard | 06/19/2014 | |
| 2201 | 45439 | Montgomery, Tina | 06/19/2014 | |
| 2201 | 45441 | Odessky, Larisa | 06/19/2014 | |
| 2201 | 45442 | Hernandez, Norys | 06/19/2014 | |
| 2201 | 45443 | Rawas, Tania | 06/19/2014 | |
| 2201 | 45444 | Nguyen, Phillip | 06/19/2014 | |
| 2201 | 45445 | Stevens, Shelley Anne | 06/19/2014 | |
| 2201 | 45446 | Cicchella, Karisa Lacy | 06/19/2014 | |
| 2201 | 45447 | Klettner, Kyle Andrew | 06/19/2014 | |

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| Profession | File Nbr | Licensee Name | Eligible Date | Exam Modifiers |
|------------|----------|-------------------------------|---------------|----------------|
| 2201 | 45449 | Tuero, Yuniel | 06/19/2014 | |
| 2201 | 45452 | Dunatov, Jennifer Rachel | 06/19/2014 | |
| 2201 | 45455 | Ventura, Maristel | 06/19/2014 | |
| 2201 | 45456 | Dubra, Sarah Ann | 06/19/2014 | |
| 2201 | 45457 | Siegel, Mary | 06/19/2014 | |
| 2201 | 45458 | Llorente, Sarai | 06/19/2014 | |
| 2201 | 45461 | Corcos, Stephanie Gabrielle | 06/19/2014 | |
| 2201 | 45483 | Glassman, Jennifer Michelle | 06/19/2014 | |
| 2201 | 45496 | Gilmore, Joshua Dylan | 06/19/2014 | |
| 2201 | 45497 | Derner, Scott Michael | 06/19/2014 | |
| 2201 | 45504 | George, Matthew Garrett | 06/19/2014 | |
| 2201 | 45526 | Dial, Casey Nicole | 06/19/2014 | |
| 2201 | 45539 | Demdam, Kawelo Chua | 06/19/2014 | |
| 2201 | 42121 | Masoud, Monika | 06/23/2014 | |
| 2201 | 45149 | Maslenikova, Juliya Sergeevna | 06/23/2014 | |
| 2201 | 45207 | Moarefi, Joseph | 06/23/2014 | |
| 2201 | 45236 | Hardy, George Lerome | 06/23/2014 | |
| 2201 | 45300 | Amin, Mina Amin Halim | 06/23/2014 | |
| 2201 | 45360 | Nguyen, Vivi Thi | 06/23/2014 | |
| 2201 | 45463 | Smith, Danielle Rosemarie | 06/23/2014 | |
| 2201 | 45464 | Tsang, Henry Wei-En | 06/23/2014 | |
| 2201 | 45465 | Veloso, Randolph | 06/23/2014 | |
| 2201 | 45466 | Sullivan, Amberlea Christine | 06/23/2014 | |
| 2201 | 45467 | Huang, April Jade | 06/23/2014 | |
| 2201 | 45469 | Wojtas, William Joseph | 06/23/2014 | |
| 2201 | 45470 | Patel, Jaimini N | 06/23/2014 | |
| 2201 | 45474 | Tran, Dao Thi Bich | 06/23/2014 | |
| 2201 | 45475 | Roper, Lauren Elizabeth | 06/23/2014 | |
| 2201 | 45477 | Neupane, Prapti | 06/23/2014 | |
| 2201 | 45478 | Mike, Jared Brandon | 06/23/2014 | |
| 2201 | 45479 | Morse, David Michael | 06/23/2014 | |
| 2201 | 45480 | Mason, Brian Kelly | 06/23/2014 | |
| 2201 | 45481 | Manilal, Rupesh | 06/23/2014 | |
| 2201 | 45491 | Stewart, Heather Ann | 06/23/2014 | |
| 2201 | 45492 | Elharar, Oren | 06/23/2014 | |
| 2201 | 45494 | Kain, Jack Thompson | 06/23/2014 | |
| 2201 | 45533 | Nguyen, Duong Thai | 06/23/2014 | |
| 2201 | 44400 | Hines, Charles Edward | 06/24/2014 | |
| 2201 | 45264 | Heyliger, Alexander | 06/24/2014 | |
| 2201 | 45482 | Rodriguez Acosta, Sergio | 06/24/2014 | |
| 2201 | 45484 | Azer, Michael S | 06/24/2014 | |
| 2201 | 45485 | Osei, Akoto Y | 06/24/2014 | |
| 2201 | 45486 | Popun, Christopher Sean | 06/24/2014 | |
| 2201 | 45487 | Petzoldt, Benjamin John | 06/24/2014 | |
| 2201 | 45498 | Kohn, Joseph Roy | 06/24/2014 | |

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| Profession | File Nbr | Licensee Name | Eligible Date | Exam Modifiers |
|------------|----------|------------------------------------|---------------|----------------|
| 2201 | 45521 | Mehta, Ridhi | 06/24/2014 | |
| 2201 | 45531 | Khan, Sharjeel | 06/24/2014 | |
| 2201 | 44350 | Shafir, Liliya | 06/25/2014 | |
| 2201 | 44554 | Gabriel, Harry J | 06/25/2014 | |
| 2201 | 44628 | Ferguson, Katie | 06/25/2014 | |
| 2201 | 44900 | Leung, Amy Huey-Miin | 06/25/2014 | |
| 2201 | 45023 | Proctor, Genica Joyce | 06/25/2014 | |
| 2201 | 45108 | Trumm, Miloni Ajay | 06/25/2014 | |
| 2201 | 45208 | Bolling, Georgie Harper | 06/25/2014 | |
| 2201 | 45326 | Maxemous, Carla | 06/25/2014 | |
| 2201 | 45397 | Baburi, Safiullah | 06/25/2014 | |
| 2201 | 45495 | Souta, Lenee Michele | 06/25/2014 | |
| 2201 | 45499 | Tucker, Stephen | 06/25/2014 | |
| 2201 | 45500 | Trinh, Tien Thi | 06/25/2014 | |
| 2201 | 45502 | Lall, Rishabh | 06/25/2014 | |
| 2201 | 45503 | Patel, Natasha Kaushik | 06/25/2014 | |
| 2201 | 45505 | Ngo, Jason | 06/25/2014 | |
| 2201 | 45510 | Rivera, Johanna Stephanie | 06/25/2014 | |
| 2201 | 45515 | Weber, Allen John | 06/25/2014 | |
| 2201 | 45528 | Luc, Cathy | 06/25/2014 | |
| 2201 | 45535 | Mercadante, David Brian | 06/25/2014 | |
| 2201 | 45537 | Lee, Samantha Tang | 06/25/2014 | |
| 2201 | 45538 | Lowe, Phillip Michael | 06/25/2014 | |
| 2201 | 45559 | Ngo, Khanh-Linh Tran | 06/25/2014 | |
| 2201 | 45560 | Kelley, Ingrid Schumacher | 06/25/2014 | |
| 2201 | 45562 | Kirk, Marialis | 06/25/2014 | |
| 2201 | 45563 | Ngo, My-Hoa Thi | 06/25/2014 | |
| 2201 | 44375 | Cheaito, Ola | 06/26/2014 | |
| 2201 | 45388 | Patel, Ronakkumar Rameshchandra | 06/26/2014 | |
| 2201 | 45389 | St John, Aolani Kaimi | 06/26/2014 | |
| 2201 | 45471 | Rehman, Dania Binte | 06/26/2014 | |
| 2201 | 45516 | Staub, Matthew Brian | 06/26/2014 | |
| 2201 | 45517 | Garris, Jeffrey Thomas | 06/26/2014 | |
| 2201 | 45522 | Price, Wesley Martin | 06/26/2014 | |
| 2201 | 45523 | Nguyen, Chi Thi Lan | 06/26/2014 | |
| 2201 | 45524 | O'Brien, Bradley | 06/26/2014 | |
| 2201 | 45525 | Haines, Callie Rae | 06/26/2014 | |
| 2201 | 45591 | Smith, Jennifer Michelle | 06/26/2014 | |
| 2201 | 43928 | Major, John Stephen | 06/27/2014 | |
| 2201 | 39241 | Thaudboina, Venkateshwarlu | 06/30/2014 | |
| 2201 | 43766 | Alvarez, Cristina Isabel | 06/30/2014 | |
| 2201 | 44624 | Barry, David J | 06/30/2014 | |
| 2201 | 44629 | Nguyen, Bachlong | 06/30/2014 | |
| 2201 | 44634 | Perseo, Christopher Y | 06/30/2014 | |



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| Profession | File Nbr | Licensee Name | Eligible Date | Exam Modifiers |
|------------|----------|-----------------------------|---------------|----------------|
| 2201 | 44942 | Yu, Monica | 06/30/2014 | |
| 2201 | 45506 | Jose, Merlyn | 06/30/2014 | |
| 2201 | 45532 | Benton, Vaughn | 06/30/2014 | |
| 2201 | 45534 | Carbonell, Elissa Maria | 06/30/2014 | |
| 2201 | 45536 | Glover, William | 06/30/2014 | |
| 2201 | 45542 | Osemota, Uyioghosa Aituagie | 06/30/2014 | |
| 2201 | 45544 | Volmy, Mackenzy Colton | 06/30/2014 | |
| 2201 | 45545 | Consaul, Jeffry Michael | 06/30/2014 | |
| 2201 | 45546 | Bansee, Julissa Ann | 06/30/2014 | |
| 2201 | 45548 | Johnson, Jami Nichole | 06/30/2014 | |
| 2201 | 45549 | Smith, Robert Demetrius | 06/30/2014 | |
| 2201 | 45550 | Stramara, Frank Stokes li | 06/30/2014 | |
| 2201 | 45553 | Gant, Victoria Leigh | 06/30/2014 | |
| 2201 | 45557 | Javed, Khurram | 06/30/2014 | |
| 2201 | 45574 | Gillette, Jennifer Lynn | 06/30/2014 | |

Total Number of Eligible Applications: 824



COMPAS DataMart Reporting System

New License Report for 2202 : Pharmacist Intern

5/1/2014 - 6/30/2014

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| Rank | Lic Nbr | Issue Date | Licensee Name | Birth Date | EDU Provider | EDU Institution | PL Address | PL Location |
|------|---------|------------|----------------------------|------------|---------------------------------|-----------------|-------------------------------|------------------------------|
| PSI | 32431 | 05/01/2014 | Chandler, Kaylyn Ray | 07/01/1990 | Shenandoah University | | 1725 North Sector Ct | Winchester, VA 22601 |
| PSI | 32432 | 05/01/2014 | Cuiksa, Bethany Rae | 04/11/1990 | Ohio Northern University | | 8543 N Adams St | Terre Haute, IN 47805 |
| PSI | 32433 | 05/01/2014 | Blackwelder, Lauren Nicole | 10/28/1993 | University Of Kentucky | | 12309 Arbor Drive | Ponte Vedra Beach, FL 32082 |
| PSI | 32434 | 05/01/2014 | Weber, Allen John | 10/20/1988 | Dyouville College | | 917 Ann St. | Irving, NY 14081 |
| PSI | 32435 | 05/01/2014 | Joyner, Wendy Danielle | 05/05/1987 | Texas Southern University | | 60 S Holiday Road | Miramar Beach, FL 32550 |
| PSI | 32436 | 05/01/2014 | Pennington, Victoria Shea | 02/05/1991 | Ohio Northern University | | 4869 Apple Grove Court | Groveport, OH 43125 |
| PSI | 32437 | 05/01/2014 | Mann, Haley Leann | 08/29/1990 | St Louis College Of Pharmacy | | 4588 Parkview Place | St. Louis, MO 63110 |
| PSI | 32438 | 05/01/2014 | Smith, Ballard Lander | 02/12/1991 | | | 9524 Bent Brook Dr | Montgomery, AL 36117 |
| PSI | 32439 | 05/01/2014 | Ramezani, Aussemom Alice | 10/14/1989 | | | 128 Creek Knoll Ln | Columbia, SC 29212 |
| PSI | 32440 | 05/02/2014 | Bauer, Carolyn Ann | 10/16/1990 | Drake University | | 434 41 Ave. Nw | Rochester, MN 55901 |
| PSI | 32441 | 05/02/2014 | Gagliano, Nadine Claire | 04/14/1991 | Albany College Of Pharmacy | | 47 Brookline Dr | Utica, NY 13501 |
| PSI | 32442 | 05/02/2014 | Appiah, Henry | 09/28/1983 | Albany College Of Pharmacy | | 84 Holland Ave #1031 | Albany, NY 12208 |
| PSI | 32443 | 05/02/2014 | Okafor, Emmanuel | 06/25/1992 | Albany College Of Pharmacy | | 84 Holland Ave 84 Holland Ave | Albany, NY 12208 |
| PSI | 32444 | 05/05/2014 | Simmons, Britany Ann | 09/21/1988 | | | 459 Mall Blvd Unit #69 | Savannah, GA 31406 |
| PSI | 32445 | 05/05/2014 | Johnson, Paul Jacob | 04/23/1981 | University Of New England | | 3360 Burns Road | Palm Beach Gardens, FL 33410 |
| PSI | 32446 | 05/05/2014 | Wilson, Daniel James | 04/01/1990 | Purdue University Main Campus | | 13777 E Woodview Hills Ln | Solsberry, IN 47459 |
| PSI | 32447 | 05/05/2014 | Tokar, Tara Michelle | 07/05/1991 | Ohio Northern University | | 2730 Wild Orchard Point | Dayton, OH 45458 |
| PSI | 32448 | 05/05/2014 | Schmitt, Andrea Leigh | 08/02/1991 | Ohio Northern University | | 7032 Elm Flat Rd | Mayville, NY 14757 |
| PSI | 32449 | 05/05/2014 | Powers, Casey Keegan | 10/11/1991 | Albany College Of Pharmacy | | 100 Union Drive Apt #413 | Albany, NY 12208 |
| PSI | 32450 | 05/05/2014 | King, Jayme Rene | 01/24/1991 | St Louis College Of Pharmacy | | 530 Wagoner Drive | Mount Zion, IL 62549 |
| PSI | 32451 | 05/06/2014 | Kind, Laura Stephenson | 06/30/1987 | East Tennessee State University | | 1030 Estate Drive | Johnson City, TN 37604 |
| PSI | 32452 | 05/06/2014 | Klosky, Bryan Phillip | 07/14/1991 | Shenandoah University | | 16618 Bahner Ct | Mt Airy, MD 21771 |

COMPAS DataMart Reporting System

New License Report for 2202 : Pharmacist Intern

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| Rank | Lic Nbr | Issue Date | Licensee Name | Birth Date | EDU Provider | EDU Institution | PL Address | PL Location |
|------|---------|------------|--------------------------------------|------------|--|--------------------------------------|----------------------------|------------------------------|
| PSI | 32453 | 05/06/2014 | Johnson, William Rhett | 07/20/1988 | Auburn University Main Campus | | 8383 N. Davis Highway | Pensacola, FL 32523 |
| PSI | 32454 | 05/06/2014 | El Othmani, Dona | 04/27/1987 | Lebanon American University | | 65 Summit Ave | Elmwood Park, NJ 07407 |
| PSI | 32455 | 05/06/2014 | Knecht, James Martin III | 12/21/1991 | University Of Cincinnati Main Campus | | 5223 Southport Circle | Kings Mills, OH 45034 |
| PSI | 32456 | 05/06/2014 | Mull, Megan Elizabeth | 01/10/1990 | Shenandoah University | | 116 Taft Ave | Winchester, VA 22601 |
| PSI | 32457 | 05/06/2014 | Holton, Timothy James | 04/25/1983 | Auburn University Main Campus | | 6306 Burnham Wood Place | Mobile, AL 36608 |
| PSI | 32458 | 05/06/2014 | Colonna, Amanda Marie | 07/27/1991 | Ohio Northern University | | 8180 Caymen Ct. | Canfield, OH 44406 |
| PSI | 32459 | 05/06/2014 | Golubovic, Vesna | 11/08/1970 | Massachusetts College Of Phar & Allied H | | 841 Sly Lake Cir, Apt. D | Orlando, FL 32809 |
| PSI | 32460 | 05/07/2014 | Hayden, Elizabeth Ann | 01/29/1989 | Albany College Of Pharmacy | | 675 86Th Street Apt. D8 | Brooklyn, NY 11228 |
| PSI | 32461 | 05/07/2014 | Collier, Erika Carlee | 05/10/1990 | | | 6309 Mountainside Trail | Pinson, AL 35126 |
| PSI | 32462 | 05/07/2014 | Abdelrahman, Sulaiman Osama Sulaiman | 12/12/1991 | | | 32-14 34Th St | Astoria, NY 11106 |
| PSI | 32463 | 05/07/2014 | Bishop, Alex Clay | 09/16/1987 | | | 10121 Bromley Rd | Bay Minette, AL 36507 |
| PSI | 32464 | 05/07/2014 | Sedik, Mina Fawzy Henten Fouad | 03/21/1990 | | | 1476 Starlight Cove | Tarpon Springs, FL 34689 |
| PSI | 32465 | 05/08/2014 | Hatter, Kerby Danielle | 04/20/1990 | Shenandoah University | | 6450 Us Hwy 1 | Rockledge, FL 32955 |
| PSI | 32466 | 05/08/2014 | Weiss, Ashley Jessica | 08/15/1990 | | | 23 Overlook Road | Ardley, NY 10502 |
| PSI | 32467 | 05/08/2014 | Moe, Kathrine Kristine | 10/12/1992 | | Samford University | 15864 78Th Dr North | Palm Beach Gardens, FL 33418 |
| PSI | 32468 | 05/08/2014 | Roeder, Christina Leigh | 10/17/1988 | | | 6700 Wall St Apt 8C | Mobile, AL 36695 |
| PSI | 32469 | 05/08/2014 | Toussaint, Fabiola | 05/17/1985 | Temple University | | 1008 S 48Th Street Apt#302 | Philadelphia, PA 19143 |
| PSI | 32470 | 05/12/2014 | Taylor, Katlin Rose | 03/29/1991 | Ohio Northern University | | 2536 Gast Dr. | Prospect, OH 43342 |
| PSI | 32471 | 05/12/2014 | Thomas, Bethani Jhana'E | 04/05/1987 | | | 2200 Parklake Dr Apt 1391 | Atlanta, GA 30345 |
| PSI | 32472 | 05/12/2014 | Nadimpalli, Omphanidhar | 07/03/1975 | Foreign Schools | Jss College Of Pharmacy Mysore India | 492 Adam Ln | Mechanicsburg, PA 17050 |
| PSI | 32473 | 05/12/2014 | Mengos, Katie Lynn | 04/04/1991 | Ohio Northern University | | 1966 Lefevre Road | Troy, OH 45373 |

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|------|---------|------------|------------------------------|------------|------------------------------------|-----------------|--|-------------------------|
| PSI | 32474 | 05/13/2014 | Robbins, Christina Nicole | 01/15/1986 | University Of Georgia | | 155 The Preserve Drive Unit 12E | Athens, GA 30606 |
| PSI | 32475 | 05/13/2014 | Turner, Tiara Jessica Ann | 02/22/1993 | | | 1415 S. Martin Luther King Jr. Blvd | Tallahassee, FL 32307 |
| PSI | 32476 | 05/13/2014 | Broccio, John Vincent | 02/10/1987 | | | 10448 Sw 52Nd Court | Ocala, FL 34476 |
| PSI | 32477 | 05/13/2014 | Florini, Samantha E | 07/11/1990 | | | 7113 State Route 104 | Oswego, NY 13126 |
| PSI | 32478 | 05/13/2014 | Brown, Azelia Diantha | 04/14/1989 | Mercer University | | 2715 River Run Circle East | Miramar, FL 33025 |
| PSI | 32479 | 05/13/2014 | Hessler, Rick Martin | 07/17/1990 | Mercer University | | 1267 Brianwood Rd | Atlanta, GA 30319 |
| PSI | 32480 | 05/13/2014 | Cooper, Sinead Quinn | 09/28/1992 | | | 4300 Alton Rd | Miami Beach, FL 33140 |
| PSI | 32481 | 05/13/2014 | Dine, Brittany Cameron | 10/22/1987 | | | 327 N Ross St Apt #133 | Auburn, AL 36830 |
| PSI | 32482 | 05/13/2014 | Snyder, Kristi Ann | 12/19/1991 | Auburn University Main Campus | | 8437 Gateway Court | Englewood, FL 34224 |
| PSI | 32483 | 05/14/2014 | Tran, Lena Kim | 12/31/1993 | Northeastern University | | 7602 Barry Rd | Tampa, FL 33615 |
| PSI | 32484 | 05/14/2014 | Vu, Thang Vuong | 02/06/1988 | David Lipscomb University | | 1787 Croghan Drive | Melbourne, FL 32940 |
| PSI | 32485 | 05/14/2014 | Vo, Tuan Anh Tran | 12/16/1981 | | | 4300 Alton Rd | Miami Beach, FL 33140 |
| PSI | 32486 | 05/14/2014 | Yasa, Sheryl Yousef Raffa | 06/13/1969 | Other | | 105 Tuscany Chase Drive | Daytona Beach, FL 32117 |
| PSI | 32487 | 05/14/2014 | Ashton, Amy Davis | 04/20/1981 | Other | | 4610 Watson Farms Lane | Cumming, GA 30028 |
| PSI | 32488 | 05/14/2014 | Askar, Roula | 02/06/1982 | Other | | 13101 Sw132 Terrace Miami, Fl. | Miami, FL 33186 |
| PSI | 32489 | 05/14/2014 | Zarochak, Michael John | 09/06/1989 | | | 3501 East Frontage Road Suite 300 | Tampa, FL 33607 |
| PSI | 32490 | 05/14/2014 | Cherkes, Christine Elizabeth | 08/27/1982 | Midwestern State University | | 40W945 Campton Trail Road | Saint Charles, IL 60175 |
| PSI | 32491 | 05/15/2014 | Maclin, Erin Sheree | 07/08/1987 | Xavier University | | 9643 -B Jefferson Hwy | River Ridge, LA 70123 |
| PSI | 32492 | 05/15/2014 | Pruitt, Kimberly Brooke | 01/11/1989 | South Carolina College Of Pharmacy | | 1405 East Greenville St | Anderson, SC 29621 |
| PSI | 32493 | 05/15/2014 | Gana Fomban, Cletus Lesia | 02/24/1982 | Washington State University | | 911 East Beacon Ave #337 | Spokane, WA 99208 |
| PSI | 32494 | 05/16/2014 | Abdelmaseh, Mina Maher | 09/01/1986 | Other | | 909 Bay Ridge Avenue Apt 2F | Brooklyn, NY 11219 |
| PSI | 32495 | 05/16/2014 | Alvarez, David Joseph | 02/17/1991 | Mercer University | | 9522 Sw 118Th Avenue | Miami, FL 33186 |



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|------|---------|------------|-------------------------------|------------|--|---|------------------------------|--------------------------|
| PSI | 32496 | 05/16/2014 | Hassoun, Mohamad Hussein | 11/21/1990 | Ohio Northern University | | 21665 Ambassador Dr. | Macomb, MI 48044 |
| PSI | 32497 | 05/16/2014 | Eskandar, Milna | 02/29/1992 | | | 100 Union Dr Apt 336 | Albany, NY 12208 |
| PSI | 32498 | 05/16/2014 | Harris, Candice Rene | 12/23/1987 | | | 7003 Presidents Dr Suite 250 | Orlando, FL 32809 |
| PSI | 32499 | 05/19/2014 | Patel, Vrunda T | 08/06/1991 | St Louis College Of Pharmacy | | 4482 Lindell Blvd Apt 307 | Saint Louis, MO 63108 |
| PSI | 32500 | 05/19/2014 | Mclean-Coleman, Shawn Narine | 11/26/1974 | | | 14921 Sw 25Th Circle | Ocala, FL 34473 |
| PSI | 32501 | 05/20/2014 | Wilson, Rebecca Ann | 11/26/1988 | Mercer University | | 9825 Gate Pkwy N Apt 5301 | Jacksonville, FL 33246 |
| PSI | 32502 | 05/20/2014 | Burt, Kristin Rose | 05/08/1991 | | | 104 Shallow Brook Drive | Columbia, SC 29223 |
| PSI | 32503 | 05/21/2014 | Chase, Julia Nicole | 03/30/1991 | Ohio Northern University | | 647 Robin Drive | Eastlake, OH 44095 |
| PSI | 32504 | 05/21/2014 | Vongphouthone, Stephanie Kiku | 07/30/1992 | | | 16 Van Cleef St | Seneca Falls, NY 13148 |
| PSI | 32505 | 05/21/2014 | D'Agostino, Andrew Davis | 04/17/1989 | Albany College Of Pharmacy | | 220 Perimeter Dr Apt 208 | Colchester, VT 05446 |
| PSI | 32506 | 05/21/2014 | Mercer, Zachary D | 04/08/1991 | South Carolina College Of Pharmacy | | 17737 New Hampshire Ave | Ashton, MD 20861 |
| PSI | 32507 | 05/21/2014 | Hille, Joshua Allen | 11/17/1988 | Ohio Northern University | | 7089 North Cedar Street | Curtice, OH 43412 |
| PSI | 32508 | 05/21/2014 | Bensing, Abbey Elizabeth | 07/05/1990 | Ohio Northern University | | 2744 Ravine Run | Cortland, OH 44410 |
| PSI | 32509 | 05/22/2014 | Yassa, Fady Samah Sammy | 11/06/1989 | | | 11988 Princess Grace Ct | Cape Coral, FL 33991 |
| PSI | 32510 | 05/22/2014 | Cayobit, Faith Christine | 02/26/1991 | | | 17091 Sw 92Nd Ct | Miami, FL 33157 |
| PSI | 32511 | 05/22/2014 | Mantel, Rivkah Dora | 03/04/1989 | St. John Fisher College Wegmans School Of Pharmacy | | 1200 Linton Blvd | Delray Beach, FL 33444 |
| PSI | 32512 | 05/23/2014 | Darling, Deonna | 11/05/1989 | South University | | 4231 Sorrells Blvd | Powder Springs, GA 30127 |
| PSI | 32513 | 05/23/2014 | Berhanu, Workalemahu Mikre | 11/06/1973 | Other:Other | School Of Pharmacy Addis Ababa University, Ethiopia;University Of Central Florida | 595 W. Church St Suite H | Orlando, FL 32805 |
| PSI | 32514 | 05/23/2014 | Graham, Molly Ann | 06/15/1991 | St Louis College Of Pharmacy | | 3805 Lindell Biv Apt K | St. Louis, MO 63108 |



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|------|---------|------------|----------------------------|------------|--|--|---------------------------------|--------------------------|
| PSI | 32515 | 05/23/2014 | Crook, Janet Elizabeth | 07/19/1991 | | | 8420 Steele Creek Rd | Charlotte, NC 28273 |
| PSI | 32516 | 05/23/2014 | Converse, Maureen Patricia | 08/21/1991 | University Of Toledo | | 1262 Surrey Run | East Aurora, NY 14052 |
| PSI | 32517 | 05/23/2014 | Bell, Sally Claire | 01/27/1990 | South Carolina College Of Pharmacy | | 1436 Thornwell Ave | Rock Hill, SC 29732 |
| PSI | 32518 | 05/27/2014 | Saldana, Christie Asuncion | 12/26/1987 | Belmont University | | 377 Athens Way Apt. 320 | Nashville, TN 37228 |
| PSI | 32519 | 05/27/2014 | Thalla, Adam | 09/12/1989 | St Louis College Of Pharmacy | | 8526 Monticello Ave | Skokie, IL 60076 |
| PSI | 32520 | 05/27/2014 | Saeed, Mazen | 06/29/1985 | Albany College Of Pharmacy | | 397 Ruskin Rd | Amherst, NY 14226 |
| PSI | 32521 | 05/28/2014 | Elmalik, Ashraf Mustafa | 08/05/1971 | Foreign Schools | Faculty Of Pharmacy, University Of Khartoum, Sudan | 2886 Sutton Estates Cir S | Jacksonville, FL 32223 |
| PSI | 32522 | 05/28/2014 | Fuad, Michael Boulos | 10/05/1983 | Other | | 2711 N # 493 2711 N Halifax Ave | Daytona Beach, FL 32118 |
| PSI | 32523 | 05/29/2014 | Wengenack, Alissa Emily | 06/01/1992 | | | 4300 Alton Road | Miami Beach, FL 33140 |
| PSI | 32524 | 05/29/2014 | Rivera-Torres, Nicole M | 07/03/1987 | | | 3481 Premier Dr | Casselberry, FL 32707 |
| PSI | 32525 | 05/29/2014 | Timmons, Matthew Lee | 12/28/1990 | South Carolina College Of Pharmacy | | 202 Gadsden Street | Columbia, SC 29201 |
| PSI | 32526 | 05/29/2014 | Lee, Eric Joseph | 07/29/1990 | Duquesne University | | 863 Goucher St | Johnstown, PA 15905 |
| PSI | 32527 | 05/29/2014 | Sousa, Kristen Marie | 02/27/1990 | | | 2227 North Young Blvd | Chiefland, FL 32626 |
| PSI | 32528 | 05/29/2014 | Nguyen, Christina | 12/26/1986 | University Of Charleston | | 9550 Gallagher Rd | Dover, FL 33527 |
| PSI | 32529 | 05/29/2014 | Mogle, Bryan Thomas | 07/12/1991 | Suny At Buffalo | | 15 Minnesota Avenue | Buffalo, NY 14214 |
| PSI | 32530 | 05/29/2014 | Pfund, Jade Alexandra | 09/26/1991 | Ohio Northern University | | 9615 Coomer St. | Morenci, MI 49256 |
| PSI | 32531 | 05/30/2014 | Musch, Joshua Edward | 10/11/1990 | | | 22 35 Parr Drive | The Villages, FL 32162 |
| PSI | 32532 | 05/30/2014 | Brown, William Arthur | 06/15/1986 | Other | | 625 Old Peachtree Road Nw | Suwanee, GA 30024 |
| PSI | 32533 | 05/30/2014 | Horvath, John Andrew | 06/19/1990 | Massachusetts College Of Phar & Allied H | | 2131 N Meridian Road Suite 216 | Tallahassee, FL 32303 |
| PSI | 32534 | 05/30/2014 | Gromilic, Jasmína | 01/24/1991 | Albany College Of Pharmacy | | 44 New Hartford St. 3B | New York Mills, NY 13417 |

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|------|---------|------------|----------------------------|------------|--|-------------------------------------|---|---------------------------|
| PSI | 32535 | 05/30/2014 | Forsythe, Corey Jeffrey | 06/25/1989 | | | 301 West Rd. | Ocoee, FL 34761 |
| PSI | 32536 | 06/02/2014 | Nguyen, Helen Thanh | 12/13/1989 | | University Of Saint Joseph | 64 -3 Deenwood Lane | Waterbury, CT 06704 |
| PSI | 32537 | 06/03/2014 | Smith, Donald Edward | 08/08/1988 | University Of Charleston | | 1 Morris Street Apt. 512 | Charleston, WV 25301 |
| PSI | 32538 | 06/03/2014 | Johnson, Jami Nichole | 01/18/1989 | University Of Oklahoma | | Uf Health-Jacksonville 655 W. 8Th Street | Jacksonville, FL 32209 |
| PSI | 32539 | 06/03/2014 | Baker, Matthew William | 10/01/1989 | St Louis College Of Pharmacy | | 7400 North St Rte 159 | Moro, IL 62067 |
| PSI | 32540 | 06/03/2014 | Dreier, Britney Jean | 01/31/1991 | St Louis College Of Pharmacy | | 10535 Oak Lake Trail | Watertown, MN 55388 |
| PSI | 32541 | 06/04/2014 | Carr, Cassandra Code | 01/23/1990 | | | 732 Prospect | Webb City, MO 64870 |
| PSI | 32542 | 06/04/2014 | Creel, Ben W | 09/17/1988 | | | 29150 Lake Forest Blvd. Suite 1804 | Daphne, AL 36526 |
| PSI | 32543 | 06/04/2014 | Poole, Kimberly Patricia | 12/14/1987 | | | 128 Lakeside Drive | Oldsmar, FL 34677 |
| PSI | 32544 | 06/05/2014 | Jones, Gina Marie | 03/28/1991 | Ohio Northern University | | 2739 Ravine Run | Cortland, OH 44410 |
| PSI | 32545 | 06/05/2014 | Brown, Alex M | 04/24/1991 | Ohio Northern University | | 18549 Walnut Dr | Strongsville, OH 44149 |
| PSI | 32546 | 06/05/2014 | Anthony, Michael Edward | 12/07/1989 | Philadelphia College Of Pharmacy And Sci | | 19070 South Tamiami Trail | Fort Myers, FL 33908 |
| PSI | 32547 | 06/05/2014 | Nguyen, Victoria Vu | 12/31/1982 | University Of Toledo | | 1423 Oak Hill Ct Apt 46 | Toledo, OH 43614 |
| PSI | 32548 | 06/05/2014 | Morkos, Yehia Lofii Demian | 11/22/1984 | Foreign Schools | | 1321 Lisabelle Ln Apt 8307 | Holiday, FL 34691 |
| PSI | 32549 | 06/05/2014 | Karl, John Charles | 03/10/1986 | Philadelphia College Of Pharmacy And Sci | | 3299 N Woodland Blvd | Deland, FL 32720 |
| PSI | 32550 | 06/05/2014 | Lambert, Jessica Amelia | 12/19/1989 | Auburn University Main Campus | | 650 Clinic Drive | Mobile, AL 36608 |
| PSI | 32551 | 06/10/2014 | Abdallah, Ann Wageh Wissa | 02/22/1988 | | | 200 S Rosemary Ave | West Palm Beach, FL 33401 |
| PSI | 32552 | 06/10/2014 | Elgebaly, Mostafa Mahmoud | 12/22/1978 | Other | | 1000 Watermark Pl Apt 1323 | Columbia, SC 29210 |
| PSI | 32553 | 06/11/2014 | Villasis, Stephanie Marie | 04/01/1988 | University Of New England | Cairo University School Of Pharmacy | 129 535 Nw 129Th Way | Pembroke Pines, FL 33028 |
| PSI | 32554 | 06/11/2014 | Khalil, Ivana | 02/27/1992 | Albany College Of Pharmacy | | 4300 Alton Rd | Miami Beach, FL 33140 |



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|------|---------|------------|---------------------------------|------------|--|---|---|------------------------|
| PSI | 32555 | 06/11/2014 | Koronowski, Bryan Kendall | 03/14/1987 | Lake Erie Coll. Of Osteo Med. Sch. Of Pharm. | | Walgreens Floating Intern | Fort Myers, FL 33913 |
| PSI | 32556 | 06/11/2014 | Nutt, Charlotte Amanda | 07/26/1983 | University Of Wyoming | | 2367 Harrison St Apt #2 | Laramie, WY 82070 |
| PSI | 32557 | 06/11/2014 | O'Connor, Curtis Luke | 02/18/1988 | Foreign Schools | University Of Manchester | 40 Camelot Ridge Dr | Brandon, FL 33511 |
| PSI | 32558 | 06/11/2014 | Huang, April Jade | 04/11/1990 | Suny At Buffalo | | 1302 River Street | Palatka, FL 32177 |
| PSI | 32559 | 06/11/2014 | Pavisin, Analise Lynn | 10/01/1986 | University Of Florida;Mercer University | | 3225 Flowers Road South Apartment U | Atlanta, GA 30341 |
| PSI | 32560 | 06/11/2014 | Patel, Melissa Pravin | 03/11/1990 | Other;University Of Florida | Mcwhorter School Of Pharmacy - Sanford University | 2889 Crowne Ridge Dr | Birmingham, AL 35243 |
| PSI | 32561 | 06/11/2014 | Kha, Janet | 04/19/1990 | University Of Tennessee-Central Office | | 9614 Tivoli Ridge Run | Orlando, FL 32829 |
| PSI | 32562 | 06/11/2014 | Monahan, Katherine F | 08/15/1990 | Philadelphia College Of Pharmacy And Sci | | 4 Old Chester Rd | Goshen, NY 10924 |
| PSI | 32563 | 06/11/2014 | Bui, Tiffany Thien Trang Nguyen | 03/17/1990 | | | 600 Main St #1402 | Worcester, MA 01608 |
| PSI | 32564 | 06/12/2014 | Misko, Michelle K | 09/02/1974 | Idaho State University | | 595 West Granada Blvd Suite K | Ormond Beach, FL 32174 |
| PSI | 32565 | 06/12/2014 | Mirza, Ayisha | 08/08/1986 | Other | University Of Lahore, Pakistan | 6747 Woodcrest Dr | Troy, MI 48098 |
| PSI | 32566 | 06/12/2014 | Farag, George Adel Kamal | 08/27/1985 | Other | College Of Pharmacy, Cairo University | 1321 Lisabelle Ln, Apt#8307 1321 Lisabelle Ln | Holiday, FL 34691 |
| PSI | 32567 | 06/13/2014 | Healy, Daniel James | 11/01/1989 | Lake Erie Coll. Of Osteo Med. Sch. Of Pharm. | | 12550 Professional Park Drive, Unit1 | Fl. Myers, FL 33913 |
| PSI | 32568 | 06/13/2014 | Dhokne, Akash Champtrao | 09/03/1978 | Other | Government College Of Pharmacy, Amravati, India | 310/25 Centreway Road 310/252 Cetnreway Road | |
| PSI | 32569 | 06/16/2014 | Matev, Dmitriy | 10/03/1990 | | | 580 West 8Th Street | Jacksonville, FL 32209 |
| PSI | 32570 | 06/17/2014 | Gordon, Timothy | 06/22/1988 | Lake Erie Coll. Of Osteo Med. Sch. Of Pharm. | | 5731 Carriage Hill Dr Apt 7 | Erie, PA 16509 |
| PSI | 32571 | 06/17/2014 | Clemans, Emily Paige | 11/04/1991 | Other | Presbyterian College School Of Pharmacy | 703 Summit Square | Columbia, SC 29229 |
| PSI | 32572 | 06/17/2014 | Caveda-Martinez, Hortensia | 04/18/1972 | | | 15675 Sw 82 Circle Ln Apt 36 | Miami, FL 33193 |

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|------|---------|------------|-----------------------------|------------|---|--|---------------------------------|-------------------------|
| PSI | 32573 | 06/17/2014 | Huang, Jinjie | 07/31/1987 | | | 2910 N. Adelaide Farms Pl | Tucson, AZ 85719 |
| PSI | 32574 | 06/17/2014 | Hart, Nichole Marie | 09/11/1992 | | | 4300 Alton Rd | Miami, FL 33140 |
| PSI | 32575 | 06/18/2014 | Patel, Mehukumar Manubhai | 02/04/1980 | Other | North Maharashtra University, Maharashtra, India | 5413 Whetstone Road | Richmond, VA 23234 |
| PSI | 32576 | 06/18/2014 | Kummari, Govindu N | 10/31/1978 | Foreign Schools | Kakatiya University | 1500 Preston Rd Apt 1509 | Piano, TX 75093 |
| PSI | 32577 | 06/18/2014 | Vickery, Jennifer Lynn | 10/06/1989 | Campbell University Incorporated | | 417 North Briggs Ave Apt 732 | Sarasota, FL 34237 |
| PSI | 32578 | 06/18/2014 | Hafez, Mustata Mohammed | 08/21/1988 | Other | Alexandria University Faculty Of Pharmacy | 1352 Sunfield St Apt. 2 | Sun Prairie, WI 53590 |
| PSI | 32579 | 06/18/2014 | Vo, Vincent V | 12/31/1984 | University Of Maryland School Of Pharmacy | | 149 Onley Rd | Salisbury, MD 21804 |
| PSI | 32580 | 06/19/2014 | Sloan, John Lloyd | 02/10/1989 | | | 8986 Ortega Park Dr | Navarre, FL 32566 |
| PSI | 32581 | 06/23/2014 | Singh, Gurpreet | 05/06/1983 | Appalachian College Of Pharmacy | | 3166 Coneflower Dr | Tallahassee, FL 32311 |
| PSI | 32582 | 06/24/2014 | Voytovich, Catherine Mary | 10/24/1988 | | | 140 Pine St | Hamburg, NY 14075 |
| PSI | 32583 | 06/24/2014 | Sothoron, Conner Gregory | 11/27/1987 | Other | Notre Dame Of Maryland University | 140 Saint Johns Forest | Jacksonville, FL 32259 |
| PSI | 32584 | 06/24/2014 | Bunkley, Megan Nicole | 10/28/1986 | South University | | 25 Gill Road | Richmond Hill, GA 31324 |
| PSI | 32585 | 06/25/2014 | Weiss, Erika Ann | 06/14/1990 | Lake Erie Coll. Of Osteo Med. Sch. Of Pharm.; Ohio State University Main Campus | | 204 Wilma Ave | Steubenville, OH 43952 |
| PSI | 32586 | 06/25/2014 | Waller, Shonda Shanelle | 02/22/1986 | Hampton University School Of Pharmacy | | 1302 River St | Palatka, FL 32177 |
| PSI | 32587 | 06/25/2014 | Al-Sekooty, Zina Isam Kamal | 09/14/1990 | | | 220 E. University Blvd Apt 1203 | Melbourne, FL 32901 |
| PSI | 32588 | 06/25/2014 | Flock, Anna Helen | 02/07/1991 | Other | Mcwhorter School Of Pharmacy--Samford University | 801 Montclair Rd #4319 | Birmingham, AL 35213 |
| PSI | 32589 | 06/25/2014 | Simpson, Sarah Rachelle | 03/18/1990 | Union University | | 5006 Sunset Blvd. | Port Richey, FL 34668 |
| PSI | 32590 | 06/25/2014 | Razzok, Deena | 08/12/1976 | | | 1451 Kensington Woods Drive | Lutz, FL 33549 |
| PSI | 32591 | 06/25/2014 | Flores Guillen, Magdalena | 04/27/1973 | | | 1250 Nw 7Th St | Miami, FL 33125 |



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|------|---------|------------|--------------------------|------------|--|-----------------|-------------------------------|-------------------------|
| PSI | 32592 | 06/26/2014 | Randolph, Zachary Hayes | 09/19/1990 | Lake Erie Coll. Of Osteo Med. Sch. Of Pharm. | | 2660 West 38Th Street | Erie, PA 16506 |
| PSI | 32593 | 06/26/2014 | Lange, Alexander Vincent | 04/16/1987 | University Of Missouri-Kansas City | | 1850 Nw Chipman Road | Lee'S Summit, MO 64081 |
| PSI | 32594 | 06/26/2014 | Kahn, Saira Ava | 10/03/1981 | Regis University | | 325 Heritage Mill Dr. Apt 301 | St. Augustine, FL 32084 |

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|------|---------|------------|-------------------------------|------------|-----------------------------------|-------------------------------|--|------------------------------|
| RPT | 53886 | 05/01/2014 | Rodriguez, Yamiliet | 04/04/1974 | Other | Fortis College | 8625 Nw 8Th Street Apt # 202 | Miami, FL 33126 |
| RPT | 53887 | 05/01/2014 | Anders, Theresa Marie | 10/14/1962 | Cvs Caremark | | 10088 Edmonton Ave. | Englewood, FL 34224 |
| RPT | 53888 | 05/01/2014 | Zugg, Jacqueline | 09/12/1983 | Cvs Caremark | | 5610 Marigold Way #202 | Naples, FL 34109 |
| RPT | 53889 | 05/01/2014 | Ellison, Ashley Kay | 08/15/1986 | Cvs Caremark | | 4710 Palm Beach Blvd | Fort Myers, FL 33905 |
| RPT | 53890 | 05/01/2014 | Byrne, Kevin | 01/05/1990 | Walgreens | | 1803 Chapel Tree Cr. | Brandon, FL 33511 |
| RPT | 53891 | 05/01/2014 | Seays, Veronica | 07/10/1983 | Cvs Caremark | | 4344 Emerald Vista | Lake Worth, FL 33461 |
| RPT | 53892 | 05/01/2014 | Barlatter, Zoe E | 03/19/1993 | Cvs Caremark | | 1765 14Th Ave Sw | Vero Beach, FL 32962 |
| RPT | 53893 | 05/01/2014 | Godbout, Lisa Marie | 10/28/1994 | University Of Florida | | 2469 Charwood Ct | Orange Park, FL 32065 |
| RPT | 53894 | 05/01/2014 | Taveras, Suhanny Alisabel | 05/16/1988 | Walgreens | | 1300 Hallondale Beach Blvd | Hallandale, FL 33009 |
| RPT | 53895 | 05/01/2014 | Centeno, Wendy Michele | 12/31/1966 | Publix Super Market, Inc. | | 8018 Ibis Reserve Circle | West Palm Beach, FL 33412 |
| RPT | 53896 | 05/01/2014 | Santana Hernandez, Annelisse | 04/03/1983 | | Florida Education Institute | 249 S. Royal Poinciana Blvd Suite #202 | Miami, FL 33166 |
| RPT | 53897 | 05/01/2014 | Hensley, Shon Marie | 08/27/1971 | Walmart And Sam'S Club Pharmacies | | 1820 Fuzzy Lane | Green Cove Springs, FL 32043 |
| RPT | 53898 | 05/01/2014 | Guzman, Edson | 07/14/1995 | Cvs Caremark | | 5418 5418 Sw 89 Pl | Miami, FL 33165 |
| RPT | 53899 | 05/01/2014 | Delgado Lopez, Lilee | 03/04/1992 | Other | Professional Training Centers | 6300 Sw 138 Ct. #207 | Miami, FL 33183 |
| RPT | 53900 | 05/01/2014 | Ashmore, Kimberly Ann | 10/17/1968 | Walmart And Sam'S Club Pharmacies | | 355 Cypress Gardens Blvd | Winter Haven, FL 33880 |
| RPT | 53901 | 05/01/2014 | Thompson, Hunter Christine | 06/01/1992 | Cvs Caremark | | 8 Short Vine St | Crawfordville, FL 32327 |
| RPT | 53902 | 05/01/2014 | Libby, Francesca Marie | 08/27/1988 | Walgreens | | 1250 Sw Kalevala Dr | Port Saint Lucie, FL 34953 |
| RPT | 53903 | 05/01/2014 | Rodriguez Garcia, Beangelly | 05/21/1992 | Cvs Caremark | | 5 Spoon Pl. | Kissimmee, FL 34759 |
| RPT | 53904 | 05/01/2014 | Stanley, Alexander Kristopher | 02/11/1991 | Publix Super Market, Inc. | | 4850 First Coast Technology Parkway | Jacksonville, FL 32224 |
| RPT | 53905 | 05/01/2014 | Zions, Marta | 03/22/1959 | Cvs Caremark | | 7930 Woodland Center Blvd Suite 500 | Tampa, FL 33614 |
| RPT | 53906 | 05/01/2014 | Jackson, Porsha D Morgan | 01/30/1989 | Virginia College | | 2520 Calvin Street | Jacksonville, FL 32204 |
| RPT | 53907 | 05/01/2014 | Hollinhead, Haleigh Morgan | 10/28/1994 | Cvs Caremark | | 6018 Blueberry Lane | Crestview, FL 32536 |
| RPT | 53908 | 05/01/2014 | Archer, Rocky Alexander | 03/14/1985 | Publix Super Market, Inc. | | 4351 S Hwy 27 | Clermont, FL 34711 |



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|------|---------|------------|--------------------------|------------|---------------------------|--|----------------------------------|--------------------------|
| RPT | 53909 | 05/01/2014 | James, Reginald Burris | 07/10/1962 | Virginia College | | 3257 Sweetwater Springs Blvd #58 | Spring Valley, CA 91978 |
| RPT | 53910 | 05/01/2014 | Gonzalez, Aimara Rita | 11/13/1987 | Publix Super Market, Inc. | | 3644 Sw 24 St | Miami, FL 33145 |
| RPT | 53911 | 05/01/2014 | Henderson, Ju'Vontae | 05/20/1994 | Other | Ultimate Medical Academy | 2006 E. Mulberry Drive Apt A | Tampa, FL 33604 |
| RPT | 53912 | 05/01/2014 | Arnold, Lillian Beth | 01/05/1990 | | | 2670 Sims Cove Ln | Jacksonville, FL 32223 |
| RPT | 53913 | 05/01/2014 | Archuleta, Alyson Marie | 12/24/1993 | Walgreens | | 288 Lighthouse Reach | Saint Marys, GA 31558 |
| RPT | 53914 | 05/01/2014 | Stevenson, Angela | 11/16/1989 | Publix Super Market, Inc. | | 4785 Barkley Circle | Fort Myers, FL 33907 |
| RPT | 53915 | 05/01/2014 | Simmons, Jammal L | 05/19/1974 | Other | Everest University-Jacksonville | 6613 Kinlocke Drive West | Jacksonville, FL 32219 |
| RPT | 53916 | 05/01/2014 | Trujillo Perez, Zorlem | 02/08/1991 | Walgreens | | 11951 Sw 24 Terrace | Miami, FL 33175 |
| RPT | 53917 | 05/01/2014 | Gomez, Nixzaly L | 08/09/1982 | Cvs Caremark | | 12825 12825 Illinois Woods Ln | Orlando, FL 32824 |
| RPT | 53918 | 05/01/2014 | Augustin, Daniel | 04/30/1988 | Walgreens | | 3573 North Federal Hwy | Pompano, FL 33064 |
| RPT | 53919 | 05/01/2014 | Perez, German Jr | 11/23/1991 | Other | Barry University;Steps Corp. | 144 St 7370 Sw 144 St | Palmetto Bay, FL 33158 |
| RPT | 53920 | 05/01/2014 | Odell, Kayla Hazel | 07/16/1991 | Walgreens | | 395 East Van Fleet Drive | Barrow, FL 33830 |
| RPT | 53921 | 05/01/2014 | Mcaloon, Timothy | 04/13/1959 | Omnicare, Inc. | | 6802 Florida Mining Rd. | Tampa, FL 33614 |
| RPT | 53922 | 05/01/2014 | Ojalvo, Beth Jody | 11/18/1960 | Cardinal Health 414, Llc | | 809 S. Orlando Avenue Suite Q | Winter Park, FL 32789 |
| RPT | 53923 | 05/01/2014 | Palmero, Paula Virginia | 08/31/1991 | Other | Everest University;Everest University North Orlando | 2511 Hunley Loop | Kissimmee, FL 34743 |
| RPT | 53924 | 05/01/2014 | Pena, Barbara Nelida | 12/19/1977 | Other | Miami Dade College;Miami Dade Medical Campus | 2 7950 Nw 2 St | Miami, FL 33126 |
| RPT | 53925 | 05/01/2014 | Olympio, Nicole M | 04/29/1991 | Publix Super Market, Inc. | | 86 Ave 1931 Nw 86 Ave | Pembroke Pines, FL 33024 |
| RPT | 53926 | 05/01/2014 | Martinez, Crystal Elaine | 09/21/1986 | Cvs Caremark | | Balboa 707 Balboa Ave | Inverness, FL 34452 |
| RPT | 53927 | 05/01/2014 | Kahoun, Carla | 02/21/1967 | Cvs Caremark | | 524 Stokes Road | Medford, NJ 08055 |
| RPT | 53928 | 05/01/2014 | Mcleod, Maureen Ann | 10/06/1955 | University Of Florida | | 4002 Aspen Leaf Way | Valrico, FL 33596 |
| RPT | 53929 | 05/01/2014 | Rodriguez Diaz, Madelito | 11/27/1971 | | Florida Education Institute | 97 Sw 76 Court | Miami, FL 33144 |
| RPT | 53930 | 05/01/2014 | Librojo, Vicky Marie | 07/10/1989 | Other | Seminole State College;Seminole State College Of Florida | 612 Lakepark Trail | Oviedo, FL 32765 |



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|------|---------|------------|-------------------------------|------------|---|---|------------------------------------|---------------------------------|
| RPT | 53931 | 05/01/2014 | Rodriguez, Alenna Angela | 06/06/1993 | Walgreens | | 1300 E Hallandale Beach Blvd | Hallandale, FL 33009 |
| RPT | 53932 | 05/01/2014 | Ramirez, Daniel | 12/03/1986 | | Infupharma | 30221 Sw 171 Ave | Homestead, FL 33030 |
| RPT | 53933 | 05/01/2014 | Juste Faustin, Lovencia | 03/12/1986 | Target Pharmacy | | 3200 N Federal Hwy | Fort Lauderdale, FL 33306 |
| RPT | 53934 | 05/02/2014 | Davis, Dana Marie | 09/19/1995 | Cvs Caremark | | 2669 W. Flame Loop | Citrus Springs, FL 34434 |
| RPT | 53935 | 05/02/2014 | Barrett, John Douglas | 03/30/1954 | Other | Mci Institute Of Technology | 12029 Suellen Circle | Wellington, FL 33414 |
| RPT | 53936 | 05/02/2014 | Garcia, Lazaro | 11/02/1994 | Other | Everest Institute | 10503 Nw 36 Place | Miami, FL 33147 |
| RPT | 53937 | 05/02/2014 | Garcia, Saray | 03/26/1981 | Other | Everest Institute- Miami;Everest Institute | 285 W. 60 Street | Hialeah, FL 33012 |
| RPT | 53938 | 05/02/2014 | Davis, Rhonda Faye | 10/24/1965 | | | 10205 Majestic Palm Cir Apt 203 | Riverview, FL 33578 |
| RPT | 53939 | 05/02/2014 | Delgado, Raciell | 04/03/1969 | Walgreens | | 121 Crossways Drive | Leesburg, FL 34788 |
| RPT | 53940 | 05/02/2014 | Delgado, Andres | 10/10/1994 | Other | Everest Institute | 16816 Nw 91 Avenue | Miami, FL 33018 |
| RPT | 53941 | 05/02/2014 | Acosta Peteiro, Aniunys | 01/14/1982 | | | 2055 Sw 122 Ave #123 | Miami, FL 33175 |
| RPT | 53942 | 05/02/2014 | Capdevilla, Nidia R | 09/04/1965 | | | 10010 N W 9Th St Circle #102 | Miami, FL 33172 |
| RPT | 53943 | 05/02/2014 | Bender, Rory Evan | 06/13/1987 | | | 11000 N. Military Trail | Palm Beach Gardens, FL 33418 |
| RPT | 53944 | 05/02/2014 | Gonzalez, Carmen Gabriela | 07/16/1993 | Other | Heritage Institute | 115 Lucille Avenue | Fort Myers, FL 33916 |
| RPT | 53945 | 05/02/2014 | Einsmann, Ashley Marlane | 06/18/1993 | Cvs Caremark | | 1010 Bloomingdale Ave | Valrico, FL 33596 |
| RPT | 53946 | 05/02/2014 | Crawford, Fabree' D | 01/17/1992 | Cvs Caremark | | 5310 45Th St East | Bradenton, FL 34203 |
| RPT | 53947 | 05/02/2014 | Gannon, Marie | 07/21/1968 | Cvs Caremark | | 8247 Brentwood Road | Largo, FL 33777 |
| RPT | 53948 | 05/02/2014 | Burch, Katelyn Nicole | 10/08/1994 | Publix Super Market, Inc. | | 7800 Old Lake Wilson Rd | Davenport, FL 33896 |
| RPT | 53949 | 05/02/2014 | Dinan, Amanda Lee | 12/05/1993 | | | 317 Berenger Walk | West Palm Beach, FL 33414 |
| RPT | 53950 | 05/02/2014 | Joanis, Francia B | 10/02/1987 | Medical Institute Of Palm Beach, Inc | | 616 Fern Street | West Palm Beach, FL 33401 |
| RPT | 53951 | 05/02/2014 | Chirino, Aolani B | 01/22/1993 | Publix Super Market, Inc. | | 4Th St 830 Se 4Th St | Hialeah, FL 33010 |
| RPT | 53952 | 05/02/2014 | Carucci, Sarah Luisa | 01/13/1971 | | | 1600 Lakeland Hills Blvd. | Lakeland, FL 33805 |
| RPT | 53953 | 05/02/2014 | Hartzell, Sabrina Rachelle | 10/09/1988 | | | 613 N 9Th St. | Fort Pierce, FL 34950 |



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|------|---------|------------|---------------------------------|------------|---------------------------|--------------------|---------------------------------|-----------------------------|
| RPT | 53954 | 05/02/2014 | Hollinger, Mary Ann | 06/05/1969 | Publix Super Market, Inc. | | 2338 E.Irlo Bronson Highway | Kissimmee, FL 34744 |
| RPT | 53955 | 05/02/2014 | Burns, Amanda Grace | 08/28/1980 | Wal-Mart | | 15495 Panama City Beach Parkway | Panama City Beach, FL 32413 |
| RPT | 53956 | 05/02/2014 | Arteaga, Angela | 05/18/1986 | Cvs Caremark | | 110 Flamingo Drive | Satellite Beach, FL 32937 |
| RPT | 53957 | 05/02/2014 | Griffith, Shanais Antonia | 06/10/1992 | | | 37077 Oak Arbour Ln. Apt 105 | Dade City, FL 33525 |
| RPT | 53958 | 05/02/2014 | Calvillo, Mayra | 08/11/1992 | Cvs Caremark | | 2515 Shadowlawn Dr | Naples, FL 34112 |
| RPT | 53959 | 05/02/2014 | Comandari, Samuel Antonio | 09/21/1989 | Other | Steps Corp | 6900 North University Drive | Tamarac, FL 33321 |
| RPT | 53960 | 05/02/2014 | Cabrera, Lissandra | 11/26/1985 | Walgreens | | 7810 West 28 Ave Apt 102 | Hiialeah, FL 33018 |
| RPT | 53961 | 05/02/2014 | Guernsey, Crystal A | 09/11/1989 | Other | Everest University | 1065 Grove Park Dr | Orange Park, FL 32073 |
| RPT | 53962 | 05/02/2014 | Haddix, Sarah Marie | 10/09/1978 | Cvs Caremark | | 6277 16Th Way S | West Palm Beach, FL 33415 |
| RPT | 53963 | 05/02/2014 | Arnold, Christian Ross | 10/15/1984 | Cvs Caremark | | 202 Magnolia Avenue | Cantonment, FL 32533 |
| RPT | 53964 | 05/02/2014 | Calvillo Reyes, Maria Emseralda | 05/21/1986 | | | 2423 Orange Ave | Fort Pierce, FL 34950 |
| RPT | 53965 | 05/02/2014 | Farguhar, Michaela Rae | 07/17/1992 | Cvs Caremark | | 9105 Lido Lane | Port Richey, FL 34668 |
| RPT | 53966 | 05/02/2014 | Ghani, Fazeena | 12/06/1988 | Cvs Caremark | | 11100 Pines Blvd | Hollywood, FL 33026 |
| RPT | 53967 | 05/02/2014 | Dorema, Eddy | 01/04/1990 | Other | Everest Institute | 111 Ne 50Th Street | Miami, FL 33137 |
| RPT | 53968 | 05/02/2014 | Covey, Kayela Ashley | 10/18/1989 | Cvs Caremark | | 720 Sw 69Th Terr Apt D | Gainesville, FL 32607 |
| RPT | 53969 | 05/02/2014 | Campbell, Shari Lynn | 07/01/1984 | Other | Everest University | 1318 N. Chestnut Road | Lakeland, FL 33805 |
| RPT | 53970 | 05/02/2014 | Alberto, Kenly | 07/13/1993 | Publix Super Market, Inc. | | 665 Nw 143Rd St | Miami, FL 33168 |
| RPT | 53971 | 05/02/2014 | Bryant Smith, Erica Michelle | 02/09/1979 | | | 2023 Nw 34Th Ave | Gainesville, FL 32605 |
| RPT | 53972 | 05/02/2014 | Garcia, Erisniel | 10/21/1994 | Other | Steps Corp | 9700 Sw 92 Ave | Miami, FL 33176 |
| RPT | 53973 | 05/02/2014 | Batten, Tiffany Jeananne | 07/10/1982 | Winn Dixie | | 174 4245 Ne 174Th Ct | Silver Springs, FL 34488 |
| RPT | 53974 | 05/02/2014 | Harrison, Miranda Nicole | 04/25/1995 | Cvs Caremark | | 1235 1235 N 14Th Street | Leesburg, FL 34748 |
| RPT | 53975 | 05/02/2014 | Claus, Jonathan Michael | 12/15/1989 | | | 3501 49Th St N | Saint Petersburg, FL 33710 |
| RPT | 53976 | 05/02/2014 | Clark, Albert Thomas V | 09/11/1981 | Cardinal Health 414, Llc | | 8068 28Th Ave N | St. Petersburg, FL 33710 |



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|------|---------|------------|-----------------------------------|------------|---------------------------------|---|--|----------------------------|
| RPT | 53977 | 05/02/2014 | Fundora, Liliana | 09/07/1988 | Yady Pharmacy And Discount Inc. | | 3561 Sw 145Th Ave | Miramar, FL 33027 |
| RPT | 53978 | 05/02/2014 | Cruz, Yaretxy | 07/23/1979 | Elsa Pharmacy Inc | | 555 E 25 St 555 E 25 St | Hiialeah, FL 33013 |
| RPT | 53979 | 05/02/2014 | Burchett, Jamar Martin | 10/03/1989 | Publix Super Market, Inc. | | 10920 Baymeadows Rd | Jacksonville, FL 32256 |
| RPT | 53980 | 05/02/2014 | Gamble, Brian Lamar | 07/14/1991 | Jacksonville Job Corps Center | | 131 440 Nw 131 St | Miami, FL 33168 |
| RPT | 53981 | 05/02/2014 | Hester, Arielle Jenay | 03/23/1989 | Jacksonville Job Corps Center | | 770 West 4Th Street Apt 5002 | Jacksonville, FL 32209 |
| RPT | 53982 | 05/02/2014 | Burton, Shanice Nicole | 06/12/1987 | Walgreens | | 6700 Collins Ave | Miami, FL 33141 |
| RPT | 53983 | 05/02/2014 | Pastoriza Herrera, Rocio | 02/20/1988 | Other | Pharmacy Technicians University | 1514 Cecilia Avenue Coral Gables | Miami, FL 33146 |
| RPT | 53984 | 05/02/2014 | Higgins, Carli | 10/12/1994 | Publix Super Market, Inc. | | 127 Florida 7 | Royal Palm Beach, FL 33414 |
| RPT | 53985 | 05/02/2014 | Emory, Brandi | 08/06/1981 | Publix Super Market, Inc. | | 2648 Edgewater Falls Dr | Brandon, FL 33511 |
| RPT | 53986 | 05/02/2014 | Colon, Xiomarie | 06/22/1983 | Other | Passassured Pharmacy Technician Program | 2918 Drew St Apt 233 | Cleawater, FL 33759 |
| RPT | 53987 | 05/02/2014 | Frometa, Leibniz Layra | 06/24/1994 | Cvs Caremark | | 6701 N Dale Mabry Hwy | Tampa, FL 33614 |
| RPT | 53988 | 05/02/2014 | Gerhard, Stephen F | 09/06/1971 | Cvs Caremark | | 273 Mae Ct | Palm Harbor, FL 34683 |
| RPT | 53989 | 05/02/2014 | Chacon Aguilera, Yanelis | 02/19/1985 | Other | Everest Institute | 941 E. 12 Place | Hiialeah, FL 33010 |
| RPT | 53990 | 05/02/2014 | Gladykowski, Natalia | 12/28/1992 | Cvs Caremark | | 10132 Vineyard Lane | Port Richey, FL 34668 |
| RPT | 53991 | 05/02/2014 | Camejo, Lisandra | 02/16/1994 | Cvs Caremark | | 10Th 640 10Th St Se | Naples, FL 34117 |
| RPT | 53992 | 05/02/2014 | Collins, Tameka Tamara | 09/12/1985 | Other | Everest University | 2752 Nw 47Th Terrace | Lauderdale Lakes, FL 33313 |
| RPT | 53993 | 05/02/2014 | Aggarwal, Nitin Ornella | 09/13/1984 | Other | East Coast Pharmacy Llc Rtlp453 | 4401 South Hopkins Avenue 102 | Titusville, FL 32780 |
| RPT | 53994 | 05/02/2014 | Cachupin, Hector | 10/08/1984 | University Of Florida | | 2500 2500 East Hallandale Beach Blv Budget Drugs Suite P | Hallandale Beach, FL 33009 |
| RPT | 53995 | 05/02/2014 | Brown, Gabriel Ornella | 02/23/1995 | | Wal-Mart | 3155 S. Federal Hwy | Delray Beach, FL 33483 |
| RPT | 53996 | 05/02/2014 | Barboza-Fuentes, Abigail Raacquel | 01/27/1989 | Cvs Caremark | | 2077 N Military Trail | West Palm Beach, FL 33409 |
| RPT | 53997 | 05/02/2014 | D'Ascanno, Sera | 02/09/1959 | Other | Seminole State College | 324 Hidden Lake Drive | Sanford, FL 32773 |
| RPT | 53998 | 05/02/2014 | Stein, Sarah Alyssa | 04/13/1982 | Other | Rasmussen College | 4980 E Silver Springs Blvd | Ocala, FL 34470 |



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|------|---------|------------|----------------------------|------------|---------------------------|---|-----------------------------------|----------------------------|
| RPT | 53999 | 05/05/2014 | Zapata, Olga M | 11/17/1961 | Other | Academy Of Health Sciences Us Army | 7 Nolen Dr | Newnan, GA 30263 |
| RPT | 54000 | 05/05/2014 | Raymore, Andrew Javier | 09/08/1987 | Walgreens | | 8337 South Park Circle | Orlando, FL 32819 |
| RPT | 54001 | 05/05/2014 | Tamayo, Leyatne | 12/09/1984 | Walgreens | | 1250 Nw 7Th St | Miami, FL 33125 |
| RPT | 54002 | 05/05/2014 | Tiritilli, Adriana | 12/26/1964 | Walgreens | | 1005 S Federal Hwy | Deerfield Beach, FL 33441 |
| RPT | 54003 | 05/05/2014 | Tran, Khang Vinh | 10/29/1986 | Cvs Caremark | | 117 Shomate Drive | Longwood, FL 32750 |
| RPT | 54004 | 05/05/2014 | Reynolds, Emily Yvonne | 05/09/1996 | Other | Heritage Institute | 4666 Santiago Ln. | Bonita Springs, FL 34134 |
| RPT | 54005 | 05/05/2014 | Sobotta, Britiany Morgan | 03/07/1994 | University Of Florida | | 8787 Southside Blvd Apt # 4409 | Jacksonville, FL 32256 |
| RPT | 54006 | 05/05/2014 | Werner, Catherine Jane | 07/04/1981 | Other | Everest University | 2992 Tiwoli Ave Se | Palm Bay, FL 32909 |
| RPT | 54007 | 05/05/2014 | Worley, Nikkia Ann | 10/02/1995 | Cvs Caremark | | 10025 Topview Dr. | Leesburg, FL 34788 |
| RPT | 54008 | 05/05/2014 | Saith, Shivanand Emrital | 08/27/1992 | Other | Target | 9110 9110 Nw 35Th Place | Sunrise, FL 33351 |
| RPT | 54009 | 05/05/2014 | Roberts, Kevonda Aki | 12/24/1985 | Cvs Caremark | | 330 Northwest 19Th Street Apt 312 | Miami, FL 33136 |
| RPT | 54010 | 05/05/2014 | Sherman, Daryl Gregory | 02/12/1957 | Walgreens | | 6103 Ft. Caroline Rd. | Jacksonville, FL 32277 |
| RPT | 54011 | 05/05/2014 | Uber, Ashley Marie | 06/15/1992 | Cvs Caremark | | 8140 82Nd Ave North | Seminole, FL 33777 |
| RPT | 54012 | 05/05/2014 | Tejada, Carmen Rosa | 10/19/1967 | Walgreens | | 18665 18665 Biscayne Blvd. | Aventura, FL 33180 |
| RPT | 54013 | 05/05/2014 | Sessoms, Steven Darnell Jr | 01/12/1990 | Superior Pharmacy, Llc | | 11934 11934 Harpswell Drive | Riverview, FL 33579 |
| RPT | 54014 | 05/05/2014 | Turner, Kenneth Andrew | 06/04/1987 | Cvs Caremark | | 5737 North Crater Lake Circle | Keystone Heights, FL 32656 |
| RPT | 54015 | 05/05/2014 | Rodriguez, Yariana | 10/17/1990 | Other | Everest Institute | 1026 Nw 47 Street | Miami, FL 33127 |
| RPT | 54016 | 05/05/2014 | Quick, Genevieve C | 12/10/1958 | University Of Florida | | 922 Ridgewall Ct. | Orange Park, FL 32065 |
| RPT | 54017 | 05/05/2014 | Tinsley, Marie | 04/03/1955 | Walgreens | | 616 Sw 15Th Ter | Cape Coral, FL 33991 |
| RPT | 54018 | 05/05/2014 | Willis, Kenny Lamar Jr | 04/02/1989 | Other | Everest University | 5328 Pointe Vista Cir. Apt. 105 | Orlando, FL 32839 |
| RPT | 54019 | 05/05/2014 | San Juan, Keno | 10/17/1991 | Other | University Of Florida - College Of Pharmacy | 2579 Hidden Cove Ln | Clearwater, FL 33763 |
| RPT | 54020 | 05/05/2014 | Santana, Sylvia Elizabeth | 10/21/1987 | Concorde Career Institute | | 6137 Jibway Court | Orlando, FL 32807 |



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| RPT | 54021 | 05/05/2014 | Smith, Kerry | 08/02/1989 | Other | Orange County Public Schools Westside Tech | 6574 Benham Ct | Orlando, FL 32818 |
| RPT | 54022 | 05/05/2014 | Miranda, Lourdes | 12/22/1968 | | Florida Education Institute | 690 Nw 60Th St #114 | Miami, FL 33127 |
| RPT | 54023 | 05/05/2014 | Pilczuk, Ray Thomas | 10/29/1983 | Familycare Discount Pharmacy | | 3633 Cortez Rd West Suite B-9 | Bradenton, FL 34210 |
| RPT | 54024 | 05/05/2014 | Lexima, Tras Corey | 11/11/1989 | | Fortis Institute | 2185 Ambergate Ln Apt A | West Palm Beach, FL 33415 |
| RPT | 54025 | 05/05/2014 | Morales, Dairon | 11/22/1995 | | Fortis Institute | 2327 Pinecrest C. T. | West Palm Beach, FL 33415 |
| RPT | 54026 | 05/05/2014 | Howard, Reginald Wayne II | 10/17/1986 | Cvs Caremark | | 2801 Nw 23Rd Blvd Apt N94 | Gainesville, FL 32605 |
| RPT | 54027 | 05/05/2014 | Pol, Daphne | 12/07/1976 | Other | Everest University/Everest University Tampa | 14724 Norwood Oaks Dr Apt 103 | Tampa, FL 33613 |
| RPT | 54028 | 05/05/2014 | Maharaj, Kavesh | 09/30/1994 | Cvs Caremark | | 8206 Nw 37Th Street | Coral Springs, FL 33065 |
| RPT | 54029 | 05/05/2014 | Petit-Frere, Cathiana Grace | 08/18/1992 | Concorde Career Institute | | 4664 Montauk St | Orlando, FL 32808 |
| RPT | 54030 | 05/05/2014 | Mondragon, Jenifer | 07/26/1995 | Cvs Caremark | | 3580 N Federal Hwy | Pompano Beach, FL 33064 |
| RPT | 54031 | 05/05/2014 | Leddou, George David Jr | 12/27/1956 | Other | Career And Technical Education, Orange County Public Schools, Winter Park Tech. | 14422 Fio Road | Orlando, FL 32832 |
| RPT | 54032 | 05/05/2014 | Jaramillo, Barbara Abigail | 09/01/1990 | Other | Fist Coast Technical College; First Coast Technical College | 611 Zeagler Drive | Palatka, FL 32177 |
| RPT | 54033 | 05/05/2014 | Morales, Brian Orlando | 03/28/1988 | Cvs Caremark | | 16Th 440 16Th St Se | Naples, FL 34117 |
| RPT | 54034 | 05/05/2014 | Moise, Kechna | 02/16/1991 | Walgreens | | 2115 E Hillsborough Ave | Tampa, FL 33610 |
| RPT | 54035 | 05/05/2014 | Pereira, Luis Abdjel | 08/30/1993 | Cvs Caremark | | 6809 6809 Fountain Ave | Tampa, FL 33634 |
| RPT | 54036 | 05/05/2014 | Lazzaro, Jessica Renee' | 09/26/1992 | Other | First Coast Technical College; First Coast Technical College | 105 Idlewood Acres Rd | Pomona Park, FL 32181 |
| RPT | 54037 | 05/05/2014 | Patch, Sara Nicole | 03/05/1992 | Publix Super Market, Inc. | | 14500 Fairfax Place | Davie, FL 33325 |
| RPT | 54038 | 05/05/2014 | Lipton, Caryn Ashley | 04/08/1993 | Target Pharmacy | | 815 Mahogany Ridge Dr | Davenport, FL 33897 |
| RPT | 54039 | 05/05/2014 | Lowe, Ebonee | 05/05/1991 | Jacksonville Job Corps Center | | 209 Foxwood Dr | Brandon, FL 33510 |
| RPT | 54040 | 05/05/2014 | Ogden, Rebecca Lee | 02/22/1990 | Cvs Caremark | | 4564-73Rd Avenue North | Pinellas Park, FL 33781 |



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| RPT | 54041 | 05/05/2014 | Reynolds, Jennifer Marie | 01/29/1992 | Publix Super Market, Inc. | | 11175 Park Blvd | Seminole, FL 33772 |
| RPT | 54042 | 05/05/2014 | Salam, Katy | 09/09/1992 | | | 195 Se 27Th Way | Boynton Beach, FL 33435 |
| RPT | 54043 | 05/06/2014 | Lee, Tasha Sheree | 07/21/1988 | Other | Ultimate Medical Academy Online;Ultimate Medical Academy | 5152 Tennis Court Circle | Tampa, FL 33617 |
| RPT | 54044 | 05/06/2014 | Khurshid, Madha | 05/20/1991 | Cvs Caremark | | 13454 S Orange Blossom Trl | Orlando, FL 32837 |
| RPT | 54045 | 05/06/2014 | Puranik, Shivani | 02/17/1996 | Walgreens | | 21018 Via Eden | Boca Raton, FL 33433 |
| RPT | 54046 | 05/06/2014 | Morales, Jenny | 02/11/1985 | Cvs Caremark | | 2559 Sw 3 St | Miami, FL 33135 |
| RPT | 54047 | 05/06/2014 | Johnson, Perry Andrew | 06/07/1951 | Other | Palm Coast Pharmacy;Passassured | 1811 1811 Glenwood Rd. | Deland, FL 32720 |
| RPT | 54048 | 05/06/2014 | Wallace, Leah | 10/20/1987 | Welldynex, Inc | | 500 Eagles Landing Way | Lakeland, FL 33810 |
| RPT | 54049 | 05/06/2014 | Norelius, Dieuline | 10/21/1988 | Walgreens | | 3900 N Federal Hwy | Boca Raton, FL 33431 |
| RPT | 54050 | 05/06/2014 | Ross, Kimberly Ellen | 01/13/1973 | Other | Everest University Tampa | 5055 S. Dale Mabry #213 | Tampa, FL 33611 |
| RPT | 54051 | 05/06/2014 | Pizarro, Yaritza Maria | 04/13/1994 | Other | Everest University;Everest University | 151 Ivy Lane Apt B | Kissimmee, FL 34743 |
| RPT | 54052 | 05/06/2014 | Lloyd, Jessica Ann | 10/29/1994 | Other | Everest University;Everest University | 2530 Woods Edge Circle | Orlando, FL 32817 |
| RPT | 54053 | 05/06/2014 | Myers, Eileen Marie | 12/09/1976 | Walgreens | | 2200 9Th Street North | Naples, FL 34103 |
| RPT | 54054 | 05/06/2014 | Olofin, Amy A | 07/18/1990 | Walgreens | | 810 Wadsworth St Apt 212A | Tallahassee, FL 32304 |
| RPT | 54055 | 05/06/2014 | Pelzer, Demarcus Raymond | 02/05/1982 | Walgreens | | 5709 Gunn Hwy | Tampa, FL 33625 |
| RPT | 54056 | 05/06/2014 | Jensen, Jessica Ashley | 08/26/1991 | Cvs Caremark | | 6042 Southwest Highway 200 | Ocala, FL 34476 |
| RPT | 54057 | 05/06/2014 | Jones, Michael | 05/24/1992 | Cvs Caremark | | 6464 W Atlantic Ave. | Delray Beach, FL 33484 |
| RPT | 54058 | 05/06/2014 | James, Latrice | 08/15/1985 | Other | Everest Institute;Everest Institute | 777 Nw 155 Lane Apt. 222 | Miami, FL 33169 |
| RPT | 54059 | 05/06/2014 | Matulewicz, Amber Lyn | 09/06/1988 | Publix Super Market, Inc. | | 367 Fairmont Drive | Spring Hill, FL 34609 |
| RPT | 54060 | 05/06/2014 | Almonte, Ida Carolina | 12/01/1992 | Wal-Mart | | 12800 Pines Blvd | Pembroke Pines, FL 33027 |
| RPT | 54061 | 05/06/2014 | Johnson, Samantha Renee | 12/01/1991 | Cvs Caremark | | 6017 Roosevelt Blvd Ap 25 | Jacksonville, FL 32244 |
| RPT | 54062 | 05/06/2014 | Hughes, Marie Ann | 05/23/1953 | University Of Florida | | 4026 30Th Avenue North | St. Petersburg, FL 33713 |
| RPT | 54063 | 05/06/2014 | Craig, Emily Holmes | 06/13/1989 | Publix Super Market, Inc. | | 1112 1112 Key Plaza | Key West, FL 33040 |



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|------|---------|------------|---------------------------------|------------|---|---|--------------------------------|-----------------------------|
| RPT | 54064 | 05/06/2014 | Brazile, Solei Marie | 07/02/1993 | Other | Everest University Jacksonville | 2543 Bremen Ct | Jacksonville, FL 32216 |
| RPT | 54065 | 05/06/2014 | Harris, Wendy Darchelle | 12/18/1991 | Other | Everest University Largo Campus | 2617 2Nd Court | Palm Harbor, FL 34684 |
| RPT | 54066 | 05/07/2014 | Herrandez, Jisely | 08/01/1994 | Publix Super Market, Inc. | | 4758 Chariot Cir | Greenacres, FL 33463 |
| RPT | 54067 | 05/07/2014 | Fandino, Diana | 06/10/1986 | Other | Miami Dade College | 20441 Ne 30Th Ave Apt 108 | Aventura, FL 33180 |
| RPT | 54068 | 05/07/2014 | Coirmin, Sybil A | 05/03/1973 | Medical Institute Of Palm Beach, Inc | | 4280 Northeast 18Th Avenue | Pompano Beach, FL 33064 |
| RPT | 54069 | 05/07/2014 | Malloy, Dennis William | 05/22/1957 | | | 5726 126Th Ave N #A8 | Clearwater, FL 33760 |
| RPT | 54070 | 05/07/2014 | Carver, Tiffany Justine | 07/10/1987 | Publix Super Market, Inc. | | 5375 North Socrum Loop Road | Lakeland, FL 33809 |
| RPT | 54071 | 05/07/2014 | Bullock, Chelsea Renee | 08/27/1993 | Cvs Caremark | | 34502 34502 State Road 54 | Zephyrhills, FL 33541 |
| RPT | 54072 | 05/07/2014 | Barlow, Michael William | 12/18/1987 | Cvs Caremark | | 2220 U.S. 1 | Fort Pierce, FL 34950 |
| RPT | 54073 | 05/07/2014 | Douglas, Savannah Kay | 09/06/1993 | Walgreens | | 6015 Sw Hwy 200 | Ocala, FL 34476 |
| RPT | 54074 | 05/07/2014 | Howell, Kaila Nicole | 07/05/1990 | Walgreens | | 304 Rose Avenue | Fruitland Park, FL 34731 |
| RPT | 54075 | 05/07/2014 | Brown, Megan | 04/16/1994 | Cvs Caremark | | 20781 Se Morningside Cir | Blountstown, FL 32424 |
| RPT | 54076 | 05/07/2014 | Robinson, Christopher Neal | 01/23/1987 | Other | Everest University-Lakeland | 9250 Kilber Drive | Winter Haven, FL 33884 |
| RPT | 54077 | 05/07/2014 | Perez, Rogers Leroy | 11/10/1974 | Walgreens | | 8327 West Flagler St | Miami, FL 33144 |
| RPT | 54078 | 05/07/2014 | Mayne, Jonathan Anthony | 12/19/1994 | Other | Southeastern University; Southeastern Collage | 115 Island Way | Greenacres, FL 33413 |
| RPT | 54079 | 05/07/2014 | Gregory, Alisa Naya | 08/03/1991 | Walgreens | | 134 Honeywood Dr | Kissimmee, FL 34743 |
| RPT | 54080 | 05/07/2014 | Mitchell-Simmons, Oamara Ann | 11/24/1986 | Cvs Caremark | | 10221 Meadow Pointe Dr | Jacksonville, FL 32221 |
| RPT | 54081 | 05/07/2014 | Logan, Keosha | 08/27/1991 | Other | Westside Tech Orange County Public Schools; Orange County Public Schools West Side Tech | 15164 W Colonial Dr Apt 203 | Winter Garden, FL 34787 |
| RPT | 54082 | 05/07/2014 | Lim, Meghan Marie | 03/07/1995 | Target Corporation | | 19200 Nw 22Nd Ave | Pembroke Pines, FL 33029 |
| RPT | 54083 | 05/07/2014 | Zaborsky, Bliss Sheri | 07/17/1986 | Cvs Caremark | | 10623 Gibsonton Drive | Riverview, FL 33569 |



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| RPT | 54084 | 05/07/2014 | Bowden, Rekeyal Kianna | 01/19/1994 | | | 12902 Magnolia Dr | Tampa, FL 33612 |
| RPT | 54085 | 05/07/2014 | Allard, Edward Francis | 06/06/1985 | | | 4108 Palmetto Bay Dr. | Elkton, FL 32033 |
| RPT | 54086 | 05/07/2014 | Weeks, Brandon Lee | 03/14/1996 | Pineellas County Job Corps Center | | 5107 Hemlock St | Macclenny, FL 32063 |
| RPT | 54087 | 05/07/2014 | Smith, Angela Suzan | 10/01/1990 | Other | Everest University | 330 Hammock Rd | Palmbay, FL 32909 |
| RPT | 54088 | 05/07/2014 | Splain, Curtis Garth | 01/25/1965 | Publix Super Market, Inc. | | 1024 Us Hwy A1A Suite 120 | Satellite Beach, FL 32937 |
| RPT | 54089 | 05/08/2014 | Fagan, Gerrynn Rena | 10/10/1988 | Walgreens | | 3895 W Broward Blvd | Plantation, FL 33312 |
| RPT | 54090 | 05/08/2014 | Dulak, Samantha ReneE | 02/25/1985 | Cvs Caremark | | 2202 West Pensacola St 52 | Tallahassee, FL 32304 |
| RPT | 54091 | 05/08/2014 | Brinson, Jennifer | 07/19/1978 | Other | Sanford Brown Institute Fort Lauderdale | 625 Ne Spanish River Bvd | Boca Raton, FL 33431 |
| RPT | 54092 | 05/08/2014 | Schwartz, Seth Evan | 11/28/1989 | Publix Super Market, Inc. | | 400 East Central Blvd | Orlando, FL 32801 |
| RPT | 54093 | 05/08/2014 | Sampedro Villavicencio, Liset | 06/11/1989 | | | 11041 Sw 142 Court | Miami, FL 33186 |
| RPT | 54094 | 05/08/2014 | Hamdallah, Kamar Farhan | 10/26/1992 | Other | Everest University - Brandon Campus | 2124 2124 Brandon Park Circle | Brandon, FL 33510 |
| RPT | 54095 | 05/08/2014 | Martinez Hidalgo, Diana | 11/29/1987 | Other | Mattia College, Mattia College | 1990 W. 56Th St. #1226 | Hialeah, FL 33012 |
| RPT | 54096 | 05/08/2014 | Doiron, Aimee Michelle | 03/15/1996 | Other | Atlantic Technical Center | 5460D Lakewood Circle South | Margate, FL 33063 |
| RPT | 54097 | 05/08/2014 | Mcevoy, Joseph | 09/17/1963 | Other | Steps Corp | 11041 NW 44Th Street | Coral Springs, FL 33065 |
| RPT | 54098 | 05/08/2014 | Cao, Keven L | 07/30/1992 | Other | Everest; Everest University North Orlando | 4813 Willow Run West | Orlando, FL 32808 |
| RPT | 54099 | 05/08/2014 | Jarrett, Laura Rue | 01/19/1988 | Publix Super Market, Inc. | | 2895 North Military Trl | West Palm Beach, FL 33409 |
| RPT | 54100 | 05/08/2014 | Baksh, Sharefa | 05/22/1982 | Wal-Mart | | 12800 12800 Pines Blvd | Pembroke Pines, FL 33027 |
| RPT | 54101 | 05/08/2014 | Bennett, Dianne Irene | 06/04/1960 | Other | Sanford-Brown Institute | 820 Childers Loop | Brandon, FL 33511 |
| RPT | 54102 | 05/08/2014 | Almanord, Paula Renee | 02/07/1972 | Concorde Career Institute | | 1919 E. 137 Ave | Tampa, FL 33613 |
| RPT | 54103 | 05/08/2014 | Morrison, Michelle Marie | 11/04/1986 | Med-Care Diabetic & Medical Supplies Inc | | 6500 E Rogers Cr | Boca Raton, FL 33487 |
| RPT | 54104 | 05/08/2014 | Agenor, Agathe L | 10/13/1981 | University Of Florida | | 4655 23Rd Ave S. W | Naples, FL 34116 |



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| RPT | 54105 | 05/08/2014 | Brown, Michelle E | 11/16/1964 | Medco Health Solutions Of Netpark, L.L.C | | 252 Windwood Oaks Drive Apt 101 | Tampa, FL 33613 |
| RPT | 54106 | 05/08/2014 | Gracia, Marvin Jonathan | 12/22/1991 | Cvs Caremark | | 4821 Tarpon Court | Cape Coral, FL 33904 |
| RPT | 54107 | 05/08/2014 | Burnes, Tishun Nikkia | 11/24/1981 | | Aii College Of Of Helath | 1500 N Ocean Dr #137 | Hollywood, FL 33019 |
| RPT | 54108 | 05/08/2014 | Rodriguez, Saul | 01/08/1991 | Cvs Caremark | | 3509 Willow Rd | Wimauma, FL 33598 |
| RPT | 54109 | 05/08/2014 | Thompson, Kenneth Paul | 05/12/1989 | | Fortis College - Orange Park | 8732 Susie St | Jacksonville, FL 32210 |
| RPT | 54110 | 05/08/2014 | Ruiz-Martinez, Brenda Iris | 01/08/1982 | Walmart And Sam'S Club Pharmacies | | 8309 Alveron Ave | Orlando, FL 32817 |
| RPT | 54111 | 05/08/2014 | Franklin, Cinnamon Dinae | 07/29/1994 | Walgreens | | 9301 Crabtree Lane | Port Richey, FL 34668 |
| RPT | 54112 | 05/09/2014 | Nodzak, Mary Madalene | 06/26/1963 | | | 601 Berkley Pointe Place | Auburndale, FL 33823 |
| RPT | 54113 | 05/09/2014 | Nikodin, Kristina Elena | 10/10/1989 | Lato Drug Company Dba Post Haste Pharmacy | | 4401 Sheridan St | Hollywood, FL 33021 |
| RPT | 54114 | 05/09/2014 | Laporte, Ashley Elizabeth Lucretia | 08/18/1986 | Walgreens | | 3010 S. Ridgewood Ave | Edgewater, FL 32141 |
| RPT | 54115 | 05/09/2014 | Lopez, Liliana Selena | 04/26/1993 | Florida Health Care Plans, Inc | | 939 N Spring Garden Ave | Deland, FL 32724 |
| RPT | 54116 | 05/09/2014 | Jack, Nicole Sandra | | Concorde Career Institute | | 1627 Dogwood Lane | Brandon, FL 33510 |
| RPT | 54117 | 05/09/2014 | Luong, Christine Huey | 02/03/1986 | Cvs Caremark | | 8954 Lantana Rd | Lake Worth, FL 33467 |
| RPT | 54118 | 05/09/2014 | Lestini, Erica L | 07/02/1991 | Other:University Of Florida | University Of Florida-College Of Pharmacy | 5216 Denver St. Ne | St. Petersburg, FL 33703 |
| RPT | 54119 | 05/09/2014 | Quiroga, Beatriz | 02/09/1988 | Walgreens | | 280 14500 Sw | Homestead, FL 33032 |
| RPT | 54120 | 05/09/2014 | Patel, Milky | 01/09/1992 | Other:Ocala Pharmacy Llc | Ocala Pharmacy Llc | 8602 Sw Hwy 200 Suite: A And B | Ocala, FL 34481 |
| RPT | 54121 | 05/12/2014 | Soto, Justin Anthony | 06/05/1994 | Other | Heritage Institute | 301 Colgate Ave | Lehigh Acres, FL 33936 |
| RPT | 54122 | 05/12/2014 | Reeves, Danielle Harris | 10/18/1988 | Cvs Caremark | | 144 Wright Circle | Niceville, FL 32578 |
| RPT | 54123 | 05/12/2014 | Zimmerman, David John | 12/15/1992 | Other | Everest University Largo Campus | 14099 Belcher Rd S Lot 1261 | Largo, FL 33771 |
| RPT | 54124 | 05/12/2014 | Wood, Katelynn Helen | 06/02/1995 | Cvs Caremark | | 4707 Cr 693 | Webster, FL 33597 |
| RPT | 54125 | 05/12/2014 | Rusin, Sarah Ann | 05/19/1989 | Cvs Caremark | | 13220 Houston Ave | Hudson, FL 34667 |



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| RPT | 54126 | 05/12/2014 | Roth, Dawn Emily | 02/11/1983 | Walgreens | | 5122 100Th Way N | Saint Petersburg, FL 33708 |
| RPT | 54127 | 05/12/2014 | Tan, Amy | 01/13/1990 | Cvs Caremark | | 5030 Sw 11Th Pl | Margate, FL 33068 |
| RPT | 54128 | 05/12/2014 | Williams, Jerika Renee | 10/09/1991 | Other | Everest University | 9303 Whisper Glen Drive North | Jacksonville, FL 32222 |
| RPT | 54129 | 05/12/2014 | Seymour, Christy Marie | 10/19/1973 | Concorde Career Institute | | 1041 Lejay St. | Orlando, FL 32825 |
| RPT | 54130 | 05/12/2014 | Flores, Amelia | 09/17/1992 | Cvs Caremark | | 520 S Federal Highway | Boca Raton, FL 33432 |
| RPT | 54131 | 05/12/2014 | Summey, Emily | 10/17/1990 | Publix Super Market, Inc. | | 299 E. International Speedway | Deland, FL 32724 |
| RPT | 54132 | 05/12/2014 | Lawrie, Nicole | 07/17/1995 | Cvs Caremark | | 8981 Conroy Windermere Rd | Orlando, FL 32835 |
| RPT | 54133 | 05/12/2014 | Tannenbaum, Eric Andrew | 09/06/1976 | Walgreens | | 3236 Pine Haven Dr | Clearwater, FL 33761 |
| RPT | 54134 | 05/12/2014 | Wright, Natricia Annmarie | 06/19/1973 | Other | Southeastern College | 100 Crestwood Ct N Apt 102 | Royal Palm Beach, FL 33411 |
| RPT | 54135 | 05/12/2014 | Miranda, Dawn Charlynn | 09/02/1971 | Other | Everest University; Everest University | 2452 Legacy Lake Dr | Maitland, FL 32751 |
| RPT | 54136 | 05/12/2014 | Silbermagel, Elizabeth Anne | 12/30/1985 | Other | 2419 University Of Florida - College Of Pharmacy | 1869 Rear Admiral Ln. | St. Johns, FL 32259 |
| RPT | 54137 | 05/12/2014 | Pickron, Corissa Brooke | 02/07/1991 | Cvs Caremark | | 2315 Sw 39Th Way Apt B | Gainesville, FL 32607 |
| RPT | 54138 | 05/12/2014 | Ryloft, Alexis Liana | 06/23/1991 | Other | Ridge Career Center | 5661 Struthers Court | Winter Haven, FL 33884 |
| RPT | 54139 | 05/12/2014 | Tierno, Julian Vincent | 06/09/1995 | Publix Super Market, Inc. | | 2845 County Road 210 West | Saint Johns, FL 32259 |
| RPT | 54140 | 05/12/2014 | Pulayya, Brian | 03/06/1987 | Walgreens | | 8337 South Park Circle | Orlando, FL 32819 |
| RPT | 54141 | 05/12/2014 | Mannka, Morgan Lynn | 10/24/1992 | Cvs Caremark | | 46 Ocean Palm Villas N | Flagler Beach, FL 32136 |
| RPT | 54142 | 05/12/2014 | Reyes, Jhomary Enid | 08/16/1988 | Walgreens | | 45549 Highway 27 | Davenport, FL 33896 |
| RPT | 54143 | 05/13/2014 | Patel, Dharmesh Parmanand | 11/09/1983 | Rx One Pharmacy | | 1426 S. Pine Ave | Ocala, FL 34471 |
| RPT | 54144 | 05/13/2014 | Perez, Dailenis | 02/15/1994 | Publix Super Market, Inc. | | 828 Southern Blvd | West Palm Beach, FL 33405 |
| RPT | 54145 | 05/13/2014 | Abdelsayed, Amir Kamal | 11/14/1968 | | | 500 W Granada Blvd | Ormond Beach, FL 32174 |
| RPT | 54146 | 05/13/2014 | Torres, Kevin Matthew | 01/06/1974 | | Barry Univ - Miami Shores | 14613 Sw 172 Lane | Miami, FL 33177 |
| RPT | 54147 | 05/13/2014 | Harrell, Catrina Ann | 11/29/1987 | | | 5800 Se Federal Highway | Stuart, FL 34997 |



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| RPT | 54148 | 05/13/2014 | Wilkinson, Keisha Latoya | 07/10/1986 | | Fortis College - Palm Springs | 204 Lake Arbor Dr | Palm Springs, FL 33461 |
| RPT | 54149 | 05/13/2014 | Elliott, Jacqueline Kipp | 11/28/1981 | | | 5009 Turnpike Feeder Rd | Fort Pierce, FL 34951 |
| RPT | 54150 | 05/13/2014 | Cannoto, Cindy | 01/05/1962 | Walgreens | | 8356 Boyce Street | Spring Hill, FL 34604 |
| RPT | 54151 | 05/13/2014 | Garris, Alexandra Evelyn | 06/07/1991 | | | 19611 Wyndmill Cir. | Odessa, FL 33556 |
| RPT | 54152 | 05/13/2014 | Hatfield, Shelbie Marie | 09/09/1993 | Other | Ridge Career Center | 1423 Morningside Dr | Lake Wales, FL 33853 |
| RPT | 54153 | 05/13/2014 | Velazquez, Juanita | 11/11/1958 | Walgreens | | 3007 Aventura Blvd. | Aventura, FL 33180 |
| RPT | 54154 | 05/13/2014 | Cruz Maldonado, Andrea Mercedes | 06/06/1989 | Other | Everest Universitario | 4708 Walden Cir. Drive Apt 1824 | Orlando, FL 32811 |
| RPT | 54155 | 05/13/2014 | Rhodes, Jennifer Caitlyn | 02/17/1990 | E & T Pharmacy, Llc | | 12276 San Jose Blvd Ste. 707 | Jacksonville, FL 32223 |
| RPT | 54156 | 05/13/2014 | Rivera-Negron, Edgar Rene | 04/10/1981 | Other | Everest University | 911 Little Creek Rd | Orlando, FL 32825 |
| RPT | 54157 | 05/13/2014 | Romero, Cathryn Elizabeth | 01/02/1982 | | Family Care Discount Pharmacy | 3633 Cortez Rd W Suite B-9 | Bradenton, FL 34210 |
| RPT | 54158 | 05/13/2014 | Nguyen, Truc Thanh | 11/15/1990 | Other: University Of Florida | University Of Florida - College Of Pharmacy | 1217 S Beach St Apt 1034 | Daytona Beach, FL 32114 |
| RPT | 54159 | 05/13/2014 | Marrero, Betsy Yaqueline | 08/07/1970 | Fresenius Medical Care Pharmacy Services, Inc. | | 4390 112Th Avenue North Apt 8106 | St. Petersburg, FL 33716 |
| RPT | 54160 | 05/13/2014 | Nunez, Ojamily | 12/23/1989 | Other | Rasmussen College:Rasmussen College | 6180 Nw 173St Apt. 508 | Hialeah, FL 33015 |
| RPT | 54161 | 05/13/2014 | Pennington, Angela Owen | 11/12/1963 | Fortis Institute | | 1700 Eagle Nest Ln. | Middleburg, FL 32068 |
| RPT | 54162 | 05/13/2014 | Olazabal, Aimara | 12/26/1983 | Fortis Institute | | 2300 Springdale Blvd Apt I-113 | Palm Springs, FL 33461 |
| RPT | 54163 | 05/13/2014 | Humphrey, William James | 04/08/1960 | Other | Everest University | 1107 Largo Drive | Orlando, FL 32839 |
| RPT | 54164 | 05/13/2014 | Lagalante, Kristie Marie | 04/04/1990 | | | 9940 Yamato Road | Boca Raton, FL 33498 |
| RPT | 54165 | 05/13/2014 | Bennick, Taylor Nell | 07/28/1992 | E & T Pharmacy, Llc | | 10848 Percheron Dr | Jacksonville, FL 32257 |
| RPT | 54166 | 05/13/2014 | Mikels, Julie Rubach | 03/19/1973 | Publix Super Market, Inc. | | 120 Markeside Ave | |
| RPT | 54167 | 05/13/2014 | Coleman, Ashlee Monique | 10/03/1989 | Other | Everest University | 4405 S. Kirkman Rd Apt B206 | Orlando, FL 32811 |



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| RPT | 54168 | 05/13/2014 | Beaulieu, Morgan Cree | 11/08/1992 | Cvs Caremark | | 40415 Sunburst Dr. | Dade City, FL 33525 |
| RPT | 54169 | 05/13/2014 | Cabrera, Celina | 10/25/1971 | Other | Everest Institute | 7191 W. 24 Avenue Apt. #54 | Hialeah, FL 33016 |
| RPT | 54170 | 05/13/2014 | Hidalgo, Carmen Lidia | 04/13/1957 | | | 2108 West 68 Street | Hialeah, FL 33016 |
| RPT | 54171 | 05/13/2014 | Van Meter, Mark Edward | 10/09/1993 | Cvs Caremark | | 5300 South Atlantic Avenue Apartment 7207 | New Smyrna Beach, FL 32169 |
| RPT | 54172 | 05/13/2014 | Smith, Timothy Lee | 05/05/1991 | Other | University Of Florida-College Of Pharmacy | 5429 111Th Place | Live Oak, FL 32060 |
| RPT | 54173 | 05/13/2014 | Charlson, Nisha Dichante | 09/02/1992 | Other | Ridge Career Center | 523 Lake Davenport Blvd | Davenport, FL 33897 |
| RPT | 54174 | 05/14/2014 | Fioritto, Julie Marie | 08/19/1977 | Publix Super Market, Inc. | | 327 Colony Blvd. | The Villages, FL 32162 |
| RPT | 54175 | 05/14/2014 | Velazco, Natacha | 03/27/1984 | Other | Everest Institute | 90 Sw 3Rd Street Apt#1403 | Miami, FL 33130 |
| RPT | 54176 | 05/14/2014 | Rigolo, Alyssa Donielle | 03/18/1989 | Cvs Caremark | | 101955 66Th St. N. | Pinellas Park, FL 33782 |
| RPT | 54177 | 05/14/2014 | Shields, Juliann Marie | 05/19/1993 | Other | Everest University | 6313 Blank Dr | Jacksonville, FL 32244 |
| RPT | 54178 | 05/14/2014 | Wilkins, Yevgeniya | 02/12/1985 | Publix Super Market, Inc. | | 7333 Park Blvd N | Pinellas Park, FL 33781 |
| RPT | 54179 | 05/14/2014 | Rodriguez, Joset Liz | 09/18/1975 | Cvs Caremark | | 1350 Lee Blvd | Lehigh Acres, FL 33936 |
| RPT | 54180 | 05/14/2014 | Sites, Jessica Pamela | 05/23/1989 | Walgreens | | 3390 20 Ave Sw | Largo, FL 33774 |
| RPT | 54181 | 05/14/2014 | Rivera Rodriguez, Ashley Jeanette | 04/03/1994 | Other | Everest University Tampa | 8702 North Renfrew Place | Tampa, FL 33604 |
| RPT | 54182 | 05/14/2014 | Perez Barban, Lianet | 10/11/1990 | Other | Passassured | 68 St 7490 Nw 68Th St | Miami, FL 33166 |
| RPT | 54183 | 05/14/2014 | Ellis Elbert, Claudine Ramona | 07/25/1980 | Cvs Caremark | | 260 S. Us Highway 1 | Tesquesta, FL 33469 |
| RPT | 54184 | 05/14/2014 | Duong, Duong Thuy | 10/14/1992 | Cvs Caremark | | 7923 Sw 3Rd Ct | North Lauderdale, FL 33068 |
| RPT | 54185 | 05/14/2014 | Garcia, Jose Luis | 10/16/1987 | Cvs Caremark | | 5899 Orange Blossom Trail | Orlando, FL 32809 |
| RPT | 54186 | 05/14/2014 | Graham-Schroeder, Ashley Marie | 05/29/1993 | Wal-Mart | | 78 Manher Lane | Rotonda West, FL 33947 |
| RPT | 54187 | 05/14/2014 | De Jesus, Luis Alexander | 03/15/1991 | | | 11502 N 53Rd St | Temple Terrace, FL 33617 |
| RPT | 54188 | 05/14/2014 | Santos, Brenda Ivette | 05/12/1979 | Other | Rite Aid Pharmacy | 515 Neptune Bay Circle Unit 5 | Saint Cloud, FL 34769 |
| RPT | 54189 | 05/14/2014 | Batista, Jennifer | 05/07/1992 | | | 1096 Tivoli Drive | Deltona, FL 32725 |



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| RPT | 54190 | 05/14/2014 | Rosenberger, Marlene Anne | 07/18/1967 | Other | Pcb | 13650 Metropolis Ave Suite 105 | Fort Myers, FL 33912 |
| RPT | 54191 | 05/14/2014 | Frazier, Niyoka | 12/21/1981 | Other | Professional Careers Institute | 182 Pedegree Ln | Santee, SC 29142 |
| RPT | 54192 | 05/14/2014 | Smith, Andrea Erika | 10/29/1985 | Walgreens | | 4227 52Nd Pl W Apt #106 | Bradenton, FL 34210 |
| RPT | 54193 | 05/14/2014 | Rosell, Victoria Lynn | 01/28/1992 | Publix Super Market, Inc. | | 1019 Tawny Eagle Drive | Groveland, FL 34736 |
| RPT | 54194 | 05/14/2014 | Alvarez, Roberto | 07/29/1986 | University Of Florida | | 510 W 29 St | Hialeah, FL 33012 |
| RPT | 54195 | 05/14/2014 | Cortes, Tomas M | 03/07/1958 | Other | Professional Training Centers | 5411 Nw 198 Terr | Miami, FL 33055 |
| RPT | 54196 | 05/14/2014 | Flores, Angel | 05/27/1993 | Medical Institute Of Palm Beach, Inc | | 432 Jennings Avenue | Greenacres, FL 33463 |
| RPT | 54197 | 05/14/2014 | Miller, Melanie Amber | 10/13/1978 | Other: Xinim Corporation / Holly Hill Pharmacy | Xinim Corporation / Holly Hill Pharmacy Rtt445 | 1702 Ridgewood Ave Suite C | Holly Hill, FL 32117 |
| RPT | 54198 | 05/14/2014 | Caron, Haley Rene | 04/28/1995 | Walgreens | | 11283 N Williams St | Dunnellon, FL 34432 |
| RPT | 54199 | 05/14/2014 | Matos, Victor Manuel | 06/10/1993 | Cvs Caremark; Cvs Caremark | | 3421 Winifred Row Lane Apt 304 | Naples, FL 34116 |
| RPT | 54200 | 05/14/2014 | Cesar, Vanessa | 07/05/1986 | Other | South Eastern College | 47 47 Nw 47 Street | Miami, FL 33127 |
| RPT | 54201 | 05/14/2014 | Weary, Crystal Jalisa | 10/08/1991 | | Fortis - Palm Springs | 4777 N. Australian Ave #105 | West Palm Beach, FL 33407 |
| RPT | 54202 | 05/14/2014 | Roman, Jesabel | 10/21/1981 | Other | Us Career Intitute | 1072 James Dr. | Kissimmee, FL 34759 |
| RPT | 54203 | 05/14/2014 | Calderon, Renzo | 09/16/1979 | Walgreens | | 3595 Sw 22Nd Street | Miami, FL 33145 |
| RPT | 54204 | 05/14/2014 | Hernandez, Kyle Mario | 08/07/1995 | Walgreens | | 10431 10431 Sw 128 St | Miami, FL 33176 |
| RPT | 54205 | 05/14/2014 | Wells, Tammy | 07/02/1967 | Cvs Caremark | | 25384 Nw 173Rd Ave 25384 Nw 173Rd Ave | High Springs, FL 32643 |
| RPT | 54206 | 05/14/2014 | Wong, Alan Ho Yip | 08/06/1987 | Walgreens | | 3895 W Broward Blvd | Plantation, FL 33312 |
| RPT | 54207 | 05/14/2014 | Wilkins, Ashley Lauren | 08/27/1985 | Wal-Mart | | 5840 157Th Ave N #2 | Cleawater, FL 33760 |
| RPT | 54208 | 05/15/2014 | Knox, Tynoissha Lotte | 10/08/1982 | Walgreens | | 9871 W Fern Lane | Miramar, FL 33025 |
| RPT | 54209 | 05/15/2014 | Khouri, Jean Samuel | 05/25/1993 | Walgreens | | 2239 Beneva Terrace | Sarasota, FL 34232 |
| RPT | 54210 | 05/15/2014 | Lucht, Jacob Matthew | 07/22/1991 | Publix Super Market, Inc. | | 634 Nw 44Th Terrace Apt. 203 | Deerfield Beach, FL 33442 |
| RPT | 54211 | 05/15/2014 | Mercier, Kathryn Parker | 02/25/1989 | Publix Super Market, Inc. | | 825 Rinehart Rd | Lake Mary, FL 32746 |
| RPT | 54212 | 05/15/2014 | Kidd, Devan M | 11/17/1992 | Wal-Mart | | 4321 Meadow Ridge Ave | Mulberry, FL 33860 |



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|------|---------|------------|-----------------------------|------------|--------------------------------|---|--|----------------------------|
| RPT | 54213 | 05/15/2014 | Perez, Matias | 10/03/1990 | Walgreens | | 1250 1250 Nw 7Th St Suite #205 | Miami, FL 33125 |
| RPT | 54214 | 05/15/2014 | Mccrimgager, Shenita Davena | 03/31/1984 | Cvs Caremark | | 1226 Bunker Hill Blvd | Jacksonville, FL 32208 |
| RPT | 54215 | 05/15/2014 | Odum, Crystal D | 09/07/1979 | Express Training Services, Llc | | Cr 242 8058 S.W. Cr 242 | Lake City, FL 32024 |
| RPT | 54216 | 05/15/2014 | Perez, Dianalyz Norma | 12/24/1969 | Walgreens | | 3595 Sw 22 St | Miami, FL 33145 |
| RPT | 54217 | 05/15/2014 | Mcgriff, Shamika Danyel | 08/13/1983 | Cvs Caremark | | 7581 Winkler Rd | Fort Myers, FL 33908 |
| RPT | 54218 | 05/15/2014 | Maldonado, Marcus Anthony | 12/17/1987 | Davita Rx, Llc | | 2252 Commerce Park Dr Suite 350 | Orlando, FL 32819 |
| RPT | 54219 | 05/15/2014 | Nece, Lindsey Moriah | 04/04/1993 | Other | Radford Locklin Technical Center, Locklin Technical Institute | 5368 Anthony Avenue | Milton, FL 32570 |
| RPT | 54220 | 05/15/2014 | Angeles, Martha Valeria | 10/17/1986 | | | 13950 Jog Rd | Delray Beach, FL 33446 |
| RPT | 54221 | 05/15/2014 | Cordero, Annalien | 09/21/1991 | | | 2416 Nw 27 Ave | Miami, FL 33142 |
| RPT | 54222 | 05/15/2014 | Cavanary, Kohl Steven | 09/29/1993 | Jacksonville Job Corps Center | | 5291 Collins Rd Lot 205 | Jacksonville, FL 32244 |
| RPT | 54223 | 05/15/2014 | Folston, Auburny Danielle | 03/23/1989 | Walgreens | | 1900 Se 4Th St Apt 74 | Gainesville, FL 32641 |
| RPT | 54224 | 05/16/2014 | Barias, Deaundrea Renia | 09/29/1992 | | | 2973 Nw 193 Terr | Miami Gardens, FL 33056 |
| RPT | 54225 | 05/16/2014 | Hasty, Randy Pascual | 12/03/1991 | | | Not Practicing In Florida P O Box 6320 | Tallahassee, FL 32314-6320 |
| RPT | 54226 | 05/16/2014 | Dauphin, Rosny P | 11/19/1991 | Other | Sanford Brown Institute, Fort Lauderdale | 320 Nw 42 Court # 2 | Pompano Beach, FL 33064 |
| RPT | 54227 | 05/16/2014 | Arthur, Fredi Joshua | 04/03/1983 | University Of Florida | | 1650 Ne 26Th Street Suite 101 | Wilton Manors, FL 33305 |
| RPT | 54228 | 05/16/2014 | Hauser, Kristina Nicole | 06/17/1987 | Cardinal Health 414, Llc | | 11651 Royal Palm Blvd #204 | Coral Springs, FL 33065 |
| RPT | 54229 | 05/16/2014 | Collins, Stephanie Marie | 04/14/1991 | Cvs Caremark | | 4401 W. Gandy Blvd | Tampa, FL 33611 |
| RPT | 54230 | 05/16/2014 | Botelho, Brittany Lynn | 07/15/1993 | Cvs Caremark | | 408 Cedar Ridge Ct. | Oldsmar, FL 34677 |
| RPT | 54231 | 05/16/2014 | Dormil, Mondy Fils | 11/13/1990 | | | 1300 E Hallandale Bch Blvd | Hallandale Beach, FL 33009 |
| RPT | 54232 | 05/16/2014 | Halstead, Thomas Robert | 06/25/1958 | Other | Mci Institute Of Technology | 1050 Summit Trail Circle #B | West Palm Beach, FL 33415 |



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|------|---------|------------|--|------------|----------------------------------|--|----------------------------------|-------------------------------|
| RPT | 54233 | 05/16/2014 | Coate, Lisa Marie | 03/12/1988 | Johnson'S Pharmacy Lc | | 5164 5164 Creek Road | Vernon, FL 32462 |
| RPT | 54234 | 05/16/2014 | Cvetkovic, Dena | 06/12/1995 | Publix Super Market, Inc. | | 2178 2178 Chandlers Walk Ln | Jacksonville, FL 32246 |
| RPT | 54235 | 05/16/2014 | Barreiro, Raquel Gonzaga | 04/23/1995 | Cvs Caremark | | 4860 Dockside Dr Apt D | Cocanut Creek, FL 33063 |
| RPT | 54236 | 05/16/2014 | Gryn, Steven | 02/06/1993 | Cvs Caremark | | 3372 Lake Shore Lane | Clearwater, FL 33761 |
| RPT | 54237 | 05/16/2014 | Cheri, Cynthia | 12/01/1984 | Other | Miami Dade College | 194 19440 Nw 8 Ave | Miami, FL 33169 |
| RPT | 54238 | 05/16/2014 | Huber, Richard Anthony | 07/16/1963 | Other | Indian River State College | 1360 42Ave | Vero Beach, FL 32960 |
| RPT | 54239 | 05/16/2014 | Avery, Codi Lynn | 11/30/1986 | Walgreens | | 2971 Sw Birley Ave. | Lake City, FL 32024 |
| RPT | 54240 | 05/16/2014 | Ferrigan, Brooke Danielle | 05/17/1981 | Other | Ptcb | 802 Ottawa Street | Grayling, MI 49738 |
| RPT | 54241 | 05/16/2014 | Wagner, Shelby Lynn | 06/02/1992 | Other | Supervalu | 350 Bass Haven Dr. | Defuniak Springs, FL 32433 |
| RPT | 54242 | 05/16/2014 | Estok, Robin Carlino | 04/23/1957 | University Of Florida | | 8 Waterberry Circle | Ormond Beach, FL 32174 |
| RPT | 54243 | 05/16/2014 | Butch, Rita L | 05/03/1963 | Publix Super Market, Inc. | | 11406 11406 San Jose Blvd. | Jacksonville, FL 32223 |
| RPT | 54244 | 05/16/2014 | Curry, Kelsie Faith | 06/20/1991 | Cvs Caremark | | 4771 North Harbor City Blvd | Melbourne, FL 32936 |
| RPT | 54245 | 05/16/2014 | Desir, Kelly | 11/07/1994 | | | 10074 Jog Road | Boynton Beach, FL 33437 |
| RPT | 54246 | 05/16/2014 | Cabrera, Zeineb | 08/23/1975 | | | 1206 Nw 43Rd Ave #1-D | Miami, FL 33126 |
| RPT | 54247 | 05/19/2014 | Sopena Castro, Diana A | 08/09/1993 | Other | Florida Education Institute | 1912 Sw 17Th Avenue Apt 12 | Miami, FL 33145 |
| RPT | 54248 | 05/19/2014 | Castillo, Migdalia | 02/22/1985 | Other | Florida Education Institute | 1011 West 30Th Street | Hialeah, FL 33012 |
| RPT | 54249 | 05/19/2014 | Rosario, Johana | 02/14/1975 | Publix Super Market, Inc. | | 10115 University Blvd | Orlando, FL 32817 |
| RPT | 54250 | 05/19/2014 | Lam, Mariska | 08/25/1986 | Walgreens | | 1035 Elaine St | Venice, FL 34285 |
| RPT | 54251 | 05/19/2014 | Johnson, Stephanie Nicole | 09/10/1982 | Other | Everest University;Everest University | 2943 Spring Park Rd Apt #1107 | Jacksonville, FL 32207 |
| RPT | 54252 | 05/19/2014 | Jackson, Shardasha Joyna | 01/24/1994 | Jacksonville Job Corps Center | | 1033 Bluegrass Drive | Groveland, FL 34736 |
| RPT | 54253 | 05/19/2014 | Perلمان, Chelsea Develing | 02/05/1995 | Cvs Caremark | | 1490 Venus St | Merritt Island, FL 32953 |
| RPT | 54254 | 05/19/2014 | Janson, Alfredo Francisco | 12/24/1990 | Publix Super Market, Inc. | | 2414 W 60 St | Hialeah, FL 33018 |
| RPT | 54255 | 05/19/2014 | Lennertz-Hanlin, Michelle Elizabeth | 08/10/1968 | University Of Florida | | 20821 Yam Street | Orlando, FL 32833 |



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| RPT | 54256 | 05/19/2014 | Montenegro, Andres Antonio | 09/02/1988 | Publix Super Market, Inc. | | 17801 Nw 19Th Street | Pembroke Pines, FL 33029 |
| RPT | 54257 | 05/19/2014 | Kerr, Darnion | 11/18/1981 | Walgreens | | 2878 Quantum Lake Dr | Boynton Beach, FL 33426 |
| RPT | 54258 | 05/19/2014 | Leverette-Crosby, Jamie Leigh | 10/14/1982 | University Of Florida | | 8000 Saint Georges Rd Apt 104A | Ormond Beach, FL 32174 |
| RPT | 54259 | 05/19/2014 | Lee, Jamesia Monet | 05/28/1988 | Other | Sanford-Brown Institute;Sanford-Brown Institute Jacksonville | 1478 23Rd Circle South | Jacksonville, FL 32206 |
| RPT | 54260 | 05/19/2014 | Mcclarey, Bridget S | 03/10/1988 | Cvs Caremark | | 70 N University Drive | Hollywood, FL 33024 |
| RPT | 54261 | 05/19/2014 | Machin, Rosina | 08/22/1973 | Budget Drugs Budget Discount Sales Corp | | 8307 Sw 142 Ave Apt E-112 | Miami, FL 33183 |
| RPT | 54262 | 05/19/2014 | Jenkins, Daniel Adam | 09/09/1993 | Cvs Caremark | | 6464 W. Atlantic Ave | Delray Beach, FL 33484 |
| RPT | 54263 | 05/19/2014 | Johnson, Julian Mark Antonio | 03/07/1990 | Cvs Caremark | | 3135 Nw 109Th Terrace | Sunrise, FL 33351 |
| RPT | 54264 | 05/19/2014 | Lukowski, Kathryn Marie | 01/17/1984 | Other | Washtenaw Community College;Washtenaw Community College | 7600 Ridge Road Apt #207 | Seminole, FL 33772 |
| RPT | 54265 | 05/20/2014 | Sadeo, Mark Daniel | 03/03/1995 | Publix Super Market, Inc. | | 5868 Lakeville Road | Orlando, FL 32818 |
| RPT | 54266 | 05/20/2014 | Silcott, Natalia Gail | 09/27/1985 | Other | Ultimate Medical Academy | C - 10 Croixville Apartments | Frederiksted, VI 08400 |
| RPT | 54267 | 05/20/2014 | Tejada, Nereida | 06/14/1964 | Walgreens | | 3595 Sw 22 Street | Miami, FL 33145 |
| RPT | 54268 | 05/20/2014 | Waters, Deborah | 01/29/1958 | Other | Rttp 241 | 1621 Patlin Cir S | Largo, FL 33770 |
| RPT | 54269 | 05/20/2014 | Savisky, Catherine Joan | 10/22/1968 | Publix Super Market, Inc. | | 24051 Peachland Bl | Port Charlotte, FL 33954 |
| RPT | 54270 | 05/20/2014 | Wolstenholme, Bryanna Renee | 08/03/1994 | Cvs Caremark | | 17 Stonegate Drive | Eastampton, NJ 08060 |
| RPT | 54271 | 05/20/2014 | Sharp, Darla Ann | 05/29/1966 | Publix Super Market, Inc. | | 5473 Isabelle Ave | Port Orange, FL 32127 |
| RPT | 54272 | 05/20/2014 | Sugve, Yanexis | 09/24/1980 | Other | Florida Education Institute | 995 West 74Th Street Apt 201 | Hialeah, FL 33014 |
| RPT | 54273 | 05/20/2014 | Salas Docampo, Lizet | 10/21/1978 | Other | Miami Dade College | 10090 Nw 80 Ct Apt 1541 | Hialeah Gardens, FL 33016 |
| RPT | 54274 | 05/20/2014 | Himes, Priscilla Jane | 08/09/1993 | Publix Super Market, Inc. | | 10601 Us Highway 441 Ste D | Leesburg, FL 34788 |
| RPT | 54275 | 05/20/2014 | Bologna, Salvatore | 12/10/1992 | Other | Mulhensberg Career Development Center Job Corps | 1015 1015 Lakeview Drive Apt 16 | Sebring, FL 33870 |



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|------|---------|------------|----------------------------|------------|--------------------------------------|--|---------------------------------|---------------------------|
| RPT | 54276 | 05/21/2014 | Alexandre, Kevin | 09/14/1992 | Medical Institute Of Palm Beach, Inc | | 4858 Classic Drive | West Palm Beach, FL 33417 |
| RPT | 54277 | 05/21/2014 | Cesar, Amy D | 08/09/1988 | Other | | 841 Ne 6Th Place | Cape Coral, FL 33909 |
| RPT | 54278 | 05/21/2014 | Childers, Fontayne Jave | 11/25/1986 | Publix Super Market, Inc. | | 7897 7897 Hillman Ave | Punta Gorda, FL 33982 |
| RPT | 54279 | 05/21/2014 | Bridgett, Takvra A | 04/13/1992 | Medical Institute Of Palm Beach, Inc | | 2670 Northwest 2Nd Street | Boynton Beach, FL 33435 |
| RPT | 54280 | 05/21/2014 | Grant, Theresa Avedell | 11/06/1982 | Other | 2419 - University Of Florida - College Of Pharmacy | 11500 Summit West Blvd. Apt 19F | Temple Terrace, FL 33617 |
| RPT | 54281 | 05/21/2014 | Singh, Traneisa | 04/23/1987 | Walgreens | | 663 Sw 17Th Ct | Boca Raton, FL 33486 |
| RPT | 54282 | 05/21/2014 | Camacho, Isabel | 07/28/1964 | Other | Miami Dade College | 9501 S.W. 73 Ave. | Pinecrest, FL 33156 |
| RPT | 54283 | 05/21/2014 | Grenier, Laura | 10/14/1978 | Other | Miami Dade College | 8400 Sw 21 St | Miami, FL 33155 |
| RPT | 54284 | 05/21/2014 | Goldberg, Matthew Leigh | 06/14/1975 | Other | Indian River State College | 460 38Th Sq Sw | Vero Beach, FL 32968 |
| RPT | 54285 | 05/21/2014 | Somwaru, Roshni | 03/21/1992 | Publix Super Market, Inc. | | 7625 Se 135Th St | Summerfield, FL 34491 |
| RPT | 54286 | 05/21/2014 | Bolton, Tanishia Shantel | 02/26/1988 | Other | Everest University Brandon Campus | 1416 Delano Trent St | Ruskin, FL 33570 |
| RPT | 54287 | 05/21/2014 | Agon, Dayanny | 05/14/1983 | Other | Mattia College | 6475 Sw 132 Ave #203 | Miami, FL 33183 |
| RPT | 54288 | 05/21/2014 | Stanton, Elisha Leann | 10/28/1988 | Other | Everest University Tampa | 5295 Spring Lake Hwy | Brooksville, FL 34601 |
| RPT | 54289 | 05/21/2014 | Rodgers, Piper Kelly | 11/07/1986 | Publix Super Market, Inc. | | 2511 E Atlantic Blvd | Pompano Beach, FL 33062 |
| RPT | 54290 | 05/21/2014 | Martine, Jon Michael | 06/04/1987 | Cvs Caremark | Everest University. | 405 South Hawthorn Cir | Winter Springs, FL 32708 |
| RPT | 54291 | 05/21/2014 | Dixon, Keith Alexander | 10/09/1981 | Other | Fortis Institute | 15Th 1512 Nw 15Th Way | Fort Lauderdale, FL 33311 |
| RPT | 54292 | 05/21/2014 | Minichello, Angela Theresa | 04/03/1979 | Walgreens | | 12028 Majestic Blvd | Hudson, FL 34667 |
| RPT | 54293 | 05/21/2014 | Delgado, Cynthia Paula | 05/08/1992 | Walgreens | | 6713 46Th Ave W #8 | Bradenton, FL 34210 |
| RPT | 54294 | 05/21/2014 | David, Berlandgie | 06/18/1994 | Jacksonville Job Corps Center | | 4811 Payne Stewart Dr | Jacksonville, FL 32209 |
| RPT | 54295 | 05/21/2014 | Howard, Ivan Antwan | 09/25/1990 | Jacksonville Job Corps Center | | 3225 Fox Squirrel Dr | Orange Park, FL 32073 |
| RPT | 54296 | 05/21/2014 | Fowler, Teresa L | 12/17/1982 | Cvs Caremark | | 5514 Mayfair Dr | Pensacola, FL 32506 |
| RPT | 54297 | 05/21/2014 | Groves, Stacey Michelle | 11/15/1979 | | | 1555 Avleigh Cir | Orlando, FL 32824 |
| RPT | 54298 | 05/21/2014 | Bullock, Jenna | 09/14/1990 | Other | On Job Training | 906 Blanding Boulevard | Orange Park, FL 32073 |



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| RPT | 54299 | 05/21/2014 | Irizary, Helen Sharmaine | 04/29/1979 | Concorde Career Institute | | 4771 West Union Rd | Millington, TN 38053 |
| RPT | 54300 | 05/21/2014 | Maleu, Katherine Emily | 11/21/1991 | Other | Indian River State College:Indian River State College | 4201 Burnt Forest Court | Fort Pierce, FL 34951 |
| RPT | 54301 | 05/21/2014 | Peri, Alexandra Christine | 01/24/1989 | University Of Florida | | 5691 S Suncoast Blvd | Homosassa, FL 34446 |
| RPT | 54302 | 05/21/2014 | Montana, Claudia | 05/29/1966 | Miami Sunset Adult Education Center | | 15221 Sw 80 St Apt 411 | Miami, FL 33193 |
| RPT | 54303 | 05/21/2014 | Purdy, Alyssa Maxine | 12/11/1989 | Other | Ridge Career Center:Ridge Career Center | 521 Sunset Ridge Loop | Davenport, FL 33897 |
| RPT | 54304 | 05/21/2014 | Barr, Jena Sharreice | 10/05/1989 | Publix Super Market, Inc. | | 23965 Highway 27 | Lake Wales, FL 33859 |
| RPT | 54305 | 05/21/2014 | Callahan, Ashley Morgan | 05/17/1983 | Cvs Caremark | | 3729 Egret Dunes Dr | Ormond Beach, FL 32176 |
| RPT | 54306 | 05/21/2014 | Dalencour, Stanley | 06/05/1991 | Other | Everest University | 9621 Triton Court | Boca Raton, FL 33434 |
| RPT | 54307 | 05/21/2014 | Pickett, Jennifer L | 06/07/1962 | Other | Everest University:Everest University | 124 Bushcreek Drive | Sanford, FL 32771 |
| RPT | 54308 | 05/21/2014 | Butler, Penny Wheeler | 09/07/1960 | Other | Fortis Institute | 2221 Nw 58Th Terrace Apt #19 | Lauderhill, FL 33313 |
| RPT | 54309 | 05/21/2014 | Morgan, Dorian Cordell Jr | 12/06/1993 | Other | Barry University:Steps Corp | 11411 Sw 45Th Manor Apt 9-103 | Miramar, FL 33025 |
| RPT | 54310 | 05/21/2014 | Frisbee, Dreama Lynn | 02/03/1985 | Cvs Caremark | | 712 Main Street | Atlantic Beach, FL 32233 |
| RPT | 54311 | 05/21/2014 | Naoumova, Rezeda R | 04/13/1960 | Other | Rite Aid:Harcour Learning Direct | 707 29Th Se | Puyallup, WA 98374 |
| RPT | 54312 | 05/21/2014 | Cole, Jessica Ryan | 01/27/1984 | Cvs Caremark | | 3749 3749 Bluff Lane | Saint Augustine, FL 32086 |
| RPT | 54313 | 05/21/2014 | Tillawi, Rana | 11/26/1987 | Walgreens | | 1300 E. Hallandale Beach Bvd | Hallandale Beach, FL 33009 |
| RPT | 54314 | 05/21/2014 | Baker, Kerl Lynn | 03/02/1986 | Cvs Caremark | | 10151 Ne 60Th Street | Bronson, FL 32621 |
| RPT | 54315 | 05/21/2014 | Dell, Katrina A | 07/02/1990 | | | 530 Truman Ave | Key West, FL 33040 |
| RPT | 54316 | 05/21/2014 | Kelly, Jamie Lynn | 10/17/1984 | Other | Heritage Institute:Heritage Institute | 8065 Tolles Dr | North Fort Myers, FL 33917 |
| RPT | 54317 | 05/21/2014 | Groff, Ashley N | 10/17/1985 | Walgreens | | 5034 5034 257Th St E | Myakka City, FL 34251 |
| RPT | 54318 | 05/21/2014 | Green, Centoria Lanette | 03/01/1990 | Other | Everest University | 6407 Shortleafpl | Jacksonville, FL 32244 |



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| RPT | 54319 | 05/22/2014 | Wiencsek, Marites Atrido | 08/09/1979 | | Rasmussen College - Ft Myers | 1827 Price Blvd | North Port, FL 34288 |
| RPT | 54320 | 05/22/2014 | Scagnegatti, Stephanie Linzy | 01/11/1992 | Walgreens | | 1751 Bonaventure Blvd | Weston, FL 33326 |
| RPT | 54321 | 05/22/2014 | Smith, Jodi Renee | 06/18/1971 | Ominicare, Inc. | | 1516 Montana Ave | Lynn Haven, FL 32444 |
| RPT | 54322 | 05/22/2014 | Weber, Stephanie Anne | 05/30/1990 | Walgreens | | 9000 S Us Hwy 1 | Port Saint Lucie, FL 34952 |
| RPT | 54323 | 05/22/2014 | Castillo, Jaqueline E | 04/25/1992 | Other | Florida Education Institute | 220 Nw 57Th Avenue Apt 7 | Miami, FL 33126 |
| RPT | 54324 | 05/22/2014 | Sweet, Audrey Gayle | 11/24/1993 | | | 647 E Colonial Dr | Orlando, FL 32803 |
| RPT | 54325 | 05/22/2014 | Sutton, Jack | 05/25/1956 | Other | Cape Coral Tech | 726 Sw 5Th Terrace | Cape Coral, FL 33991 |
| RPT | 54326 | 05/22/2014 | Vargas, Kiara Veronica | 11/05/1987 | University Of Florida | | 551 Caballero Ave Se | Palm Bay, FL 32909 |
| RPT | 54327 | 05/22/2014 | Phelps, Laura Kay | 09/15/1988 | Other;Walgreens | Walgreens | 7740 Plantation Bay Dr Apt 502 | Jacksonville, FL 32244 |
| RPT | 54328 | 05/22/2014 | Wagner, Carson Lee | 05/27/1994 | Cvs Caremark | | 8315 Red Bug Lake Rd | Oviedo, FL 32765 |
| RPT | 54329 | 05/22/2014 | Shoemaker, Tyler Shawn | 11/10/1992 | Cvs Caremark | | 589 589 11Th Ave South | Jacksonville Beach, FL 32250 |
| RPT | 54330 | 05/22/2014 | Reyes, Kristina | 03/10/1986 | Other | Everest Institute | 29901 Sw 154Th Ave | Homestead, FL 33033 |
| RPT | 54331 | 05/22/2014 | Lewis, Cameron | 11/13/1992 | Cvs Caremark | | 1690 S. Federal Hwy | Delray Beach, FL 33483 |
| RPT | 54332 | 05/22/2014 | Winnemore, Sherry Ann | 11/06/1972 | Wal-Mart | | 12100 Seminole Blvd Lot #32 | Largo, FL 33778 |
| RPT | 54333 | 05/22/2014 | Lin, Qing | 07/27/1988 | Other | Pensacola State College;Pensacola State College | 1694 Cedrus Lane | Pensacola, FL 32514 |
| RPT | 54334 | 05/22/2014 | Martin, Shannon Kathleen | 01/14/1973 | Other | Pikes Peak Community College;Pikes Peak Community College | 2280 Rabenton Rd. | Deltona, FL 32738 |
| RPT | 54335 | 05/22/2014 | Smith, Kerri Anne | 12/22/1986 | Other | Everest University | 1444 Dakar Street | Jacksonville, FL 32205 |
| RPT | 54336 | 05/22/2014 | Ochil Puente, Mercedes | 01/30/1970 | Other | Leon Medical Centers;Washington, Dc 20037 | 101 Sw 27Th Ave | Miami, FL 33135 |
| RPT | 54337 | 05/22/2014 | Tejas, Cristina Aida | 01/22/1993 | Other | Everest Institute | 17875 Sw 156 Ave | Miami, FL 33187 |
| RPT | 54338 | 05/22/2014 | Rayfield, Suzanna Marie | 08/07/1995 | | | 10420 Forest Hill Blvd | Wellington, FL 33414 |
| RPT | 54339 | 05/23/2014 | Garcia, Dailys | 11/23/1986 | | | 10700 West Flagler | Miami, FL 33174 |
| RPT | 54340 | 05/23/2014 | Bliss, Ashley Nicole | 12/22/1989 | | | 208 Ne 6Th St | Okeechobee, FL 34972 |



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|------|---------|------------|-----------------------------|------------|---|---|---------------------------------|---------------------------|
| RPT | 54341 | 05/23/2014 | Smith, Bakari Ojore | 09/04/1985 | Target Corporation | | 4795 W Ino Bronson Memorial Hwy | Kissimmee, FL 34746 |
| RPT | 54342 | 05/23/2014 | Green, Myra Lee | 09/23/1974 | | | Target Pharmacy | |
| RPT | 54343 | 05/23/2014 | Gomez, Jennifer | 01/09/1995 | Cvs Caremark | | 8695 Coral Way | Miami, FL 33155 |
| RPT | 54344 | 05/23/2014 | Babcock, Lindsay Ann | 08/18/1990 | Walgreens | | 2209 Cherokee Trail | Valrico, FL 33594 |
| RPT | 54345 | 05/23/2014 | Williams, Renee Janel | 04/02/1991 | Florida Health Care Plans-Deland | | 47 Big Bear Path | Ormond Beach, FL 32174 |
| RPT | 54346 | 05/23/2014 | Aleman, Emily Chavelly | 07/22/1993 | Other | Everest University South Orlando | 7727 Harbor Lake Dr. 32822 | Orlando, FL 32822 |
| RPT | 54347 | 05/23/2014 | Robinson, Stacy Nickesha | 05/19/1986 | Walgreens | | 8199 N University Dr | Tamarac, FL 33321 |
| RPT | 54348 | 05/23/2014 | Tripolitis-Miles, Aleesha E | 11/22/1992 | Other | Mci Institute Of Technology | 708 46Th Street | West Palm Beach, FL 33407 |
| RPT | 54349 | 05/23/2014 | Maksem, Damon Jay | 11/08/1975 | Cvs Caremark | | 8100 N. Davis Hwy | Pensacola, FL 32514 |
| RPT | 54350 | 05/23/2014 | Acosta, Marcia | 09/15/1985 | Other | Pharmacy Technician Certification Board | 2741 Coral Way | Miami, FL 33145 |
| RPT | 54351 | 05/23/2014 | Vazquez, Cristian | 10/19/1993 | Other | Everest University | 1843 Page Leigh Cir Apt 1621 | Apopka, FL 32703 |
| RPT | 54352 | 05/23/2014 | Miller, Kyneatria Niehema | 09/14/1974 | Cvs Caremark | | 951 Scrub Jay Drive | St Augustine, FL 32092 |
| RPT | 54353 | 05/23/2014 | Mckiver, Tiara Alexis | 03/29/1991 | Cvs Caremark | | 924 Rhinehart Rd. | Lake Mary, FL 32746 |
| RPT | 54354 | 05/23/2014 | Sachs, Barbara Diane | 01/23/1956 | Other | Everest University | 5214 Point Harbor Lane | Apollo Beach, FL 33572 |
| RPT | 54355 | 05/23/2014 | Gade, Laxmi | 12/31/1976 | Walgreens | | 20Sw 12Th Ave | Deerfield Beach, FL 33442 |
| RPT | 54356 | 05/23/2014 | Torres, Keyla Liz | 12/26/1991 | Other | Everest University | 700 Cecina Way Apt N | Kissimmee, FL 34741 |
| RPT | 54357 | 05/23/2014 | Tirado, Alejandro | 04/12/1990 | Las Villas Pharmacy Discount And Medical Supplies | | 1020 West 45 Pl | Hiialeah, FL 33012 |
| RPT | 54358 | 05/23/2014 | Forster, Jocelyn Lashae | 12/13/1992 | Other | Everest University Orlando South | 911 Emeraldal Road | Orlando, FL 32808 |
| RPT | 54359 | 05/23/2014 | Hernandez, Anet | 07/26/1983 | Other | Everest Institute | 242 E. 3Rd Street Apt#104 | Hiialeah, FL 33010 |
| RPT | 54360 | 05/23/2014 | Baummann, Chasity Sue | 05/23/1976 | | | 104 S. Old Dixie Hwy | Lady Lake, FL 32159 |
| RPT | 54361 | 05/23/2014 | Borgesano, Nicholas Anthony | 07/07/1949 | | | 9039 Little Road | New Port Richey, FL 34654 |
| RPT | 54362 | 05/23/2014 | Morales, Danny Michel | 02/23/1996 | Publix Super Market, Inc. | | 18888 Nw 77Ct | Hiialeah, FL 33015 |



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|------|---------|------------|----------------------------------|------------|----------------------------------|---------------------------------------|------------------------------|----------------------------|
| RPT | 54363 | 05/23/2014 | Degregorio, Joseph Jr | 12/11/1945 | | | 9039 Little Road | New Port Richey, FL 34654 |
| RPT | 54364 | 05/23/2014 | King, Ryan Roy | 07/20/1991 | Concorde Career Institute | | 20325 NE 12Th Ave | Miami, FL 33179 |
| RPT | 54365 | 05/23/2014 | O'Bara, Richard Joseph | 07/23/1976 | Concorde Career Institute | | 1340 N.W 173 Terr | Miami, FL 33169 |
| RPT | 54366 | 05/23/2014 | Posada, Dolly Andrea | 09/22/1975 | Concorde Career Institute | | 3020 Sw 119Th Ave Suite #305 | Miramar, FL 33025 |
| RPT | 54367 | 05/23/2014 | Magazino, Tasha | 09/15/1985 | Pinellas County Job Corps Center | | 15401 George Blvd | Clearwater, FL 33760 |
| RPT | 54368 | 05/23/2014 | Louis, Stevens | 04/23/1993 | Fortis Institute;Other | Fortis Institute | 600 Sw 14Th Place | Deerfield Beach, FL 33441 |
| RPT | 54369 | 05/23/2014 | Knight, Natalia Leola | 07/01/1995 | Cvs Caremark | | 8252 Old Tramway Dr. | Melbourne, FL 32940 |
| RPT | 54370 | 05/23/2014 | Maxime, Sandy Estephania | 04/05/1991 | Other | Everest University;Everest University | 7420 Sw10Th Ct Apt 4 | N Lauderdale, FL 33068 |
| RPT | 54371 | 05/27/2014 | Calungcaguin, Ros Gabriel Tecson | 06/10/1994 | Cvs Caremark | | 3611 Prescott Loop | Lakeland, FL 33810 |
| RPT | 54372 | 05/27/2014 | Weigold, Nathan Richard | 11/09/1995 | Walgreens | | 807 E Silver Springs Blvd | Ocala, FL 34470 |
| RPT | 54373 | 05/27/2014 | Sell, Sandra Jean | 08/12/1968 | Cvs Caremark | | 901 S. Main St. | Wildwood, FL 34785 |
| RPT | 54374 | 05/27/2014 | Mcarthur, Jordan Leigh | 11/17/1991 | Cvs Caremark | | 4724 Thousand Oak Blvd. | Pace, FL 32571 |
| RPT | 54375 | 05/27/2014 | Iraheta, Sara Elizabeth | 08/21/1971 | Walgreens | | 7160 West 20 Av M-129 | Hialeah, FL 33016 |
| RPT | 54376 | 05/27/2014 | Aguilar Rosabal, Yallian Leyanis | 10/13/1985 | Cvs Caremark | | 1521 Sw 125 Ct | Miami, FL 33184 |
| RPT | 54377 | 05/27/2014 | Tiabo, Shamira | 07/31/1985 | Other | Everest Institute | 710 Sw 5Th Avenue | Hallandale Beach, FL 33009 |
| RPT | 54378 | 05/27/2014 | Woodard, Antoinette | 06/18/1992 | Other | Everest Institute | 20875 Nw 22 Avenue Apt#104 | Miami Gardens, FL 33056 |
| RPT | 54379 | 05/27/2014 | Arpon Campoamor, Ladys | 09/05/1971 | Other | Florida Education Institute | 51 Nw 50Th Avenue Apt 1 | Miami, FL 33126 |
| RPT | 54380 | 05/27/2014 | Carroll, Jeremy Payton | 06/12/1989 | | | 18821 N W 19Th Ave | Miami Gardens, FL 33056 |
| RPT | 54381 | 05/27/2014 | Hensch, Allison Leigh | 07/05/1992 | | | 906 Blanding Blvd | Orange Park, FL 32065 |
| RPT | 54382 | 05/27/2014 | Garcia, Heather Lynn | 10/23/1980 | | | 594 Mainline Blvd | Apopka, FL 32712 |
| RPT | 54383 | 05/27/2014 | Fitzgerald, Debra Lynn | 09/06/1968 | | | 3950 E. Hawser St #33 | Tucson, AZ 85739 |



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|------|---------|------------|---------------------------|------------|--------------------------------|--|------------------------------|--------------------------|
| RPT | 54384 | 05/27/2014 | Bou, Lysa | 11/17/1990 | Wal-Mart | | 5006 Key Lime Drive Unit 103 | Jacksonville, FL 32256 |
| RPT | 54385 | 05/27/2014 | Gurganus, Melanie Renee | 09/15/1981 | Cvs Caremark | | 612 612 3rd Street | Chipley, FL 32428 |
| RPT | 54386 | 05/27/2014 | Hudspeth, Kayla | 02/16/1995 | Other | Sanford Brown Institute - Fort Lauderdale | 5213 NW 25Th Ct 37-6 | Lauderhill, FL 33313 |
| RPT | 54387 | 05/28/2014 | Conyers, Allison Marie | 10/13/1961 | | | 7827 Land O Lakes Blvd | Land O Lakes, FL 34638 |
| RPT | 54388 | 05/28/2014 | Bunn, Judy Ann Bucsit | 10/14/1969 | Other | Everest University | 7497 Steventon Way | Jacksonville, FL 32244 |
| RPT | 54389 | 05/28/2014 | Gregory, Brandon Roger | 10/16/1985 | Cvs Caremark | | 9940 Yamato Rd. | Boca Raton, FL 33498 |
| RPT | 54390 | 05/28/2014 | Hines, Semary Rina | 02/11/1969 | Other | Everest University | 900 NW 5Th Ave | Pompano Beach, FL 33069 |
| RPT | 54391 | 05/28/2014 | Gregg, Sharon Patricia | 01/22/1981 | Other | Everest University | 291 W Cocoa Beach Causeway | Cocoa Beach, FL 32931 |
| RPT | 54392 | 05/28/2014 | Bellomy, Matthew Gregory | 11/22/1994 | Publix Super Market, Inc. | | 3717 Se 12Th Place | Cape Coral, FL 33904 |
| RPT | 54393 | 05/28/2014 | Gustave, Sabine | 11/21/1990 | | | 202 Yamato Rd | Boca Raton, FL 33431 |
| RPT | 54394 | 05/28/2014 | Ford, Tirrea Janay | 01/20/1974 | | | 4771 N. Pine Hills Rd #104 | Orlando, FL 32808 |
| RPT | 54395 | 05/28/2014 | Eby, Amber Nichole | 09/09/1989 | | | 614-698 John Knox Rd | Tallahassee, FL 32303 |
| RPT | 54396 | 05/28/2014 | Doyle, Ian Nathaniel | 05/30/1993 | Hobbs Pharmacy United, Inc. | | 133 N. Banana River Dr | Merritt Island, FL 32952 |
| RPT | 54397 | 05/28/2014 | Aguirre, Oralía Christine | 08/25/1990 | Other | Pharmacy Technicians University | 518 S. 6Th Ave | Wauchula, FL 33773 |
| RPT | 54398 | 05/28/2014 | Goetz, Charlene Marie | 01/23/1970 | Publix Super Market, Inc. | | 2424 Sand Mine Rd | Davenport, FL 33897 |
| RPT | 54399 | 05/28/2014 | Alvarado, Johanna A | 12/01/1983 | Other | Indian River State College | 200 S.E. Hospital Avenue | Stuart, FL 34994 |
| RPT | 54400 | 05/28/2014 | Fu, Samayra | 07/19/1987 | Walgreens | | 130 900 NW 130Th St | North Miami, FL 33168 |
| RPT | 54401 | 05/28/2014 | Stephens, Carolyn A | 03/02/1965 | Other | Rasmussen College New Port Richey, Florida | 12434 Canton Ave | Hudson, FL 34669 |
| RPT | 54402 | 05/28/2014 | Cohello, Gabriel | 01/09/1986 | Other | Cape Coral Institute Of Technology | 6 Del Prado Boulevard North | Cape Coral, FL 33909 |
| RPT | 54403 | 05/28/2014 | Wells, Damian Michael | 02/09/1978 | Walgreens | | 12290 NW 168Th Place | Reddick, FL 32686 |
| RPT | 54404 | 05/28/2014 | Acreman, Maria E | 05/10/1971 | | | 1554 Indian Bay Rd | Aripeka, FL 34607 |
| RPT | 54405 | 05/28/2014 | Brown, Vaquenthia Vontay | 04/20/1984 | Express Training Services, Llc | | 12023 Alafaya Woods Ct | Orlando, FL 32826 |



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|------|---------|------------|-------------------------------|------------|--------------------------------------|--|--------------------------------|-------------------------------|
| RPT | 54406 | 05/28/2014 | Spahr, Rachelle L | 03/03/1972 | Other | Ultimate Medical Academy | 2263 Easy Street | Port Charlotte, FL 33952 |
| RPT | 54407 | 05/29/2014 | Cruikshank, Megan Harrison | 05/31/1989 | Other | Walgreens | 13729 Walbrooke Dr | Tampa, FL 33624 |
| RPT | 54408 | 05/29/2014 | Collazo, Lazara Yamlika | 12/08/1983 | Other | Passassured | 11501 Sw 40 St. | Miami, FL 33165 |
| RPT | 54409 | 05/29/2014 | Stoffel, Patricia Ann | 12/22/1983 | Walgreens | | 1880 N. Belcher Rd | Clearwater, FL 33765 |
| RPT | 54410 | 05/29/2014 | Alonso, Vanessa | 10/05/1989 | Other | Miami Dade College Medical Campus | 19820 Nw 47Th Place | Miami Gardens, FL 33055 |
| RPT | 54411 | 05/29/2014 | Acker, Monique Suzanne | 12/22/1966 | Cvs Caremark | | 1720 W Highway 326 | Ocala, FL 34475 |
| RPT | 54412 | 05/29/2014 | Cichowski, Miranda Halina | 12/20/1995 | Cvs Caremark | | 5701 Coral Ridge Dr | Coral Springs, FL 33076 |
| RPT | 54413 | 05/29/2014 | Acuna, Britney Leaura | 04/08/1995 | Publix Super Market, Inc. | | 18567 Sw 132Nd Pl | Miami, FL 33177 |
| RPT | 54414 | 05/29/2014 | Daly, Kelly Ann | 01/02/1996 | Cvs Caremark | | 2105 13Th Street | Saint Cloud, FL 34769 |
| RPT | 54415 | 05/29/2014 | Bowerman, Emily Hope | 10/29/1991 | Total Care Medical, Inc | | 2565 Capital Medical Blvd | Tallahassee, FL 32308 |
| RPT | 54416 | 05/29/2014 | Furnero, Zuleidys | 08/08/1991 | Cvs Caremark | | 5044 Forest Hill Boulevard | West Palm Beach, FL 33415 |
| RPT | 54417 | 05/29/2014 | Reyes, Dayana | 03/29/1987 | Publix Super Market, Inc. | | 1131 Ne 5Th Ave | Cape Coral, FL 33909 |
| RPT | 54418 | 05/29/2014 | Wiseman, Nicole Ann | 02/04/1995 | Cvs Caremark | | 923 Riverside Ridge Road | Tarpon Springs, FL 34688 |
| RPT | 54419 | 05/29/2014 | Rivera, Nishia Mirielle | 03/25/1992 | Cvs Caremark | | 3001 58Th Ave S Apt 414 | Saint Petersburg, FL 33712 |
| RPT | 54420 | 05/29/2014 | Knight, Yolanda Antonia | 09/17/1992 | Other | Heritage Institute;Heritage Institute | 8680 Baymeadows Rd East 728 | Jacksonville, FL 32256 |
| RPT | 54421 | 05/29/2014 | Johnson, Janan Sadiyyah | 12/22/1990 | | Homestead Job Corps | 2264 W 28Th St | Jacksonville, FL 32209 |
| RPT | 54422 | 05/29/2014 | Labban, Abdulsattar | 11/06/1986 | Walmart And Sam'S Club Pharmacies | | 3207 Scallion Ct | Orlando, FL 32825 |
| RPT | 54423 | 05/29/2014 | Manno, Matthew Thomas | 11/23/1991 | Publix Super Market, Inc. | | 450 State Road 13 Ste 109 | St Johns, FL 32259-3861 |
| RPT | 54424 | 05/29/2014 | Mcshane, Steven Terrell | 12/12/1981 | Walgreens | | 100 100 Lincoln Rd. | Miami Beach, FL 33139 |
| RPT | 54425 | 05/29/2014 | Murphy, Angela Charlene | 07/25/1969 | Walgreens | | 6896 Desert Inn Terr | Lake Worth, FL 33463 |
| RPT | 54426 | 05/29/2014 | Jin, Hee | 06/08/1990 | Cvs Caremark | | 1160 S. Dixie Hwy | Coral Gables, FL 33146 |



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|------|---------|------------|------------------------------|------------|---------------------------|---|----------------------------------|------------------------------|
| RPT | 54427 | 05/29/2014 | Ortiz Brito, Pedro Delio | 09/15/1977 | Other | Everest Institute;Everest Institute | 1121 Sw 122 Ave Apt#111 | Miami, FL 33184 |
| RPT | 54428 | 05/29/2014 | Owen, Shanika Takice | 12/19/1985 | Walgreens | | 2210 Sw 67Th Ave | Miramar, FL 33023 |
| RPT | 54429 | 05/29/2014 | Leach, Roxann Marie | 11/10/1984 | Walgreens | | 13442 Biscayne Drive | Grand Island, FL 32735 |
| RPT | 54430 | 05/29/2014 | Paslay, April Noelle | 02/20/1989 | Wal-Mart | | 355 E Semoran Blvd | Fern Park, FL 32707 |
| RPT | 54431 | 05/29/2014 | King, Erica Latrese | 10/27/1977 | Concorde Career Institute | | 2026 S. Clarcona Rd | Apopka, FL 32703 |
| RPT | 54432 | 05/29/2014 | Pringle, Sashannah Terri-Ann | 12/02/1987 | Cvs Caremark | | 9251 Ashley Drive | Miramar, FL 33025 |
| RPT | 54433 | 05/29/2014 | Langworthy, Mary Jane | 05/19/1959 | Cvs Caremark | | 4230 Myrtle Street | St Augustine, FL 30284 |
| RPT | 54434 | 05/29/2014 | Proenza, Alinna | 06/05/1986 | Other | Everest University;Everest University North Orlando | 1052 Ivey Lake Drive | Orange City, FL 32763 |
| RPT | 54435 | 05/29/2014 | Cabreres, Antonio Joseph | 07/20/1988 | | | 9039 Little Road | New Port Richey, FL 34654 |
| RPT | 54436 | 05/29/2014 | Martin, Connie Elise | 12/19/1987 | Publix Super Market, Inc. | | 2640 Blanding Blvd | Middleburg, FL 32068 |
| RPT | 54437 | 05/29/2014 | Krehling, Deidra Lynn | 10/11/1991 | | Pensacola State College | 27513-A Krehling Rd | Elberta, AL 36530 |
| RPT | 54438 | 05/29/2014 | Tarvin, Janice Irene | 12/19/1968 | | Bay Life Pharmacy | 1235 S Missouri Ave | Clearwater, FL 33756 |
| RPT | 54439 | 05/30/2014 | Liddell, Brian William | 06/24/1993 | Publix Super Market, Inc. | | 10913 North Military Trail | Palm Beach Gardens, FL 33410 |
| RPT | 54440 | 05/30/2014 | Leavins, Katrina Ann | 04/13/1986 | Other | Gulf State Coast College;Gulf Coast State College | 2508 Minnesota Avenue Apt. 1-234 | Lynn Haven, FL 32444 |
| RPT | 54441 | 05/30/2014 | Lochridge, Trent James | 06/06/1990 | University Of Florida | | 11078 Sierra Palm Court | Fort Myers, FL 33966 |
| RPT | 54442 | 05/30/2014 | Louis-Gene, Sharmine | 01/03/1993 | Other | Everest University;Everest University | 7643 Gramercy Dr | Orlando, FL 32818 |
| RPT | 54443 | 05/30/2014 | Pantoleon, Ana M | 10/11/1962 | Other | Cape Coral Institute Of Technology;Cape Coral Institute Of Technology | 4200 Ne 22Nd Avenue | Cape Coral, FL 33909 |
| RPT | 54444 | 05/30/2014 | Flete, Darlene | 12/19/1988 | Other | Southeastern College | 526 Westport Dr | Longwood, FL 32750 |
| RPT | 54445 | 05/30/2014 | Gutierrez, Chantelle | 10/12/1993 | Cvs Caremark | | 354 Dover Place Apt 201 | Naples, FL 34104 |
| RPT | 54446 | 05/30/2014 | Dillman, Amy Renea | 10/04/1968 | Cvs Caremark | | 737 Cape Coral Pkwy E | Cape Coral, FL 33904 |
| RPT | 54447 | 05/30/2014 | Bryant, Lavon Andrea | 03/22/1982 | Other | Everest University Tampa | 3303 N Lakeview Dr Apt 3501 | Tampa, FL 33618 |
| RPT | 54448 | 05/30/2014 | Deleurere, Molly Kathryn | 10/27/1977 | Walgreens | | 13053 Cortez Blvd | Brooksville, FL 34613 |



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| RPT | 54449 | 05/30/2014 | Grant, Marco Antonio | 07/08/1972 | Other | Sanford Brown College | 5324 Riva Ridge Drive 733 Porta Rosa Cir | Wesley Chapel, FL 33544 Saint Augustine, FL 32092 |
| RPT | 54450 | 05/30/2014 | Harudin, Justin E | 03/13/1982 | Target Pharmacy | | 29Th 7031 Sw 29Th Street 7031 Sw 29Th Street | Miramar, FL 33023 |
| RPT | 54451 | 05/30/2014 | Cobb, Victoria Demiar | 04/02/1991 | Publix Super Market, Inc. | | 2445 Sw 13Th Place 5527 Golden Dr. | Palm City, FL 34990 |
| RPT | 54452 | 05/30/2014 | Fischer, Clay Michael | 09/25/1990 | Cvs Caremark | | 6302 Us Highway 19 | Tampa, FL 33634 |
| RPT | 54453 | 05/30/2014 | Busto, Samuel | 10/22/1994 | Walgreens | | 7289 W Pompey Ln | New Port Richey, FL 34652 |
| RPT | 54454 | 05/30/2014 | Guiffre, Robert Joel Jr | 03/06/1976 | Walgreens | | 1322 State Rd 60 E | Lake Wales, FL 33853 |
| RPT | 54455 | 05/30/2014 | Driver, Britiany M | 09/09/1989 | Publix Super Market, Inc. | | 11483 Kimberly Forest Drive | Jacksonville, FL 32246 |
| RPT | 54456 | 05/30/2014 | Harris, Chantel Renee | 01/21/1988 | Other | Westover Job Corp | 120 W. Walker Rd Sr. 100 | Keystone Heights, FL 32656 |
| RPT | 54457 | 05/30/2014 | Azim, Niliab | 12/16/1994 | Cvs Caremark | | 3403 Se 6Th Ave | Cape Coral, FL 33904 |
| RPT | 54458 | 05/30/2014 | Valente-Dudley, Sabrina Kuwana | 01/15/1979 | Cvs Caremark | | 15499 North Dale Mabry Hwy | Tampa, FL 33618 |
| RPT | 54459 | 06/02/2014 | Pacheco, Dori Lynn | 06/19/1961 | Other | Cape Coral Institute Of Technology;Cape Coral Institute Of Technology | 22 500-22Nd Street South | St. Petersburg, FL 33712 |
| RPT | 54460 | 06/02/2014 | Norman, Jacob Patrick | 09/05/1994 | Cvs Caremark | | 4412 15Th Ave S | St Petersburg, FL 33711 |
| RPT | 54461 | 06/02/2014 | Minard, Jaymine Allen | 07/07/1993 | Pinellas County Job Corps Center | | 141 Skyloch Drive West | Dunedin, FL 34698 |
| RPT | 54462 | 06/02/2014 | Mael, Duke Logan | 01/06/1989 | Pinellas County Job Corps Center | | 7199 Sw 117 Ave | Miami, FL 33183 |
| RPT | 54463 | 06/02/2014 | Murphy, Kevin William | 02/09/1957 | University Of Florida;Other | 2419 University Of Florida - College Of Pharmacy | 11925 Sw 9Th Ct. | Davie, FL 33325 |
| RPT | 54464 | 06/02/2014 | Perez Castaneda, Jessica Darlagne | 08/13/1989 | Cvs Caremark | | 5200 Tinsley Rd | Milton, FL 32583 |
| RPT | 54465 | 06/03/2014 | Martinez, Cristina | 01/17/1994 | Other | Sanford Brown;Sanford Brown Institute - Fort Lauderdale | 16737 Sarahs Place Apt 201 | Clermont, FL 34714 |
| RPT | 54466 | 06/03/2014 | Garcia, Kathryn Jean | 04/07/1988 | University Of Florida | | 5752 Sawyer Ave | Jacksonville, FL 32208 |
| RPT | 54467 | 06/03/2014 | Maldonado, Tiffany | 10/30/1985 | Cvs Caremark | | | |
| RPT | 54468 | 06/03/2014 | Cason, Brendaysha Ashanti | 02/23/1994 | Other | Sanford-Brown Institute Jacksonville | | |



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|------|---------|------------|-----------------------------|------------|-----------------------------|---|---|----------------------------|
| RPT | 54469 | 06/03/2014 | Jimenez, Maria Isabel | 12/14/1987 | Walgreens | | 6904 Manatee Ave W, Apt 52D | Bradenton, FL 34209 |
| RPT | 54470 | 06/03/2014 | Norman, Linda Clara | 06/02/1971 | | | 677 Main Rd. | Tiverton, RI 02878 |
| RPT | 54471 | 06/03/2014 | Ramos, Andrea Michelle | 05/28/1994 | Cvs Caremark | | 542 Se Crescent Ave | Port Saint Lucie, FL 34984 |
| RPT | 54472 | 06/03/2014 | Ramos, Brittany Amber | 12/14/1995 | Walgreens | | 807 East Silver Springs Blvd | Ocala, FL 34470 |
| RPT | 54473 | 06/03/2014 | Snowden, Alicia Jane | 05/04/1975 | Other | Everest Institute | 29845 Sw 168 Ct | Homestead, FL 33030 |
| RPT | 54474 | 06/03/2014 | Taylor, Breyanna Monique | 01/08/1992 | Other | Everest University Orange Park | 6403 Lucente Dr | Jacksonville, FL 32210 |
| RPT | 54475 | 06/03/2014 | Moorer, Shulonda Renay | 11/19/1977 | | Pensacola State College | 6084 Alicia Drive | Pensacola, FL 32504 |
| RPT | 54476 | 06/03/2014 | Lewis, Yolanda | 09/07/1974 | Other | Sanford Brown Institute, Sanford Brown Institute | 670 S.W. 12Th Court | Deerfield Beach, FL 33441 |
| RPT | 54477 | 06/03/2014 | Tomici, Ruben | 06/27/1990 | Walgreens | | 121 14 121 14Th Ave NW 121 14Th Ave NW | Naples, FL 34120 |
| RPT | 54478 | 06/03/2014 | Guirado, Odaymis | 01/19/1987 | | | 13698 S W 8Th St | Miami, FL 33184 |
| RPT | 54479 | 06/03/2014 | Gillette, Vincent Ryan | 05/22/1990 | | | 12001 Southern Blvd | Loxahatchee, FL 33470 |
| RPT | 54480 | 06/03/2014 | Pulido, Karen Melissa | 05/02/1993 | Cvs Caremark | | 2993 S Jog Rd | Greenacres, FL 33467 |
| RPT | 54481 | 06/03/2014 | Mills, Samantha Mills Jayne | 05/10/1992 | Walgreens | | 2519 N McMullen Booth Rd | Clearwater, FL 33761 |
| RPT | 54482 | 06/03/2014 | Lode, Kimberly Burrows | 08/22/1989 | Cvs Caremark | | 1720 W Hwy 326 | Ocala, FL 34475 |
| RPT | 54483 | 06/03/2014 | Lewis, Ceceliah Paige | 04/10/1992 | Other | Radford M. Locklin Technical Center, Locklin Technical Center | 3325 Duddle Lane | Navarre, FL 32566 |
| RPT | 54484 | 06/03/2014 | Lormond, Virose | 02/02/1991 | Cvs Caremark | | 8205 Mahogany Dr | Boynton Beach, FL 33436 |
| RPT | 54485 | 06/03/2014 | Medina Mesa, Martha | 12/13/1963 | Other | Florida Education Institute, Florida Education Institute | 8160 Sw 210Th Street Apt 203 | Homestead, FL 33189 |
| RPT | 54486 | 06/03/2014 | Deblasio, Jennifer Ann | 01/29/1976 | Other | Everest University | 2474 Hassonite St | Kissimmee, FL 34744 |
| RPT | 54487 | 06/03/2014 | Johnston, Matthew | 03/28/1977 | Davia Rx, Llc | | 2252 Commerce Park Dr | Orlando, FL 32819 |
| RPT | 54488 | 06/03/2014 | Masterson, Andrew James | 12/08/1986 | Hobbs Pharmacy United, Inc. | | 1605 Venus St | Merritt Island, FL 32952 |
| RPT | 54489 | 06/03/2014 | Navarro, Mario Enrique | 12/21/1994 | Other | Miami Lakes Education Center, Miami Lakes Educational Center | 3614 Alafaya Commons Circle | Orlando, FL 32826 |



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|------|---------|------------|---------------------------|------------|---------------------------|---|-----------------------------------|----------------------------|
| RPT | 54490 | 06/03/2014 | Bragg, Ashley Maria | 08/22/1985 | Cvs Caremark | | 7930 Woodland Center Blvd Ste 500 | Tampa, FL 33614 |
| RPT | 54491 | 06/04/2014 | Abreu, Lisbet Anneris | 05/01/1990 | Cvs Caremark | | 13830 Sw 8Th St | Miami, FL 33184 |
| RPT | 54492 | 06/04/2014 | Richmond, Eboni | 10/06/1993 | Other | Sanford Brown Institute Fort Lauderdale | 7966 Southwest 7Th Street | North Lauderdale, FL 33068 |
| RPT | 54493 | 06/04/2014 | Serrano, Fidel | 02/08/1987 | Walgreens | | 8518 Gibsonton Dr Lot #164 | Gibsonton, FL 33534 |
| RPT | 54494 | 06/04/2014 | Thompson, Meagan Amber | 02/11/1993 | Davia Rx, Lic | | 1121 Hall Lane | Orlando, FL 32839 |
| RPT | 54495 | 06/04/2014 | Galvin, Kelsey Elizabeth | 08/30/1990 | Walgreens | | 1477 Main Street | Dunedin, FL 34698 |
| RPT | 54496 | 06/04/2014 | Fernandez, Daniza | 07/19/1975 | Other | Everest Institute | 1095 W/ 77 Street Apt.#304 | Hiialeah, FL 33014 |
| RPT | 54497 | 06/04/2014 | Torres, Belkis M | 08/17/1979 | Other | Fortis College | 23740 Sw 109 Pl | Miami, FL 33032 |
| RPT | 54498 | 06/04/2014 | Carmona, Barbara Maria | 10/04/1993 | | | 2128 Ne 3 Ct | Homestead, FL 33033 |
| RPT | 54499 | 06/04/2014 | Smith, Jameela Alys | 05/20/1991 | Walgreens | | 22036 Red Jacket Lane | Land O Lakes, FL 34639 |
| RPT | 54500 | 06/04/2014 | Bragdon, Delbert Kendall | 01/13/1970 | Publix Super Market, Inc. | | 2760 Tess Circle | Tallahasse, FL 32304 |
| RPT | 54501 | 06/04/2014 | Castro, Xavier | 02/22/1995 | Cvs Caremark | | 6213 North Thatcher St | Tampa, FL 33614 |
| RPT | 54502 | 06/04/2014 | Perez, Joseph Iii | 12/22/1973 | Other | Seminole State College Of Florida;Seminole State College Of Florida | 211 Coachman Ct | Sanford, FL 32773 |
| RPT | 54503 | 06/04/2014 | Gonzalez, Melissa Marina | 05/13/1987 | Wal-Mart | | 246 11321 Sw | Homestead, FL 33032 |
| RPT | 54504 | 06/04/2014 | Sooknanan, Vilma Daliyaa | 02/24/1994 | Cvs Caremark | | 2801 E Oakland Park Blvd | Fort Lauderdale, FL 33306 |
| RPT | 54505 | 06/04/2014 | Lacey, Michelle Stephanie | 01/28/1992 | Other | McFatter Technical Center;McFatter Technical Center | 4841 Sw 45 Ave Apt 2 | Hollywood, FL 33314 |
| RPT | 54506 | 06/04/2014 | Perez, Faith | 09/05/1985 | Other | Heritage Institute;Heritage Institute | 530 Raintree St E | Lehigh Acres, FL 33974 |
| RPT | 54507 | 06/04/2014 | Sanchez, Erica M | 05/05/1971 | Goodlife Pharmacy, Inc. | | 6063 Sw 18Th Street #112 | Boca Raton, FL 33433 |
| RPT | 54508 | 06/04/2014 | Thomas, Dylan John | 02/27/1993 | Wal-Mart | | 608 Se Dean Ter | Port Saint Lucie, FL 34984 |
| RPT | 54509 | 06/04/2014 | Munoz, Norys | 12/05/1983 | Walgreens | | 14190 S.W.26 St | Miami, FL 33175 |
| RPT | 54510 | 06/04/2014 | Trull, Zandra Jungmi | 04/27/1973 | | Welldyne Rx | 500 Eagles Landing Dr | Lakeland, FL 33810 |



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|------|---------|------------|-------------------------------|------------|---------------------------------|--------------------------|--|-----------------------------------|
| RPT | 54511 | 06/05/2014 | Green, Eileen | 12/28/1957 | Wal-Mart | | 2121 NE 63Th St 2121 Ne 63Rd Street | Fort Lauderdale, FL 33308 |
| RPT | 54512 | 06/05/2014 | Duzinskas, Justin Ian | 06/21/1992 | Cvs Caremark | | 1419 Beaver Run Rd | Niceville, FL 32578 |
| RPT | 54513 | 06/05/2014 | Colunio, Michele Ann | 10/12/1972 | Cvs Caremark | | 12 Annette Drive | Melbourne, FL 32904 |
| RPT | 54514 | 06/05/2014 | Thornhill, Kevin | 11/22/1978 | Other | United States Air Force | 149 Hart St | Sheppard Ab, TX 76311 |
| RPT | 54515 | 06/05/2014 | Holley, Donevious | 11/28/1989 | | | 3023 Willow Bend Blvd | Orlando, FL 32808 |
| RPT | 54516 | 06/05/2014 | Connolly, Janay N | 12/14/1988 | Other | Ultimate Medical Academy | 1511 East Powhatan Avenue | Tampa, FL 33610 |
| RPT | 54517 | 06/05/2014 | Colon, Jennifer | 12/14/1990 | Publix Super Market, Inc. | | 2404 Haviland Ave S | Lehigh Acres, FL 33973 |
| RPT | 54518 | 06/05/2014 | Johnson, Crystal Shantel | 11/09/1981 | Publix Super Market, Inc. | | 7749 Normandy Blvd | Jacksonville, FL 32221 |
| RPT | 54519 | 06/05/2014 | Hamner, Samantha Lee | 06/26/1978 | Other | Everest University | 9143 Phillips Hwy | Jacksonville, FL 32256 |
| RPT | 54520 | 06/05/2014 | Cleek, Samantha Elizabeth | 02/19/1991 | Cvs Caremark | | 7996 Conroy Windermere Road | Orlando, FL 32835 |
| RPT | 54521 | 06/05/2014 | Ward, Chanovia Quinette | 06/16/1986 | Walgreens | | 2104 W Oakland Park | Fort Lauderdale, FL 33311 |
| RPT | 54522 | 06/05/2014 | Ynfesta, Ashley Ivis | 11/15/1991 | Walgreens | | 10672 Colonial Blvd | Fort Myers, FL 33913 |
| RPT | 54523 | 06/05/2014 | Siles, Jessica Linda | 04/19/1983 | Publix Super Market, Inc. | | 13820 Old St Augustine Rd | Jacksonville, FL 32258 |
| RPT | 54524 | 06/05/2014 | Corbin, Daketria Breann | 06/07/1991 | Other | Fortis Institute | 2065 Nw 46Th Ave G-103 | Lauderhill, FL 33313 |
| RPT | 54525 | 06/05/2014 | Tisdale, Brittany Renee | 02/26/1989 | Other | Locklin Technical Center | 5432 Dalton Circle | Milton, FL 32570 |
| RPT | 54526 | 06/05/2014 | Terhorst, Amy Marie | 05/21/1980 | Publix Super Market, Inc. | | 1005 Gateway Blvd | Boynton Beach, FL 33426 |
| RPT | 54527 | 06/05/2014 | Andieu, Lukas | 01/14/1988 | Cvs Caremark | | 11890 Biscayne Blvd | Miami, FL 33161 |
| RPT | 54528 | 06/05/2014 | Coleman, Shannon Elizabeth | 12/08/1993 | Cvs Caremark | | 175 Lonestar Ln | Lake Helen, FL 32744 |
| RPT | 54529 | 06/05/2014 | Acosta, Juan | 01/04/1957 | Walgreens | | 400 Hialeah Drive | Hialeah, FL 33010 |
| RPT | 54530 | 06/05/2014 | Belleau, Donna Kay | 04/28/1959 | Wal-Mart | | 1720 S Orlando Ave | Cocoa Beach, FL 32931 |
| RPT | 54531 | 06/05/2014 | Carver, Amanda Lynn | 09/08/1985 | North Florida Pharmacy, Inc. | | 27608 79Th Rd | Branford, FL 32008 |
| RPT | 54532 | 06/05/2014 | Laurent, Diana | 06/26/1989 | Walgreens | | 4319 North Ocean Drive | Lauderdale By Thesea, FL 33308 |
| RPT | 54533 | 06/05/2014 | Misek, Samantha Dara | 07/10/1989 | Publix Super Market, Inc. | | 4730 South Florida Ave | Lakeland, FL 33813 |



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|------|---------|------------|-----------------------------|------------|-------------------------------------|---|-------------------------------------|---------------------------|
| RPT | 54534 | 06/05/2014 | Burgess, Jasmín | 06/16/1991 | Cvs Caremark | | 1081 Beal Pkwy Nw | Ft Walton Beach, FL 32547 |
| RPT | 54535 | 06/05/2014 | Lizince, Tasha | 01/22/1985 | | Westside Tech, Orange County Public Schools | 1741 Grande Pointe Blvd Apt #19-109 | Orlando, FL 32839 |
| RPT | 54536 | 06/05/2014 | Burke, Gerald Robert Jr | 10/19/1990 | Other | Seminole State College Of Florida | 2470 Fieldingwood Road | Maitland, FL 32751 |
| RPT | 54537 | 06/05/2014 | Jones, Octavia Denise | 09/02/1977 | Concorde Career Institute | | 11322 Palm Island Ave | Riverview, FL 33569 |
| RPT | 54538 | 06/05/2014 | Harbut, Nicole L | 06/24/1987 | Walgreens | | 1581 Bella Cruz Dr | The Villages, FL 32159 |
| RPT | 54539 | 06/05/2014 | Boney, Tangelia Patrice | 11/24/1990 | | | 1143 Nw 76Th Street | Miami, FL 33150 |
| RPT | 54540 | 06/05/2014 | Lemieux, Veronica Laine | 10/14/1990 | University Of Florida | | 25 Locust Avenue | Worcester, MA 01604 |
| RPT | 54541 | 06/05/2014 | Cumberbatch, Shelby Julieta | 05/11/1994 | | | 8269 Sw 29Th St | Miramar, FL 33025 |
| RPT | 54542 | 06/05/2014 | Maringer, Kelly Marie | 12/16/1974 | Walgreens | | 11105 Stirling Rd | Cooper City, FL 33328 |
| RPT | 54543 | 06/05/2014 | Dixon, Courtney L | 08/07/1958 | | | 3685 Orlando Dr | Sanford, FL 32771 |
| RPT | 54544 | 06/06/2014 | Molodchenko, Svetlana | 12/25/1977 | University Of Florida;Other | University Of Florida - College Of Pharmacy | 10299 139Th Street | Largo, FL 33774-5310 |
| RPT | 54545 | 06/06/2014 | Johnson, Randall Lee | 06/29/1954 | Cvs Caremark | | 1390 South Jefferson St | Monticello, FL 32344 |
| RPT | 54546 | 06/06/2014 | Forgey, Logan Adam | 08/16/1995 | Shands At The University Of Florida | | 10000 Sw 52Nd Ave Apt 122 | Gainesville, FL 32608 |
| RPT | 54547 | 06/06/2014 | Samardzic, Bojan | 01/01/1965 | | Pinellas Technical Education Centers | 4500 East Bay Drive Suite #123B | Clearwater, FL 33764 |
| RPT | 54548 | 06/06/2014 | Schultz, Britiany Nichole | 01/16/1992 | Publix Super Market, Inc. | | 1313 S. Dale Mabry Hwy | Tampa, FL 33629 |
| RPT | 54549 | 06/06/2014 | Stapleton, Nikolle Lynn | 01/31/1992 | Concorde Career Institute | | 9010 Bloomingdale Ave | Brandon, FL 33511 |
| RPT | 54550 | 06/06/2014 | Martin, Rebecca Dawn | 06/05/1974 | | Adult And Community Education School-Vero Beach, Fl | 633 30Th Ave Sw | Vero Beach, FL 32968 |
| RPT | 54551 | 06/06/2014 | Tejada, Nadiyah Malika | 04/15/1978 | Other | Everest University | 10182 Mason Dixon Circle | Orlando, FL 32821 |
| RPT | 54552 | 06/06/2014 | Rodriguez, Wendy | 02/01/1992 | Cvs Caremark | | 14268 Sw 175 Terr | Miami, FL 33177 |
| RPT | 54553 | 06/06/2014 | Robles, Nashali | 07/24/1993 | Other | Everest University | 2623 Quail Pond Way | Kissimmee, FL 34743 |
| RPT | 54554 | 06/09/2014 | Griggs, Justin Ray | 01/03/1986 | Walgreens | | 807 E Silver Springs Blvd | Ocala, FL 34472 |
| RPT | 54555 | 06/09/2014 | Mann, Miranda B | 07/06/1982 | Other | Everest University;Everest University Largo Campus | 6281 99 Th Cir. | Pinellas Park, FL 33782 |



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|------|---------|------------|-----------------------------------|------------|-----------------------------------|-----------------|----------------------------------|----------------------------|
| RPT | 54556 | 06/09/2014 | Sepulveda, Chantay | 06/02/1977 | | | 1450 N. 65Th Ave. | Hollywood, FL 33024 |
| RPT | 54557 | 06/09/2014 | Wells, Joseph Andrew | 10/31/1987 | Walgreens | | 6506 Caroline St | Milton, FL 32570 |
| RPT | 54558 | 06/10/2014 | Torres, Yenja | 12/17/1976 | University Of Florida | | 4920 E 4Th Ave 4920 East 4Th Ave | Hialeah, FL 33013 |
| RPT | 54559 | 06/10/2014 | Hamilton, Latifah Nicole | 06/18/1990 | Walmart And Sam'S Club Pharmacies | | 807C West 11Th Street | Panama City, FL 32401 |
| RPT | 54560 | 06/10/2014 | Agurcia, Karen Denisse | 08/11/1992 | Publix Super Market, Inc. | | 471 N Pine Island Rd Apt 302D | Plantation, FL 33324 |
| RPT | 54561 | 06/10/2014 | Cubita, Nicholas Francis | 03/03/1988 | Walgreens | | 4319 N. Armenia Ave. | Tampa, FL 33607 |
| RPT | 54562 | 06/10/2014 | Askariseden, Ali | 08/10/1994 | Walgreens | | 5016 Mandloin Ct | Winter Haven, FL 33884 |
| RPT | 54563 | 06/10/2014 | Alvarez, Crystal Lynn | | | | 9039 Little Road | New Port Richey, FL 34654 |
| RPT | 54564 | 06/10/2014 | Chen, Cynthia | 04/17/1996 | Walgreens | | 22613 Blue Fin Trail | Boca Raton, FL 33428 |
| RPT | 54565 | 06/10/2014 | Howard, Milton Maurice | 12/18/1980 | Walgreens | | 3336 20Th Street N. | St. Petersburg, FL 33713 |
| RPT | 54566 | 06/10/2014 | Rivet, Vivienne Rachelle | 04/12/1990 | Other | | 608 Se 25Th Terrace | Cape Coral, FL 33904 |
| RPT | 54567 | 06/10/2014 | Rivet, Scott Rusty | 05/25/1957 | Other | | 608 Se 25Th Terrace | Cape Coral, FL 33904 |
| RPT | 54568 | 06/10/2014 | Feliz Rodriguez, Rossey Millagros | 12/09/1992 | | | 2736 Elmhurst Cir | Orlando, FL 32810 |
| RPT | 54569 | 06/10/2014 | Winston, Deandra Malkha | 01/08/1993 | Cvs Caremark | | 662 Regency Way | Kissimmee, FL 34758 |
| RPT | 54570 | 06/10/2014 | Dicicco, Giovanna Marie | 09/08/1993 | | | 3700 N Federal Highway | Lighthouse Point, FL 33064 |
| RPT | 54571 | 06/10/2014 | Taylor, Alicia Marie | 06/17/1991 | Other | | 6147 Old Kings Road | Jacksonville, FL 32254 |
| RPT | 54572 | 06/10/2014 | Ryan, Kyle Edward | 10/28/1992 | Winn Dixie | | 1436 Sr 121 South | Maccleenny, FL 32063 |
| RPT | 54573 | 06/10/2014 | Yungkurth, Cheryl Marie | 03/09/1961 | Other | | 12323 Stockbridge Ct. N. | Jacksonville, FL 32258 |
| RPT | 54574 | 06/10/2014 | Uset, Cristina Diane | 10/16/1990 | University Of Florida | | 2736 Sw 7 Ave | Miami, FL 33129 |
| RPT | 54575 | 06/10/2014 | Volma, Vladimir | 05/02/1990 | Other | | 1250 E Sample Rd Apt 306 | Pompano Beach, FL 33064 |
| RPT | 54576 | 06/10/2014 | Hernandez, Mara | 07/20/1994 | Other | | 183 W. 39 Place | Hialeah, FL 33012 |
| RPT | 54577 | 06/10/2014 | Clayton, Shantrell Tanquilla | 05/25/1990 | Other | | 542 Birch Ave Sw | Palm Bay, FL 32908 |



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| RPT | 54578 | 06/10/2014 | Hoffman, Millicent Alvira | 02/11/1955 | Other | Everest University | 5826 Flori Lane | Orlando, FL 32808 |
| RPT | 54579 | 06/10/2014 | Dubuisson, Stanley | 05/15/1991 | Other | Everest University | 122 Astor Court | Kissimmee, FL 34743 |
| RPT | 54580 | 06/10/2014 | Thompson, Caneshia Sheneda | 08/02/1990 | Other | Indian River State College | 1906 Avenue M | Fort Pierce, FL 34950 |
| RPT | 54581 | 06/10/2014 | Clarke, Negeri T | 11/11/1983 | Other | Everest University | 1816 Adventure Place | North Lauderdale, FL 33068 |
| RPT | 54582 | 06/10/2014 | Brito, Miguel Alberto | 12/15/1992 | Fortis Institute | | 497h 2421 Ne | Fort Lauderdale, FL 33308 |
| RPT | 54583 | 06/10/2014 | Fillion, Allen Robert | 12/30/1986 | Other | Indian River State College | 2665 2665 68Th Sq Apt 103 | Vero Beach, FL 32966 |
| RPT | 54584 | 06/11/2014 | Gomez-Garcia, Melanie Ann | 12/10/1993 | | | 27273 Sw 138Th Path | Homestead, FL 33032 |
| RPT | 54585 | 06/11/2014 | Cordin, Rayna Anne | 08/04/1990 | Cvs Caremark | | 15550 San Carlos Blvd | Fort Myers, FL 33908 |
| RPT | 54586 | 06/11/2014 | Faylor, Pamela Sue | 07/18/1962 | | | 5901 Monclova Rd | Maumee, OH 43537 |
| RPT | 54587 | 06/11/2014 | Davis, Tracie Renee | 11/09/1967 | | | 4704 Amhurst Circle | Destin, FL 32541 |
| RPT | 54588 | 06/11/2014 | Barnhouse, Brandi | 06/01/1975 | Walgreens | | 3770 3770 Tampa Rd | Oldsmar, FL 34677 |
| RPT | 54589 | 06/11/2014 | Dilts, Brianna Lee | 02/07/1992 | Other | Everest University Brandon Campus | 5610 Pless Road | Plant City, FL 33565 |
| RPT | 54590 | 06/11/2014 | Wright, Antonise Briana | 11/30/1987 | Other | Miami Dade College | 1290 Nw 58St | Miami, FL 33142 |
| RPT | 54591 | 06/11/2014 | Hardee, Karen Denise | 08/16/1994 | Other | Ridge Career Center | 3600 Hurricane Lane | Lake Wales, FL 33898 |
| RPT | 54592 | 06/11/2014 | Anderson, Andrew Berton | 12/30/1990 | Publix Super Market, Inc. | | 915 Doyle Rd | Deltona, FL 32725 |
| RPT | 54593 | 06/11/2014 | Munoz, Patricia M | 09/25/1968 | Other | Hagerstown Community College;Hagerstown Community College, Hagerstown Md | 2350 S.E. Allen St | Port Saint Lucie, FL 34984 |
| RPT | 54594 | 06/11/2014 | Ward, Jessica Marie | 08/05/1993 | Cvs Caremark | | 4914 Willowbrook Circle | Winter Haven, FL 33884 |
| RPT | 54595 | 06/11/2014 | Le, Lee Van | 03/10/1969 | Other | Southeastern College;Southeastern College | 7000 51 Ave N | St Pete, FL 33709 |
| RPT | 54596 | 06/11/2014 | Ibeh, Michael Benjamin | 08/18/1993 | Other | Gulf Coast Institute Of Technology;Cape Coral Institute Of Technology | 356 Arlington Ave | Fort Myers, FL 33905 |



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| RPT | 54597 | 06/11/2014 | Mckay, Dolores J | 11/15/1955 | Other | Department Of The Navy;Naval School Of Health Sciences Portsmouth Va | 15001 Trinity Blvd | Fort Worth, TX 76155 |
| RPT | 54598 | 06/11/2014 | Creighton, Kelley Kanckporn | 12/30/1986 | Cvs Caremark | | 2449 East Silver Springs Blvd. | Ocala, FL 34470 |
| RPT | 54599 | 06/11/2014 | Jackson, Ebony Latrice | 05/29/1981 | | Anthem College | 4613 America St | Orlando, FL 32811 |
| RPT | 54600 | 06/11/2014 | DeJong, Danielle Marie | 06/21/1985 | Cvs Caremark | | 105 S Pebble Beach Blvd | Sun City Center, FL 33573 |
| RPT | 54601 | 06/11/2014 | Maglione, Jessica Juanita | 10/13/1981 | Walgreens | | 445 E Clifford Ave | Eustis, FL 32726 |
| RPT | 54602 | 06/11/2014 | Wright, Elizabeth | 06/23/1994 | Cvs Caremark | | 1000 East Tarpon Ave | Tarpon Springs, FL 34689 |
| RPT | 54603 | 06/11/2014 | Shouman, Ali | 09/07/1990 | Cvs Caremark | | 5009 5009 Sunridge Palms Dr Apt 302 | Tampa, FL 33617 |
| RPT | 54604 | 06/11/2014 | Butts, Shannon Coleen | 01/31/1979 | Cvs Caremark | | 13421 Beechberry Drive | Riverview, FL 33579 |
| RPT | 54605 | 06/11/2014 | Leet, Nicki A | 12/27/1956 | Cvs Caremark | | 8734 Sw 3Rd Street Apt 206 | Pembroke Pines, FL 33025 |
| RPT | 54606 | 06/11/2014 | Kuklo, Donald Joseph | 02/19/1973 | Other | University Of Florida;University Of Florida - College Of Pharmacy | 6806 Meritis Way | Milton, FL 32583 |
| RPT | 54607 | 06/11/2014 | Hollins, Denise Vanessa | 07/18/1992 | Cvs Caremark | | 4724 Portobello Circle | Valrico, FL 33596 |
| RPT | 54608 | 06/11/2014 | Mackey, Allan Edward | 07/31/1982 | Walgreens | | 3010 South Ridgewood Dr. | Edgewater, FL 32141 |
| RPT | 54609 | 06/11/2014 | Mosley, Krystal L | 03/01/1992 | Walgreens | | 104 S Apopka Ave | Inverness, FL 34452 |
| RPT | 54610 | 06/11/2014 | Kallini, Kristina Patricia | 01/30/1990 | Target Pharmacy | | Not Practicing In Florida P O Box 6320 | Tallahassee, FL 32314-6320 |
| RPT | 54611 | 06/11/2014 | Lamar, Jessica Jordan | 09/04/1991 | Other | Radford M. Locklin Technical Center;Locklin Technical Center | 6536 Hwy 87 N | Milton, FL 32570 |
| RPT | 54612 | 06/11/2014 | Polzin, Jennifer Ann | 07/20/1984 | Publix Super Market, Inc. | | 500 N Us Highway 1 | Tequesta, FL 33469 |
| RPT | 54613 | 06/11/2014 | Reddinger, Jacob Andrew | 10/22/1991 | Walgreens | | 1665 68Th Way North 709 | St Petersburg, FL 33710 |
| RPT | 54614 | 06/11/2014 | Tobasco, Erica Amber | 01/04/1995 | Publix Super Market, Inc. | | 2060 Greenview Shores Blvd Apt 315 | Wellington, FL 33414 |



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| RPT | 54615 | 06/11/2014 | Torres, Rebeca | 02/10/1994 | Other | Miami Dade College | 1475 W 39Th Pl Apt 103 | Hialeah, FL 33012 |
| RPT | 54616 | 06/11/2014 | Robertson, Sjalette Aneshia | 01/17/1978 | Publix Super Market, Inc. | | 4849 Coconut Creek Parkway | Coconut Creek, FL 33063 |
| RPT | 54617 | 06/11/2014 | Soria Castillo, Luis L | 05/24/1959 | A-1 Pharmacy | | 17356 S Dixie Hwy | Miami, FL 33157 |
| RPT | 54618 | 06/11/2014 | Monfils, Evena | 10/06/1985 | Other | Miami Dade College: Miami Dade College | 42Nd 12781 Sw 42Nd Street | Miramar, FL 33027 |
| RPT | 54619 | 06/11/2014 | Ionescu, Alexandru | 05/28/1991 | Winn Dixie | | 3621 U S 231 | Panama City, FL 32405 |
| RPT | 54620 | 06/11/2014 | Lopez, Julio Cesar | 10/22/1987 | Publix Super Market, Inc. | | 5970 Jog Rd | Lake Worth, FL 33467 |
| RPT | 54621 | 06/11/2014 | Lindsay, Sawney | 07/24/1995 | Publix Super Market, Inc. | | 10920 10920 Rockridge Rd | Lakeland, FL 33809 |
| RPT | 54622 | 06/11/2014 | Edwards, Laura Denise | 07/13/1984 | WellDynerx, Inc | | 500 Eagles Landing Drive | Lakeland, FL 33810 |
| RPT | 54623 | 06/11/2014 | Halvorsen, Krystine Michelle | 07/27/1995 | Publix Super Market, Inc. | | 1022 Se Seagrass Ave | Port St Lucie, FL 34983 |
| RPT | 54624 | 06/11/2014 | Pierre, Guinose | 01/27/1976 | Albertsons Lic | | 950 East Commercial Blvd | Oakland Park, FL 33334 |
| RPT | 54625 | 06/11/2014 | Jones, Kendra Ashanti | 06/24/1991 | Cvs Caremark | | 121 West Macclenny Avenue | Macclenny, FL 32063 |
| RPT | 54626 | 06/11/2014 | Kenefick, Danielle | 10/06/1990 | Other | Southeastern College: Southeastern College | 4601 Compass Oaks Drive | Valrico, FL 33596 |
| RPT | 54627 | 06/11/2014 | Johnson, Danesa Janelle | 10/05/1984 | Other | Mci Institute Of Technology: Mci Institute Of Technology | 12249 Country Cove Ct | Jacksonville, FL 32225 |
| RPT | 54628 | 06/11/2014 | Applegate, Britney Loren | 07/30/1992 | Other | Passassured, Lic | 620 Northern Rd Apt 101 | South Daytona, FL 32119 |
| RPT | 54629 | 06/11/2014 | Woolley, Zachary Taylor | 04/16/1996 | Shands At The University Of Florida | | 874 Nw 256Th Way | Newberry, FL 32669 |
| RPT | 54630 | 06/11/2014 | Orellana, Diana | 07/18/1989 | Other | Miami Dade College: Miami Dade College Medical Center Campus | 544 Sw 9Th Street Apt 3 | Miami, FL 33130 |
| RPT | 54631 | 06/11/2014 | Raymore, Lashana Jenaye | 12/07/1989 | Walgreens | | 8337 South Park Cir | Orlando, FL 32819 |
| RPT | 54632 | 06/11/2014 | Hughes, Karlyn Taylor | 03/08/1994 | Walgreens | | 1820 Mogra Cir Ne Apt 114 | Palm Bay, FL 32905 |
| RPT | 54633 | 06/11/2014 | Diaz-Reyes, Yahaira | 03/23/1979 | Cvs Caremark | | 2624 Keysville Ave | Deltona, FL 32725 |



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|------|---------|------------|------------------------------------|------------|--------------------------------|--|--|--------------------------|
| RPT | 54634 | 06/11/2014 | Anderson-Hanes, Nicole Kathleen | 09/01/1993 | Cvs Caremark | | 10952 East Colonial Drive | Orlando, FL 32817 |
| RPT | 54635 | 06/11/2014 | Bailey, Kristie Stewart | 06/25/1970 | | | 860 A1A North | Ponte Vedra, FL 32084 |
| RPT | 54636 | 06/11/2014 | Coffman, Melannie | 05/17/1991 | Other | Everest Institute | 14221 Sw 94Th Cir Ln #102 | Miami, FL 33186 |
| RPT | 54637 | 06/11/2014 | De La Pena, Sonia E | 09/23/1981 | Other | Florida Education Institute | 250 West 57Th Street | Hialeah, FL 33012 |
| RPT | 54638 | 06/11/2014 | Anderson, Latonia Sabrina | 04/22/1969 | Cvs Caremark | | 4525 Forest Creek Trl | Parrish, FL 34219 |
| RPT | 54639 | 06/11/2014 | Atkinson, Deborah | 03/23/1990 | Other | Everest Institute | 3310 Nw 176 Terrace | Opa Locka, FL 33056 |
| RPT | 54640 | 06/11/2014 | Flores Guillen, Magdalena | 04/27/1973 | Walgreens | | 1250 Nw 7Th St #205 | Miami, FL 33125 |
| RPT | 54641 | 06/11/2014 | Ghaly, Erin | 12/25/1986 | Cvs Caremark | | 1715 Sarong Place | Winter Park, FL 32792 |
| RPT | 54642 | 06/11/2014 | Castillo, Annet | 08/19/1995 | Other | Southeastern College | 6889 Nw 179 St Apt 104 | Hialeah, FL 33015 |
| RPT | 54643 | 06/11/2014 | Diaz, Andrea Nichole | 11/30/1993 | School Board Of Polk County | | 515 Broward Terr. | Winter Haven, FL 33884 |
| RPT | 54644 | 06/11/2014 | Eidel, Sara Jane | 04/29/1954 | | | 112 Brittany Dr | Dunlevy, PA 15432 |
| RPT | 54645 | 06/12/2014 | Johnson, Charquanna Ja-Nai | 06/10/1987 | Cvs Caremark | | 114 Chapel Dr Apt 213 | Tallahassee, FL 32304 |
| RPT | 54646 | 06/12/2014 | Miller, Matthew Reid | 10/25/1990 | Publix Super Market, Inc. | | 8454 Chesapeake Ave | North Port, FL 34291 |
| RPT | 54647 | 06/12/2014 | Porter, Cathy A | 06/18/1970 | Other | Southeastern College:Southeastern College | 7127 Bobalink Court | Lake Worth, FL 33467 |
| RPT | 54648 | 06/12/2014 | Kendall, Brandy Nichole | 12/27/1986 | Other | Mountain Empire Community College:Mountain Empire Community College | 22152 Laramore Ave 22152 Laramore Ave | Port Charlotte, FL 33952 |
| RPT | 54649 | 06/12/2014 | Leslie, Kayla Charmaine | 06/30/1994 | Wal-Mart | | 3830 Hwy 69 | Greenwood, FL 32443 |
| RPT | 54650 | 06/12/2014 | Perez, Anaelys | 06/30/1982 | Other | Professional Training Centers:Professional Training Centers | 995 Se 1St | Hialeah, FL 33010 |
| RPT | 54651 | 06/12/2014 | Toombs, Saniqua Taisha | 09/04/1977 | Other | Everest University | 3636 Peppervine Drive | Orlando, FL 32828 |
| RPT | 54652 | 06/12/2014 | Webster, Kendra Semone | 10/21/1991 | Virginia College | | 34 Patton Dr Suite 76 | Pensacola, FL 32507 |
| RPT | 54653 | 06/12/2014 | Walker, Jessica Lee | 07/06/1982 | Cvs Caremark | | 909 East Lumsden Rd. | Brandon, FL 33511 |
| RPT | 54654 | 06/12/2014 | Doby, Natasha Renita | 11/28/1982 | Omnicare, Inc. | | 2601 W 23Rd St | Panama City, FL 32405 |
| RPT | 54655 | 06/12/2014 | Dorleans, Nadiane | 03/26/1986 | | | 6620 Gentle Oak Dr South | Jacksonville, FL 32244 |



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| RPT | 54656 | 06/12/2014 | Stevenson, Carlisa V | 06/08/1991 | Cvs Caremark | | 55Th 1629 55Th Ave Circle E Apt 102 | Bradenton, FL 34208 |
| RPT | 54657 | 06/12/2014 | Moore, Lenward Earl Jr | 08/04/1978 | Cvs Caremark | | 504 Kettering Way | Orange Park, FL 32073 |
| RPT | 54658 | 06/12/2014 | Martinez, Lizbeth Tepelate | 02/06/1991 | Other | Pinellas Technical Education Center;Pinellas Technical Education Centers - St. Petersburg | 1344 22Nd St South | St. Petersburg, FL 33712 |
| RPT | 54659 | 06/12/2014 | Chang, Michael Gabriel | 07/18/1981 | Walgreens | | 4162 Pinewood Lane | Weston, FL 33331 |
| RPT | 54660 | 06/12/2014 | Rissky, Michelle Lorraine | 07/07/1985 | | | 2415 Tarpon Bay Blvd | Naples, FL 34119 |
| RPT | 54661 | 06/12/2014 | Martinez Behar, Gloria | 07/23/1969 | | New Professions Technical Institute | 3153 Sw 18 St | Miami, FL 33145 |
| RPT | 54662 | 06/12/2014 | Calixto, Charles P | 02/11/1994 | | | 408 Tarawa Street | Lakeland, FL 33805 |
| RPT | 54663 | 06/12/2014 | Marinoff, Alec Robert | 11/15/1995 | Shands At University Of Florida | | 4520 Nw 30Th St | Gainesville, FL 32605 |
| RPT | 54664 | 06/12/2014 | Pearson, Nils | 11/16/1960 | University Of Florida | | 1519 Arden Way | Jacksonville Beach, FL 32250 |
| RPT | 54665 | 06/12/2014 | Fis, Alisha Luna | 10/21/1993 | | | 2711 Redwood St. | Mulberry, FL 33860 |
| RPT | 54666 | 06/12/2014 | Arana, Linda L | 03/14/1961 | | | 3441 Fox Crossing Drive | Kissimmee, FL 34741 |
| RPT | 54667 | 06/12/2014 | Messick, Alexis Nadine | 01/29/1988 | Other | Gulf Coast State College;Gulf Coast State College | 2170 Sterling Cove Blvd | Panama City Beach, FL 32408 |
| RPT | 54668 | 06/12/2014 | Abreu Vega, Natalie Cristine | 07/25/1993 | Other | Technical Education Center Of Osceola | 2006 Ipsden Dr | Orlando, FL 32837 |
| RPT | 54669 | 06/13/2014 | Soriano, Alcides | 08/14/1981 | Other | Cvs/Pharmacy | 7365 Se 119Th Place | Belle View, FL 34420 |
| RPT | 54670 | 06/13/2014 | Farrell, Adam C | 07/23/1990 | | | 621 Sawara Ct. | Pensacola, FL 32506 |
| RPT | 54671 | 06/13/2014 | Frisancho, Ruben Paniagua | 03/20/1990 | | | 650 W. 23Rd Street | Panama City, FL 32405 |
| RPT | 54672 | 06/13/2014 | Flores Hernandez, Kelly D | 08/04/1988 | | | 5555 Nw 5Th St Suite #L-26 | Miami, FL 33126 |
| RPT | 54673 | 06/13/2014 | Barber, Elainia L | 12/03/1960 | Other | Everest University Tampa | 13080 Roseanna Dr | Spring Hill, FL 34609 |
| RPT | 54674 | 06/13/2014 | Banasiak, Crystal Lynn | 11/17/1993 | Other | Heritage Institute | 3314 25Th St Sw | Lehigh Acres, FL 33976 |
| RPT | 54675 | 06/13/2014 | Garcia, Stephanie | 09/26/1992 | Cvs Caremark | | 296St 14281 Sw 296St | Homestead, FL 33033 |
| RPT | 54676 | 06/13/2014 | Haupt, Brian Phillip | 02/15/1950 | Costco Wholesale Corporation | | 1800 W Sample Rd | Pompano Beach, FL 33064 |
| RPT | 54677 | 06/13/2014 | Gill, Manjinder Kaur | 01/02/1981 | Omnicare, Inc. | | 8603 Florida Mining Blvd | Tampa, FL 33634 |



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|------|---------|------------|-------------------------------|------------|--------------------------------|--|--|--------------------------|
| RPT | 54678 | 06/13/2014 | Beauford, Devondra Josette | 02/04/1994 | Other | Ultimate Medical Academy | 1557 Guardian Ct | Jacksonville, FL 32221 |
| RPT | 54679 | 06/13/2014 | Valdes, Nereyda | 08/05/1963 | Other | Professional Training Centers | 955 Ne 13 Ave | Homestead, FL 33033 |
| RPT | 54680 | 06/13/2014 | Hodges, Mishelia Shaunnchelle | 06/26/1985 | Other | Dallas State Board | 1466 South Hawthorne Ave | Apopka, FL 32703 |
| RPT | 54681 | 06/16/2014 | Maniscalco, Andrew Michael | 06/23/1982 | Express Training Services, Llc | | 252 New York Ave. Apt 103 | Dunedin, FL 34698 |
| RPT | 54682 | 06/16/2014 | Orabona, Cecilie L | 06/25/1970 | University Of Florida | | 10664 Pictorial Park Drive 10664 Pictorial Park Drive | Tampa, FL 33647 |
| RPT | 54683 | 06/16/2014 | Truell, Latoya | 11/18/1986 | Wal-Mart | | 1955 Montgomery Cross Rd | Savannah, GA 31406 |
| RPT | 54684 | 06/17/2014 | Campbell, Tashay | 10/07/1989 | Other | Fortis College | 12251 Sw 198Terrace | Miami, FL 33177 |
| RPT | 54685 | 06/17/2014 | Bailey, Cecil Leslie | 12/28/1987 | Other | Everest University | 7401 Nw 16Th St Plantation Forrest | Plantation, FL 33313 |
| RPT | 54686 | 06/17/2014 | Garcia, Allen | 06/23/1975 | Walgreens | | 3490 Bird Ave | Miami, FL 33133 |
| RPT | 54687 | 06/17/2014 | Thomas, Reena Tesa | 08/09/1993 | Cvs Caremark | | 2668 Crawfordville Hwy | Crawfordville, FL 32327 |
| RPT | 54688 | 06/17/2014 | Oleary, Kirstin Eve | 03/13/1989 | Cvs Caremark | | 4022 Winkler Ave Ext #202 | Fl Myers, FL 33916 |
| RPT | 54689 | 06/17/2014 | Porto-Gomez, Richard Jr | 07/11/1996 | | Technical Education Center Osceola | 1956 Peridot Circle | Kissimmee, FL 34743 |
| RPT | 54690 | 06/17/2014 | Pierre-Antoine, Getro | 05/09/1991 | Other | Everest University;Everest Institute | 20122 Nw 12 Court | Miami, FL 33169 |
| RPT | 54691 | 06/17/2014 | Naranjo, Marisel | 06/19/1990 | Other;University Of Florida | | 130 Sw 109 Ave Apt 8 | Miami, FL 33174 |
| RPT | 54692 | 06/17/2014 | Pabon, Angelica Alexa | 09/29/1992 | Other | Everest University;Everest University Brandon Campus | 8801 Hunters Lake Dr Apt 915 | Tampa, FL 33647 |
| RPT | 54693 | 06/17/2014 | House, Keyla | 12/01/1987 | Cvs Caremark | | 998 Dolphin Dr | Winter Garden, FL 34787 |
| RPT | 54694 | 06/17/2014 | Hennecy, Rayven Renee | 06/09/1993 | Cvs Caremark | | 3399 Us Hwy 98 N 5233 Us Hwy 98 N Apt 69 | Lakeland, FL 33809 |
| RPT | 54695 | 06/17/2014 | Delph, Jordan Taylor | 12/02/1992 | Cvs Caremark | | 1344 Hillside Dr | Tarpon Springs, FL 34689 |
| RPT | 54696 | 06/17/2014 | Burmamm, Leonard Garcia | 08/30/1991 | Other | Orange County Public Schools | 956 Crestwood Commons Ave | Ocoee, FL 34761 |
| RPT | 54697 | 06/17/2014 | Acosta, Sandy Julissa | 02/14/1993 | Other | Pass Assured | 3740 St. Johns Bluff Rd S Suite 19 | Jacksonville, FL 32224 |



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|------|---------|------------|------------------------------|------------|-----------------------------------|--------------------------------|----------------------------------|--------------------------|
| RPT | 54698 | 06/17/2014 | Aguilar, Yaidy Nicole | 01/06/1995 | A-1 Healthcare Academy, Inc. | | 12800 Vassar Ct | Hudson, FL 34667 |
| RPT | 54699 | 06/18/2014 | Franklin, Amy Louise | 03/24/1978 | | | 4079 42 Sq | Vero Beach, FL 32967 |
| RPT | 54700 | 06/18/2014 | Rhodel, Dorothea Marie | 10/23/1994 | Other | Miami Lakes Educational Center | 1373 Nw 55 Street Nw 55 Street | Miami, FL 33142 |
| RPT | 54701 | 06/18/2014 | Yanqui, Estefany | 04/21/1994 | Cvs Caremark | | 1404 Astor Commons Place Apt 101 | Brandon, FL 33511 |
| RPT | 54702 | 06/18/2014 | Caldas, Margarita Flor | 03/23/1987 | | | 1501 Viscaya Pkwy | Cape Coral, FL 33990 |
| RPT | 54703 | 06/18/2014 | Diaz-Paz, Beatriz | 04/04/1986 | Other | Mattia College | 9921 Sw 46 St. | Miami, FL 33165 |
| RPT | 54704 | 06/18/2014 | Bruno, Angelica Theresa | 10/15/1992 | Cvs Caremark | | 15 General Doolittle Rd | Daytona Beach, FL 32124 |
| RPT | 54705 | 06/18/2014 | Harper, Ashley Marper | 07/06/1987 | Walgreens | | 3836 Ace Rd West 3836 Ace Rd W | Lake Worth, FL 33467 |
| RPT | 54706 | 06/18/2014 | Guirola Freire, Yanet | 08/05/1986 | Other | Mattia College | 27845 Sw 132Nd Ave | Miami, FL 33032 |
| RPT | 54707 | 06/18/2014 | Fazio, Anthony Vincent | 03/31/1969 | Other | Everest University | 5860 Nw 64Th Ave #312 | Tamarac, FL 33319 |
| RPT | 54708 | 06/18/2014 | Diaz, Johanna Lee | 06/03/1989 | Walgreens | | 700 E Airport Blvd. Apt. G-6 | Sanford, FL 32773 |
| RPT | 54709 | 06/18/2014 | Longdon, Melanie Lynn | 09/24/1984 | | Walmart | 725 N. Tyn dall Pkwy | Callaway, FL 32464 |
| RPT | 54710 | 06/18/2014 | Digregorio, Karina Marie | 07/04/1994 | Publix Super Market, Inc. | | 2220 Gloria Cr. Apt. 31 | Pensacola, FL 32514 |
| RPT | 54711 | 06/18/2014 | Pace, Kallie Michelle | 10/31/1992 | Cvs Caremark | | 3685 Johnson Stripling Rd | Perry, FL 32347 |
| RPT | 54712 | 06/18/2014 | Jacques, Casey Nicole | 05/12/1989 | Walmart And Sam'S Club Pharmacies | | 126 Williams Dairy Rd | Zolfo Springs, FL 33890 |
| RPT | 54713 | 06/18/2014 | Alexander, Lashanda Michelle | 11/13/1980 | Other | Everest University | 200 Bitterwood Street | Winter Springs, FL 32708 |
| RPT | 54714 | 06/18/2014 | Fortune, Ashley Rae | 04/18/1984 | | | 2 East Magnolia Ave | Eustis, FL 32726 |
| RPT | 54715 | 06/18/2014 | Gregory, Caitlin Lee | 09/06/1995 | | | 3551 Blairstone Rd | Tallahassee, FL 32301 |
| RPT | 54716 | 06/18/2014 | Baten, Brad | 11/19/1989 | Target Pharmacy | | 11340 Rivers Bluff Cir | Lakewood Ranch, FL 34202 |
| RPT | 54717 | 06/18/2014 | Strickland, Nicholas Paul | 10/09/1993 | | Traviss Career Center | 2245 Burns St | Lakeland, FL 33801 |
| RPT | 54718 | 06/18/2014 | Schuler, Emelia Gail | 04/09/1993 | | | 4251 Sunnyland Dr | Lakeland, FL 33813 |
| RPT | 54719 | 06/18/2014 | Flemming, Tiffany Amanda | 08/08/1996 | | | 4628 Ross Lanier Lane | Kissimmee, FL 34758 |
| RPT | 54720 | 06/18/2014 | Robinson, Dawayne Jamal | 01/15/1991 | | | 1001 West Madison Street | Plant City, FL 33563 |



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|------|---------|------------|-----------------------------|------------|-----------------------------------|--|---------------------------------|-----------------------------|
| RPT | 54721 | 06/18/2014 | Olivier, Sandra | 07/14/1993 | Other | Fortis College:Fortis College | 13867 Sw 270Th Street Apt D | Homestead, FL 33032 |
| RPT | 54722 | 06/18/2014 | Pagan, Jonovan | 06/11/1993 | Other | Fortis College:Fortis College | 9741 Martinique Dr. | Cutler Bay, FL 33189 |
| RPT | 54723 | 06/18/2014 | Alonso, Luis Felipe | 09/11/1970 | | | 4894 Nw 7 St | Miami, FL 33126 |
| RPT | 54724 | 06/18/2014 | Ortiz, Thomas Antonio | 09/18/1972 | Target Pharmacy | | 7730 W Commercial Blvd | Lauderhill, FL 33351 |
| RPT | 54725 | 06/18/2014 | Malakar, Celina | 05/09/1987 | Publix Super Market, Inc. | | 3330 Prather | Jacksonville, FL 32216 |
| RPT | 54726 | 06/18/2014 | Karim, Zahir Abbas | 12/08/1992 | Publix Super Market, Inc. | | 235 Woodlake Wynde | Oldsmar, FL 34677 |
| RPT | 54727 | 06/18/2014 | Pires, Kathalina Marie | 10/31/1978 | Concorde Career Institute | | 8603 Florida Mining Blvd | Tampa, FL 33635 |
| RPT | 54728 | 06/18/2014 | Pitter, Damion Shawn | 05/02/1991 | Cvs Caremark | | 11Th 3037 Southwest | Fort Lauderdale, FL 33312 |
| RPT | 54729 | 06/18/2014 | Loo, Fong | 01/05/1990 | Cvs Caremark | | 9533 Sw 38 St | Miami, FL 33165 |
| RPT | 54730 | 06/18/2014 | Miller, Melissa Marie | 06/21/1983 | | Winn-Dixie | 798 Beal Parkway | Fort Walton Beach, FL 32547 |
| RPT | 54731 | 06/18/2014 | Nocum, Joanna Marie Biangel | 01/02/1993 | Other | Orange County Public Schools Career & Tech Education,Westside Tech | 1115 Vizcaya Lakes Rd. Apt. 201 | Ocoee, FL 34761 |
| RPT | 54732 | 06/18/2014 | Zapata, Ailee E | 07/06/1991 | | Teaviss Career Center | 3314 San Diego Ln | Dover, FL 33527 |
| RPT | 54733 | 06/18/2014 | Padgett, Katie Jackson | 05/03/1986 | | Walgreens | 390 State Road 13 | Fruit Cove, FL 32259 |
| RPT | 54734 | 06/18/2014 | Sellers, Shameka Lashawn | 06/06/1990 | Other | Sanford Brown College | 2113 Plantation Palms Dr | Tampa, FL 33511 |
| RPT | 54735 | 06/18/2014 | Ray, Linda Leonor | 01/24/1990 | Cvs Caremark | | 286 Sharp Street | Apopka, FL 32712 |
| RPT | 54736 | 06/18/2014 | Sullivan, Tamara | 06/25/1956 | Cvs Caremark | | 6927 Burlington Ave N | Saint Petersburg, FL 33710 |
| RPT | 54737 | 06/19/2014 | Lee, Victoria Nicole | 11/24/1984 | Other | Fortis College:Fortis College | 28 28 Butler Ct | Cowarts, AL 36321 |
| RPT | 54738 | 06/19/2014 | Martin, Kristine Holt | 10/27/1958 | University Of Florida | | 149 Cape Dunes Dr | Port St. Joe, FL 32456 |
| RPT | 54739 | 06/19/2014 | Rodriguez, Ritza Marie | 03/06/1987 | Walmart And Sam's Club Pharmacies | | 2715 South Orange Ave | Orlando, FL 32806 |
| RPT | 54740 | 06/19/2014 | Stewart-Hyatt, Sophia A | | | Concorde Career Institute | 5641 Washington St Big H #105 | Hollywood, FL 33028 |
| RPT | 54741 | 06/19/2014 | Thigpen, Jodi | 11/22/1990 | Cvs Caremark | | 13401 Palm Dr | Astatula, FL 34705 |
| RPT | 54742 | 06/19/2014 | Roman, Noriam | 10/30/1995 | | Technical Education Center Osceola | 179 E. Cedarwood Cir | Kissimmee, FL 34743 |



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|------|---------|------------|---------------------------------|------------|-----------------------------------|---------------------------------------|---|---------------------------|
| RPT | 54743 | 06/19/2014 | Smith, Eyal D | 09/24/1986 | Other | Everest University | 3395 Wedgewood Drive Apt. 301 | Palm Bay, FL 32905 |
| RPT | 54744 | 06/19/2014 | Toscano, Yasmani | 03/08/1988 | Other | Everest Institute | 3440 E. 1st Court | Hialeah, FL 33013 |
| RPT | 54745 | 06/19/2014 | Reyes, Raquel | 03/11/1988 | Other | Everest Institute | 10415 Nw 29 Avenue | Miami, FL 33147 |
| RPT | 54746 | 06/19/2014 | Sanchez, Frank Joseph | 04/18/1992 | Publix Super Market, Inc. | | 7702 Palmera Pointe Circle Apt 202 | Tampa, FL 33615 |
| RPT | 54747 | 06/19/2014 | Saunders, Melody Lela | 06/18/1993 | Cvs Caremark | | 4050 Rocky Cir Apt A419 | Tampa, FL 33613 |
| RPT | 54748 | 06/23/2014 | Mcclain, Janay Siquidni | 09/21/1992 | | Polk County School | 504 S 4Th St Apt 6E | Lake Wales, FL 33853 |
| RPT | 54749 | 06/23/2014 | Dean, Aronda Yvonne | 04/08/1969 | Wal-Mart | | 1580 Branam Field Road | Middleburg, FL 32068 |
| RPT | 54750 | 06/23/2014 | Natal Jimenez, Laura | 10/16/1984 | Walgreens | | Plaza Monte Real Walgreens Carr 2 Km 42.5 | Manati, PR 00674 |
| RPT | 54751 | 06/24/2014 | Lindsey, Stephanie Rae | 06/02/1989 | Publix Super Market, Inc. | | 4365 Commercial Way | Spring Hill, FL 34606 |
| RPT | 54752 | 06/24/2014 | Lowry, Caitlin | 01/20/1987 | Cvs Caremark | | 5950 Scotchwood Glen Unit 108 | Orlando, FL 32822 |
| RPT | 54753 | 06/24/2014 | Santiago, Yonaidaliz | 11/29/1985 | University Of Florida | | 2326 Woods Edge Circle | Orlando, FL 32817 |
| RPT | 54754 | 06/24/2014 | Sciacchitano, Anthony Donald | 10/01/1985 | Caremark Florida Mail Pharmacy | | 2459 Covington Ave. | Spring Hill, FL 34608 |
| RPT | 54755 | 06/24/2014 | Socorro, Leisam | 05/27/1974 | Other | Professional Training Centers | 15231 Sw 80 St Apt 214 | Miami, FL 33193 |
| RPT | 54756 | 06/24/2014 | Wall, Victoria Rose | 04/18/1995 | Publix Super Market, Inc. | | 8586 Delaware Dr | Weeki Wachee, FL 34607 |
| RPT | 54757 | 06/24/2014 | Taylor, Christy Dawn | 08/10/1985 | Other | Ridge Career Center | 701 S Hendry Ave Apt 15 | Fort Meade, FL 33841 |
| RPT | 54758 | 06/24/2014 | Stanley, Jessica L | 12/13/1988 | Other | Cape Coral Institute Of Technology | 4703 Barkley Circle Apt 7 | Fort Myers, FL 33907 |
| RPT | 54759 | 06/24/2014 | Saba, Jennifer Lynn | 09/03/1989 | Cvs Caremark | | 5899 S Orange Blossom Trail | Orlando, FL 32839 |
| RPT | 54760 | 06/24/2014 | Sims, Francesca Leigh | 04/01/1991 | Publix Super Market, Inc. | | 3021 Nautilus Rd | Middleburg, FL 32068 |
| RPT | 54761 | 06/24/2014 | Cerna, Brittany Nicole | 08/04/1991 | Wal-Mart | | 18941 Saint Paul Dr | Springhill, FL 34610 |
| RPT | 54762 | 06/24/2014 | Sedner, Lauren Lynn | 01/01/1991 | Walgreens | | 8680 E Hwy C25 | Bellevue, FL 34420 |
| RPT | 54763 | 06/24/2014 | Crawmer, Mitchell Paul | 03/05/1980 | University Of Florida | | 2908 Nw 247 Terrace | Newberry, FL 32669 |
| RPT | 54764 | 06/24/2014 | Robinson, Jacqueline D | 05/13/1961 | Cvs Caremark | | 1581 W. Lantana | Lantana, FL 33462 |



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|------|---------|------------|--------------------------------|------------|------------------------------|--------------------------------------|--|--|
| RPT | 54765 | 06/24/2014 | Apicello, Kimberly | 09/20/1985 | Walgreens | | 7881 W Mesa Ln Box 4018 | Homosassa, FL 34448 Hollywood, FL 33083 |
| RPT | 54766 | 06/24/2014 | Vargas, Miguel Eduardo | 11/26/1984 | | Miami Dade College | | |
| RPT | 54767 | 06/24/2014 | Ferrell, Ashley Renae' | 01/01/1991 | Other | Everest University | 1462 1462 Mercy Drive Apt#43 | Orlando, FL 32808 |
| RPT | 54768 | 06/24/2014 | Fragoso, Liety | 04/28/1982 | | | 230 N. 72 Ave | Miami, FL 33126 |
| RPT | 54769 | 06/24/2014 | Bell, Rosalyn Danielle | 11/30/1987 | Cvs Caremark | | 11894 91St Ter No | Seminole, FL 33772 |
| RPT | 54770 | 06/24/2014 | Stephen, Jain Sam | 09/21/1993 | Cvs Caremark | | 5434 Oakford | Lakeland, FL 33812 |
| RPT | 54771 | 06/24/2014 | Compostella, Marissa Evette | 06/24/1989 | Cvs Caremark | | 1924 Cr 606 | Bushnell, FL 33513 |
| RPT | 54772 | 06/24/2014 | Zimlin, Jacob Michael | 01/12/1994 | University Of Florida | | 2978 Glennpark Road | Palm Harbor, FL 34683 |
| RPT | 54773 | 06/24/2014 | Carranza, Adriana | 06/06/1994 | Other | Everest University Brandon Campus | 5707 Newmauma Park Dr. | Wimauma, FL 33598 |
| RPT | 54774 | 06/24/2014 | Rains, Natasha Nicole | 06/16/1988 | Other | Pharmacy Technicians University | 7001 Park Blvd | Pinellas Park, FL 33781 |
| RPT | 54775 | 06/24/2014 | Card, Victoria Jean | 09/11/1995 | | | 7855 105Th Ct | Vero Beach, FL 32967 |
| RPT | 54776 | 06/24/2014 | Travaglia, Michael Paul | 04/04/1990 | Other | Pharmacy Technician University | 62Nd 5255 62Nd St N Apt 116 | Kenneth City, FL 33709 |
| RPT | 54777 | 06/24/2014 | Grillo, Roman | 07/29/1989 | Other | Ultimate Medical Academy | 2722 Pine Bruch Drive | Lakeland, FL 33813 |
| RPT | 54778 | 06/24/2014 | Cowen, Sylvia Gail | 10/23/1972 | Publix Super Market, Inc. | | 610 Eglin Parkway Ne Publix Store #1303 | Fort Walton Beach, FL 32547 |
| RPT | 54779 | 06/24/2014 | Fransen, Samuel | 08/03/1989 | Cvs Caremark | | 10000 W Commercial Blvd | Sunrise, FL 33351 |
| RPT | 54780 | 06/24/2014 | Dominguez, Sayli | 10/10/1988 | Cvs Caremark | | 18531 Nw 82 Ct | Hiialeah, FL 33015 |
| RPT | 54781 | 06/24/2014 | Spokes, Sabrina Eileen | 12/28/1982 | Walgreens | | 11781 Uimerton Rd | Largo, FL 33778 |
| RPT | 54782 | 06/24/2014 | Stablein, Nicholas James | 12/24/1989 | Publix Super Market, Inc. | | 39883 U.S. 27 | Davenport, FL 33837 |
| RPT | 54783 | 06/25/2014 | Hammock, Nicole Marie | 03/23/1992 | University Of Florida | | 8848 169Th Road | Live Oak, FL 32060 |
| RPT | 54784 | 06/25/2014 | Swisslack, Brandi M | 06/02/1983 | Other | Everst University | 954 Ashington Lane | Jacksonville, FL 32221 |
| RPT | 54785 | 06/25/2014 | Spiwak, Taylor | 08/06/1994 | Other | Everest University | 560 Valderia Drive | Orange Park, FL 32073 |
| RPT | 54786 | 06/25/2014 | Gomez, Jorge Luis Jr | 08/17/1991 | Other | Heritage Institute | 121 4Th St Se | Naples, FL 34117 |
| RPT | 54787 | 06/25/2014 | Bowen, Kaylynn Jean | 05/18/1993 | | | 6031 Cypress Gardens Blvd | Winter Haven, FL 33884 |
| RPT | 54788 | 06/25/2014 | Dampier, Jo-Ei Andrew Jr | 03/03/1992 | Cvs Caremark | | 26397 Seidel St | Brooksville, FL 34602 |



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|------|---------|------------|---------------------------|------------|--|---------------------------------------|--------------------------------|-----------------------------|
| RPT | 54789 | 06/25/2014 | Caperton, Belinda J | 12/28/1961 | Cvs Caremark | | 870 Sadler Road | Fernandina Beach, FL 32034 |
| RPT | 54790 | 06/25/2014 | Burns, Elizabeth Mylea | 01/17/1985 | Cvs Caremark | | 8918 Dandy Ave | Jacksonville, FL 32211 |
| RPT | 54791 | 06/25/2014 | Stallworth, Elizabeth | 03/05/1963 | Other | Anthem College | 1440 Nth 61 St Apt 3D | Pensacola, FL 32506 |
| RPT | 54792 | 06/25/2014 | Espinosa Ramirez, Dianet | 08/09/1990 | Other | Everest Institute | 14016 Sw 91 Terr | Miami, FL 33186 |
| RPT | 54793 | 06/25/2014 | Sanabria, Jessica | 02/17/1976 | Publix Super Market, Inc. | | 13455 Countyline Rd | Spring Hill, FL 34609 |
| RPT | 54794 | 06/25/2014 | Suri, Bhavya | 08/27/1991 | Target Pharmacy | | 21698 Abington Ct | Boca Raton, FL 33428 |
| RPT | 54795 | 06/25/2014 | Hill, Sarah Louise | 02/01/1995 | University Of Florida | | 4410 W Newberry Rd | Gainesville, FL 32607 |
| RPT | 54796 | 06/25/2014 | Burden, Anthony | 09/19/1984 | Other | Everest Institute | 3131 Nw 67 Street | Miami, FL 33147 |
| RPT | 54797 | 06/25/2014 | Torres, Joannie | 08/23/1984 | Cvs Caremark | | 4510 Millcent Circle | Melbourne, FL 32901 |
| RPT | 54798 | 06/25/2014 | Hubner, Alyson Marie | 08/08/1994 | Publix Super Market, Inc. | | 13705 Crystal River Dr | Orlando, FL 32828 |
| RPT | 54799 | 06/25/2014 | Williams, Richard Dewayne | 08/20/1985 | Guardian Pharmacy Of Jacksonville, Llc | | 5260 Collins Road Unit 402 | Jacksonville, FL 32244 |
| RPT | 54800 | 06/25/2014 | Ahrens, Rebecca Ann | 10/25/1956 | | | 1720 Cinnabar Ct | Brandon, FL 33510 |
| RPT | 54801 | 06/25/2014 | Seecharran, Kumari | 10/28/1993 | Cvs Caremark | | 7009 Cypress Gardens Blvd | Winter Haven, FL 33884 |
| RPT | 54802 | 06/25/2014 | Rivera, Alexandra | 09/16/1992 | Other | Sanford Brown College | 4213 W Arch St | Tampa, FL 33607 |
| RPT | 54803 | 06/25/2014 | Morales, Yamiceidy | 07/26/1990 | Other | Everest University;Everest Institute | 461 W. 28 Street | Hialeah, FL 33010 |
| RPT | 54804 | 06/25/2014 | Mcintosh, Tranika | 10/21/1985 | Other | Everest University;Everest Institute | 1829 Nw 59 Street | Miami, FL 33142 |
| RPT | 54805 | 06/25/2014 | Phillippe, Jacques | 12/06/1991 | Other | Everest University;Everest Institute | 940 Ne 157 Terrace | North Miami Beach, FL 33162 |
| RPT | 54806 | 06/25/2014 | Wilkins, Tabitha | 07/05/1990 | Cvs Caremark | | 8189 Perth Drive | Largo, FL 33773 |
| RPT | 54807 | 06/25/2014 | Machado, Jose Luis | 09/09/1979 | Other | Everest Institute;Everest Institute | 5925 Nw 5 St | Miami, FL 33126 |
| RPT | 54808 | 06/25/2014 | Pirmentia, Yamilka | 02/08/1992 | Other | Miami Dade College;Miami Dade College | 8867 Nw 116 St | Hialeah Gardens, FL 33018 |
| RPT | 54809 | 06/25/2014 | Negron, Keila | 03/05/1990 | Other | Technical Education Center Osceola | 1979 Peridot Cir. | Kissimmee, FL 34743 |
| RPT | 54810 | 06/25/2014 | Johnson, Christine | 07/10/1987 | Other | Everest Institute;Everest Institute | 17600 Nw 5Th Avenue Apt. #1106 | Miami, FL 33169 |
| RPT | 54811 | 06/25/2014 | Mayer, Tori Sierra | 03/18/1995 | Cvs Caremark | | 3506 N. Lecanto Hwy | Beverly Hills, FL 34465 |



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|------|---------|------------|---------------------------------|------------|---|---|----------------------------------|---------------------------|
| RPT | 54812 | 06/25/2014 | Paulino, Priscilla | 06/17/1979 | Other | Everest University:Everest University Melbourne | 1505 19Th Ave Sw | Vero Beach, FL 32962 |
| RPT | 54813 | 06/25/2014 | Lysinger, Rebecca K | 08/18/1977 | Cvs Caremark | | 2513 Us Highway 19 | Holiday, FL 34691 |
| RPT | 54814 | 06/25/2014 | Stark, Lynn | 12/27/1974 | Other | Southeastern College | 6014 Us Hwy 19 North Suite 250 | New Port Richey, FL 34652 |
| RPT | 54815 | 06/25/2014 | Merritt, Breannen Lee | 02/29/1996 | | Technical Education Center Osceola | 4036 Pemberly Pines Cir | Saint Cloud, FL 34769 |
| RPT | 54816 | 06/25/2014 | Landon, Nicholas Fernando | 11/12/1986 | A To Z Pharmacy Inc. | | 9039 Little Rd. | New Port Richey, FL 34654 |
| RPT | 54817 | 06/25/2014 | Rodriguez, Yarnika | 11/24/1986 | Other | Passassured | 11501 Sw 40 St | Miami, FL 33175 |
| RPT | 54818 | 06/25/2014 | Mcdonald, Kristen Isabelle | 02/07/1994 | Cvs Caremark | | 22095 Boca Place Dr | Boca Raton, FL 33433 |
| RPT | 54819 | 06/25/2014 | Jaffe, Christy Jane | 09/24/1984 | Cvs Caremark | | 9029 109Th Ave N | Seminole, FL 33777 |
| RPT | 54820 | 06/25/2014 | Solis, Emily Elizabeth | 12/28/1993 | Other | Adult Education Of Indian River County | 1446 2Nd Rd Sw | Vero Beach, FL 32962 |
| RPT | 54821 | 06/25/2014 | Cordova, Lisbeth | 04/02/1992 | | | 483 N W 42 Ave | Miami, FL 33126 |
| RPT | 54822 | 06/25/2014 | Soler, Anthony | 05/27/1985 | Other | Passassured | 6023 Legends Estates Dr | Tampa, FL 33614 |
| RPT | 54823 | 06/25/2014 | Adams, Shykeria Daontra | 09/01/1988 | | | 2004 East Lake Ave Apt #B | Tampa, FL 33605 |
| RPT | 54824 | 06/25/2014 | Whittaker, Amanda Rene | 04/24/1982 | | Pacifico National | 1515 Elizabeth St Suite J | Melbourne, FL 32901 |
| RPT | 54825 | 06/25/2014 | Torres Hernandez, Yreh | 12/13/1991 | Other | Matia College | 9460 Fountainbleu Blvd Apt. 523 | Miami, FL 33172 |
| RPT | 54826 | 06/25/2014 | Siders, Christina Marie | 08/02/1990 | Other | Ultimate Medical Academy | 1206 Hedgecoth Street | Palm Bay, FL 32907 |
| RPT | 54827 | 06/26/2014 | Matamoros, Alicia | 01/24/1983 | St Joseph Pharmacy & Medical Supplies Llc | | 6748 23Rd St 6748 23Rd St | Zephyrhills, FL 33542 |
| RPT | 54828 | 06/26/2014 | Schmidletter, Michelle Roseanne | 02/02/1976 | Target Pharmacy | | 4305 Norfolk Parkway | West Melbourne, FL 32904 |
| RPT | 54829 | 06/26/2014 | Kish, Kathryn Marie | 05/27/1992 | Publix Super Market, Inc. | | 13450 Summerport Village Parkway | Windermere, FL 34786 |
| RPT | 54830 | 06/26/2014 | Kettle, Stephen Richard | 03/08/1993 | Walgreens | | 21 Autumn Breeze Way | Winter Park, FL 32792 |
| RPT | 54831 | 06/26/2014 | Lee, Elecia Denise | 07/31/1960 | Publix Super Market, Inc. | | 1755 Lakewood Ranch Blvd | Bradenton, FL 34211 |
| RPT | 54832 | 06/26/2014 | Zapresko, Kimberly Ann | 01/28/1979 | Cvs Caremark | | 10623 Gibsonton Dr | Riverview, FL 33569 |
| RPT | 54833 | 06/26/2014 | Kazal, Depeka | 03/23/1991 | Other | Publix:Drug Store News | 6790 Forest Hill Blvd | Greenacres, FL 33413 |



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|------|---------|------------|---------------------------------|------------|-----------------------------------|---|---------------------------------|----------------------------------|
| RPT | 54834 | 06/26/2014 | Perkins, Shadae | 10/22/1991 | Other | Everest University;Everest University | 2646 Lake Cora Rd | Apopka, FL 32712 |
| RPT | 54835 | 06/26/2014 | Jeffrey, Rebecca Lynne | 04/19/1990 | Other | Everest University;Everest University - North Orlando | 6723 Giant Oak Lane #231 | Orlando, FL 32810 |
| RPT | 54836 | 06/26/2014 | Woods, Willimena | 10/07/1970 | Other | Everest Institute | 16201 Nw 27 Avenue | Opa-Locka, FL 33054 |
| RPT | 54837 | 06/26/2014 | Miller, Ciera Sheree | 12/22/1990 | Other | Lively Technical Center;Lively Technical Center | 2463 Raymond Diehl Rd. | Tallahassee, FL 32309 |
| RPT | 54838 | 06/26/2014 | Neumann, Kaycee Lynn | 09/17/1989 | Walmart And Sam's Club Pharmacies | | 1803 North Highland Ave | Clearwater, FL 33755 |
| RPT | 54839 | 06/26/2014 | Siffleur, Makerbie | 10/19/1981 | Publix Super Market, Inc. | | 3015 Legacy Villas Drive | Maitland, FL 32751 |
| RPT | 54840 | 06/26/2014 | Milian, Ana | 08/07/1976 | Adventist Health System Sunbelt | Rx Pharmacy Plus | 582 Monroe Rd Suite 1412 | Sanford, FL 32771 |
| RPT | 54841 | 06/26/2014 | Parrish, Jesse Rasheo | 03/31/1993 | Davia Rx, Lic | Everest University | 1121 1121 Hall Ln | Orlando, FL 32839 |
| RPT | 54842 | 06/26/2014 | Shaw, Christopher Matthew | 10/04/1989 | Walgreens | | 13607 Platte Creek Circle Apt 4 | Tampa, FL 33613 |
| RPT | 54843 | 06/26/2014 | Kadiwar, Ramesh M | 02/08/1950 | Other | Medcents;Medcents | 312 Cherokee Ct.Apt C | Altamonte Springs, FL 32701-6705 |
| RPT | 54844 | 06/26/2014 | Diamond, Michael Reed | 06/07/1990 | Walgreens | | 1615 Nw 13Th St | Gainesville, FL 32609 |
| RPT | 54845 | 06/26/2014 | Kenneth, Chasity Lyn | 02/20/1994 | Other | Everest University;Everest University | 1713 Shore Acres Drive | Lakeland, FL 33801 |
| RPT | 54846 | 06/26/2014 | Mccaskill, Crystal Karni | 07/01/1983 | Other | Everest University;Everest University-Lakeland | 1019 W. Orange St. | Lakeland, FL 33815 |
| RPT | 54847 | 06/26/2014 | Voelkl, Linda M | 04/22/1947 | University Of Florida | | 5443 31St Ave S | Gulfport, FL 33707 |
| RPT | 54848 | 06/26/2014 | Tellado, Adriana Ivelise | 04/15/1996 | Other | Everest University;Jacksonville Florida | 7740 Southside Blvd Unit 3303 | Jacksonville, FL 32256 |
| RPT | 54849 | 06/26/2014 | Ray, Liza S | 06/20/1967 | Walgreens | | 7777 Hwy 50 | Groveland, FL 34736 |
| RPT | 54850 | 06/26/2014 | Bermudez, Melissa Franchesca | 11/02/1991 | Other | Everest Institute | 1478 Nw 35Th St | Miami, FL 33142 |
| RPT | 54851 | 06/26/2014 | Alvarez Lopez, Marrolis Osleidy | 03/09/1973 | | | 1530 Sw 20Th Ave | Miami, FL 33145 |
| RPT | 54852 | 06/26/2014 | Carlino, Nancy Jean | 10/02/1965 | Walgreens | | 4280 Minton Rd | Melbourne, FL 32904 |
| RPT | 54853 | 06/26/2014 | Linton, Antonette Nicole | 01/18/1987 | Cvs Caremark | | 11435 Silk Carnation Way | Royal Palm Beach, FL 33411 |



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|------|---------|------------|---------------------------------|------------|---|---|-----------------------------------|---------------------------|
| RPT | 54854 | 06/26/2014 | Moore, Sulima | 02/26/1967 | Cvs Caremark | | 12810 Ne 2 10 Stree Road | Fort Mccoy, FL 32134 |
| RPT | 54855 | 06/26/2014 | Thomen, Arleen | 04/27/1966 | | | 1767 Red Bud Circle Nw | Palm Bay, FL 32907 |
| RPT | 54856 | 06/26/2014 | Longo, Sara Kathryn | 03/13/1979 | Walgreens | | 6003 14Th St. W | Bradenton, FL 34207 |
| RPT | 54857 | 06/26/2014 | Puente, May Lin | 10/03/1993 | | Concorde Career Institute | 7707 W Henry Ave | Tampa, FL 33615 |
| RPT | 54858 | 06/26/2014 | Notes, Samantha | 01/21/1993 | Other | Fortis College:Fortis College | 744 Nw 18Th Street | Homestead, FL 33030 |
| RPT | 54859 | 06/26/2014 | Lara, Sarahi A | 04/17/1992 | Walgreens | | 807 East Silver Springs Boulevard | Ocala, FL 34470 |
| RPT | 54860 | 06/26/2014 | Paggett, Lacey Marie | 12/30/1986 | Walgreens | | 7303 Woodhill Park Dr Apt 520 | Orlando, FL 32818 |
| RPT | 54861 | 06/26/2014 | Ortega, Marcella B | 01/29/1990 | Other | Miami Dade Community College: Miami Dade College Medical Campus | 756 Ne 72Nd Terrace | Miami, FL 33138 |
| RPT | 54862 | 06/26/2014 | Marz, Mary Martha | 02/10/1960 | Walgreens | | 22449 Edgewater Dr. | Port Charlotte, FL 33980 |
| RPT | 54863 | 06/26/2014 | Nguyen, Vu Mong | 11/21/1976 | Other | Everest University: Everest University Largo Campus | 8656 Kunnquat Ave | Largo, FL 33777 |
| RPT | 54864 | 06/26/2014 | Patel, Amit Tushar | 10/13/1992 | Publix Super Market, Inc. | | 2930 Sw 23Rd Terrace Suite 1903 | Gainesville, FL 32608 |
| RPT | 54865 | 06/26/2014 | Lusan, Brandon Alexander | 08/01/1991 | Sinfarose Pharmaceutical Specialty, Inc | | 10016 Pines Blvd | Pembroke Pines, FL 30024 |
| RPT | 54866 | 06/26/2014 | Miguel, Maigra | 06/21/1987 | Dispensing Physician Consultants, Inc. | | 4900 Linton Blvd | Delray Beach, FL 33445 |
| RPT | 54867 | 06/26/2014 | Roby, Jamaal | 09/04/1990 | Other | Everest Institute | 19 Sw 14 Street Apt. 5 | Dania Beach, FL 33004 |
| RPT | 54868 | 06/26/2014 | Soler, Claudia | 05/23/1994 | Other | Passassured, Llc | 11501 Sw 40 Street | Miami, FL 33175 |
| RPT | 54869 | 06/26/2014 | Tellado, Amanda Marie | 07/11/1983 | Other | Everest University, Jacksonville Florida | 7740 Southside Blvd Apt 3303 | Jacksonville, FL 32256 |
| RPT | 54870 | 06/27/2014 | Schneider, Yallonda Pearl-Marie | 07/14/1980 | Walgreens | | 12200 Kijik Trail | Groveland, FL 34736 |
| RPT | 54871 | 06/27/2014 | Roldan, Steffany | 03/04/1992 | Other | Fortis College | 29260 Sw 142Nd Ave | Homestead, FL 33033 |
| RPT | 54872 | 06/27/2014 | Richardson, Portia D | 08/10/1968 | Other | Fortis College | 10771 Sw 150Th Terrace | Miami, FL 33176 |
| RPT | 54873 | 06/27/2014 | Quiroz, Yaoska D | 06/21/1980 | University Of Florida | | 1242 Sw 13 Ave | Miami, FL 33135 |
| RPT | 54874 | 06/27/2014 | Smith, Tamika R | 10/15/1989 | Cvs Caremark | | 572 Reed Canal Road Apt 85 | South Daytona, FL 32119 |
| RPT | 54875 | 06/27/2014 | Rhea, Crystal Lyne | 01/25/1991 | Cvs Caremark | | 1831 Pointed Leaf Ln | Ft Walton Beach, FL 32547 |



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Total Records: 990



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New License Report for 2203 : Consultant Pharmacist

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|------|---------|------------|---------------------------|------------|--------------|-----------------|---|------------------------------|
| PU | 7439 | 05/01/2014 | Staples, Saria Alexis | 06/21/1978 | | | 480 Ne 30Th Street Apt 1404 | Miami, FL 33137 |
| PU | 7440 | 05/01/2014 | Alayoku, Wale Robert | 02/16/1986 | | | 8433 Narcoossee Rd Apt 10205 | Orlando, FL 32827 |
| PU | 7441 | 05/01/2014 | Schmahl, Brian Douglas | 10/22/1979 | | | 2701 N E 26Th Avenue | Lighthouse Point, FL 33064 |
| PU | 7442 | 05/05/2014 | Shawafeh, Mohammad Saud | | | | 11026 Legacy Dr Apt 203 | Palm Beach Gardens, FL 33410 |
| PU | 7443 | 05/06/2014 | Morgan, James P | 03/11/1977 | | | 13053 Cortez Blvd | Brooksville, FL 34613 |
| PU | 7444 | 05/07/2014 | Patel, Shailesh P | 11/18/1959 | | | 14040 Sierra Vista Drive | Orlando, FL 32837 |
| PU | 7445 | 05/08/2014 | Lefranc, Annette | 10/30/1988 | | | 5017 Starfish Dr Se Apt C | Saint Petersburg, FL 33705 |
| PU | 7446 | 05/08/2014 | Delgado, Cristina Maria | 03/30/1981 | | | 4000 Sw 152 Ave | Miramar, FL 33027 |
| PU | 7447 | 05/08/2014 | Saghir, Iman Ali | 09/20/1983 | | | 12494 World Cup Ln. | Wellington, FL 33414 |
| PU | 7448 | 05/12/2014 | Klinger, Robin N | 09/09/1983 | | | 4768 South Classical Blvd | Delray Beach, FL 33445 |
| PU | 7449 | 05/13/2014 | Guth, Jeffrey Lynn | 08/22/1956 | | | Box 361093 | Melbourne, FL 32936 |
| PU | 7450 | 05/13/2014 | Douglas, Carol Melissa | | | | 9821 Colonial Dr | Miami, FL 33157 |
| PU | 7451 | 05/13/2014 | Jeffries, Jaclyn Anne | 07/25/1988 | | | 1350 S. Hickory St | Melbourne, FL 32901 |
| PU | 7452 | 05/13/2014 | Thornby, Robert Michael | 09/06/1981 | | | 3126 Payson Way | Wellington, FL 33414 |
| PU | 7453 | 05/14/2014 | Aristide, Kenny Romuald | | | | 2890 71St Circle Apt 208 | Vero Beach, FL 32966 |
| PU | 7454 | 05/15/2014 | Donn, Thuy Van | | | | 2019 Sw Aaron Lane | Port Saint Lucie, FL 34953 |
| PU | 7455 | 05/15/2014 | Holcombe, Scarlet Warren | 10/26/1967 | | | 2626 Capital Center Blvd | Tallahassee, FL 32308 |
| PU | 7456 | 05/15/2014 | L'Hormedieu, Timothy Ross | 12/07/1980 | | | 3001 W. Dr. Martin Luther King Jr. Blvd | Tampa, FL 33607 |
| PU | 7457 | 05/20/2014 | Miller, Renee C | | | | 118 Valencia Circle | Saint Petersburg, FL 33716 |
| PU | 7458 | 05/22/2014 | Boyd, Maegan Starr | | | | 805 N. Tarragona St. | Pensacola, FL 32501 |
| PU | 7459 | 05/23/2014 | Syne, Dr Qaysara Zahra | | | | 8750 Gladiolus Drive Suite 11-140 | Fort Myers, FL 33908 |
| PU | 7460 | 06/04/2014 | Mohammadpour, Mohsen T | | | | 7354 S.W. 60Th Street | Miami, FL 33143 |



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New License Report for 2203 : Consultant Pharmacist

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|------|---------|------------|---------------------------------|------------|--------------|-----------------|------------------------|--------------------------------|
| PU | 7461 | 06/04/2014 | Castro, Kristina Teresa | | | | 9200 Sw 55Th Ct. | Cooper City, FL 33328 |
| PU | 7462 | 06/04/2014 | Morano, Pauline Andrea | | | | 150 Elm Ave | Satellite Beach, FL 32937 |
| PU | 7463 | 06/09/2014 | Woolley, Mantine F | 02/20/1973 | | | 11270 Musette Circle | Alpharetta, GA 30009 |
| PU | 7464 | 06/09/2014 | Mathias, Cristina Louise Ann | 08/09/1985 | | | 4716 Country Oaks Blvd | Sarasota, FL 34243 |
| PU | 7465 | 06/11/2014 | Saravia, Oscar Sebastian | | | | 11662 Sw 152 Court | Miami, FL 33196 |
| PU | 7466 | 06/18/2014 | Holmes, Shereka M | 09/24/1984 | | | 3700 Nw 199Th St | Opa Locka, FL 33055 |
| PU | 7467 | 06/18/2014 | Osbourne, Awaneta Cecelia | 04/20/1972 | | | 1002 Nw 139Th Terrace | Pembroke Pines, FL 33028 |
| PU | 7468 | 06/23/2014 | Scroggs, Mary Jane | | | | 1469 Hampstead Ter | Oviedo, FL 32765 |
| PU | 7469 | 06/23/2014 | Mauricio, Lynn Marie | | | | 18500 Sw 54 Place | Southwest Ranches, FL 33332 |
| PU | 7470 | 06/23/2014 | White, Charmaine V | | | | Box 5405 | Tallahassee, FL 32314 |
| PU | 7471 | 06/23/2014 | Pitser, Christine Catherine | | | | 8863 Ventura Way | Naples, FL 34109 |
| PU | 7472 | 06/23/2014 | Burkhart, Damon Joseph | 06/07/1984 | | | 2324 Pine Ridge Rd | Naples, FL 34109 |
| PU | 7473 | 06/26/2014 | Souders, Gary D | 05/18/1950 | | | 301 E. Princeton Ave | Orlando, FL 32804 |

Total Records: 35



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New License Report for 2204 : Nuclear Pharmacist

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Total Records:



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New License Report for 2205 : Pharmacy

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|------|---------|------------|--|------------|--------------|-----------------|----------------------------------|-----------------------|
| PH | 28098 | 05/01/2014 | Aa Pharmacy Inc | | | | 11338 Sw 184 St. | Miami, FL 33157 |
| PH | 28099 | 05/01/2014 | La Gloria Pharmacy Inc | | | | 2901 Sw 8Th St Suite 107 | Miami, FL 33135 |
| PH | 28100 | 05/01/2014 | Pete'S Drug Store Inc | | | | 2016 Ne 8 St | Homestead, FL 33033 |
| PH | 28101 | 05/01/2014 | Prescription Dynamics, Inc. | | | | 85 Chestnut Ridge Road Suite 110 | Montvale, NJ 07645 |
| PH | 28102 | 05/01/2014 | Fort Wayne Custom Rx, Inc | | | | 414 E Dupont Road | Fort Wayne, IN 46825 |
| PH | 28103 | 05/01/2014 | A And R Pharmacy II Inc. | | | | 445 E. Mill St | Liberty, MO 64068 |
| PH | 28104 | 05/01/2014 | Arij Infusion Services, Inc | | | | 10049 Lakeview Avenue | Lenexa, KS 66219 |
| PH | 28105 | 05/01/2014 | Genesis Enterprises, Inc | | | | 1876 Craigshire Rd | Saint Louis, MO 63146 |
| PH | 28106 | 05/01/2014 | Keyser Medi-Save Pharmacy | | | | 433 South Mineral St | Keyser, WV 26726 |
| PH | 28107 | 05/02/2014 | Osceola Regional Hospital, Inc. | | | | 12100 South John Young Parkway | Orlando, FL 32837 |
| PH | 28108 | 05/02/2014 | Lumicera Health Services, Llc | | | | 2601 West Bellline Hwy | Madison, WI 53713 |
| PH | 28109 | 05/05/2014 | Samson Merger Sub, Llc | | | | 1737 East Oak Street | Arcadia, FL 34266 |
| PH | 28110 | 05/05/2014 | Central Admixture Pharmacy Services, Inc | | | | 7935 Dunbrook Road Suite B-F | San Diego, CA 94538 |
| PH | 28111 | 05/06/2014 | Dr. Phillips Specialty Pharmacy | | | | 8015 Turkey Lake Road Suite 300 | Orlando, FL 32819 |
| PH | 28112 | 05/07/2014 | One Infusion Pharmacy, Llc | | | | 3351 Executive Way | Miramar, FL 33025 |
| PH | 28113 | 05/07/2014 | Publix Super Markets, Inc. | | | | 4141 N Federal Hwy | Boca Raton, FL 33431 |
| PH | 28114 | 05/07/2014 | Johnson Pharmacy Discount Inc. | | | | 28856 S. Dixie Highway | Homestead, FL 33033 |
| PH | 28115 | 05/07/2014 | Bay County Health System, Llc | | | | 801 E. 6Th Street Suite 304 | Panama City, FL 32401 |
| PH | 28116 | 05/07/2014 | Liberty Healthcare Medical Plaza Managem | | | | 4690 NW 7Th Ave | Miami, FL 33127 |
| PH | 28117 | 05/07/2014 | 54Th Street Medical Plaza Management | | | | 5385 Ne 2Nd Ave | Miami, FL 33137 |



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|------|---------|------------|---------------------------------------|------------|--------------|-----------------|-------------------------------------|-------------------------|
| PH | 28118 | 05/07/2014 | 154Th Street Medical Plaza Management | | | | 5801 Miami Lakes Dr | Miami Lakes, FL 33014 |
| PH | 28119 | 05/07/2014 | Leon Medical Centers Inc. | | | | 8600 Nw 41 Street | Doral, FL 33166 |
| PH | 28120 | 05/07/2014 | Ps Pharmacy Corp | | | | 2003 Sw 1 St. | Miami, FL 33135 |
| PH | 28121 | 05/07/2014 | Kennel Care Compounding, Llc | | | | 7111 Grand National Drive Suite 105 | Orlando, FL 32819 |
| PH | 28122 | 05/07/2014 | Absolute Pharmacy, Llc | | | | 1601 N. Nebraska Ave Suite 103 | Lutz, FL 33549 |
| PH | 28123 | 05/07/2014 | Popular Pharmacy | | | | 203 Ne 82Nd St | Miami, FL 33138 |
| PH | 28124 | 05/08/2014 | Emporium Pharmacy | | | | 2664 Palm Ave | Hialeah, FL 33010 |
| PH | 28125 | 05/08/2014 | Nina Pharmacy Inc | | | | 4723 Nw 79 Ave | Doral, FL 33166 |
| PH | 28126 | 05/08/2014 | Wellness Rx Llc | | | | 7640 Nw 25 Street Suite 105 | Miami, FL 33122 |
| PH | 28127 | 05/08/2014 | Gem Drugs, Inc. | | | | 139 Central Avenue | Reserve, LA 70084 |
| PH | 28128 | 05/09/2014 | Synergy Dialysis, Inc | | | | 100 East Sample Road Suite 120 | Pompano Beach, FL 33064 |
| PH | 28129 | 05/09/2014 | Millie'S Pharmacy Inc | | | | 7245 Sw 24 St Coral Way | Miami, FL 33155 |
| PH | 28130 | 05/09/2014 | Cb Pharmacy Inc | | | | 2390 West 76 Street Bay 3 | Hialeah, FL 33016 |
| PH | 28131 | 05/09/2014 | My Pharmacy Llc | | | | 2920 Moley Drive Suite 200 | Mesquite, TX 75150 |
| PH | 28132 | 05/09/2014 | Atlantic Medical, Llc | | | | 1068 Thousand Oaks Dr Ste B | Hernando, MS 38632 |
| PH | 28133 | 05/09/2014 | Pinnacle Compounding Lllp | | | | 1120 Kensington Ave Ste. E | Missoula, MT 59801 |
| PH | 28134 | 05/09/2014 | Prn Rx Llc | | | | 5478 S. Westridge Dr Ste B | New Berlin, WI 53151 |
| PH | 28135 | 05/09/2014 | Brashear'S Vital Care Corp | | | | 206 W Dampier St | Inverness, FL 34450 |
| PH | 28136 | 05/09/2014 | Biorx Llc | | | | 4004 Spring Garden St. Suite D | Greensboro, NC 27407 |
| PH | 28137 | 05/12/2014 | Guardian Pharmacy Of Daytona, Llc | | | | 10 Aviator Way | Ormond Beach, FL 32174 |
| PH | 28138 | 05/12/2014 | Dmr Pharmacy Inc | | | | 433 Kings Hwy | Brooklyn, NY 11223 |
| PH | 28139 | 05/13/2014 | Palm Beach Pharma Corp. | | | | 235 Peruvian Avenue Suite 3 | Palm Beach, FL 33480 |



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|------|---------|------------|--|------------|--------------|-----------------|--------------------------------------|---------------------------|
| PH | 28140 | 05/13/2014 | Vh Health Solutions Llc | | | | 6210 West Colonial Drive #116 | Orlando, FL 32818 |
| PH | 28141 | 05/13/2014 | Renner Pharmacy, Inc. | | | | 3005 E. Renner Rd Suite 120 | Richardson, TX 75082 |
| PH | 28142 | 05/13/2014 | New Life Pharmacy, Llc | | | | 9883 S. 500 W | Sandy, UT 84070 |
| PH | 28143 | 05/13/2014 | Riverfront Pharmacy, Llc | | | | 19277 Conifer Lane | Council Bluffs, IA 51503 |
| PH | 28144 | 05/14/2014 | Distinguished Pharmaceuticals Llc | | | | 12134 Beechnut Street | Houston, TX 77072 |
| PH | 28145 | 05/14/2014 | One Source Rx, Llc | | | | 3008 Clairmont Ave S Ste 100 | Birmingham, AL 35205 |
| PH | 28146 | 05/14/2014 | Prescription Specialties, Inc | | | | 3349 Independence Drive Suite 102 | Birmingham, AL 35209 |
| PH | 28147 | 05/14/2014 | Cecilia'S Pharmacy, Inc. | | | | 2500 Sw 107 Avenue Ste 30 | Miami, FL 33165 |
| PH | 28148 | 05/14/2014 | BS Pharmacy Corp. | | | | 10788 Sw 24Th St | Miami, FL 33165 |
| PH | 28149 | 05/14/2014 | Vital Life Pharmacy | | | | 6063 Sw 18Th Street Bay 112 | Boca Raton, FL 33433 |
| PH | 28150 | 05/15/2014 | Aevum Specialty Compounding, Inc | | | | 514 1st Street North Suite 1 | Alabaster, AL 35007 |
| PH | 28151 | 05/16/2014 | Total Renal Care, Inc. | | | | 1982 Ne 8Th Street | Homestead, FL 33033 |
| PH | 28152 | 05/16/2014 | Family Choice Pharmacy Llc | | | | 1897 Palm Beach Lakes Blvd Suite 115 | West Palm Beach, FL 33409 |
| PH | 28153 | 05/16/2014 | Rx Care 10 Llc | | | | 3795 Tamiami Trail E | Naples, FL 34112 |
| PH | 28154 | 05/16/2014 | Palm Garden Of Pinellas, Llc | | | | 200 16Th Ave Se | Largo, FL 33771 |
| PH | 28155 | 05/19/2014 | Sebring Hospital Management Associates. | | | | 3600 Highlands Avenue | Sebring, FL 33710 |
| PH | 28156 | 05/20/2014 | Sarasota Manatee Jewish Housing Council | | | | 1951 North Honore Ave | Sarasota, FL 34235 |
| PH | 28157 | 05/20/2014 | Hometown Supermarkets, Llc | | | | 26064 Se Hwy 19 | Old Town, FL 32680 |
| PH | 28158 | 05/20/2014 | Nemours Foundation, A Florida Not-For-Pr | | | | 651 N Alafaya Trail | Orlando, FL 32828 |
| PH | 28159 | 05/20/2014 | Life Healthcare Services, Inc | | | | 2170 W 73Rd Street | Hialeah, FL 33016 |



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| PH | 28160 | 05/20/2014 | Palm Garden Of Largo, Lic | | | | 10500 Starkey Road | Largo, FL 33777 |
| PH | 28161 | 05/20/2014 | Samson Merger Sub, Lic | | | | 3327 9Th Street N. | Saint Petersburg, FL 33704 |
| PH | 28162 | 05/20/2014 | Samson Merger Sub, Lic | | | | 1360 Tampa Road | Palm Harbor, FL 34683 |
| PH | 28163 | 05/20/2014 | Wright Specialty Pharmacy And Diabetic S | | | | 1162 W. Poplar Ave. | Collerville, TN 38017 |
| PH | 28164 | 05/21/2014 | One Stop Rx, Lic | | | | 10106 S. Sheridan Rd | Tulsa, OK 74133 |
| PH | 28165 | 05/21/2014 | Rye Beach Pharmacy Inc. | | | | 464 Forest Ave | Rye, NY 10580 |
| PH | 28166 | 05/21/2014 | Cac Florida Medical Center-Ft.Lauderdale | | | | 2780 North Federal Hwy | Ft. Lauderdale, FL 33603 |
| PH | 28167 | 05/21/2014 | Memorial Healthcare Group, Inc | | | | 11850 Atlantic Blvd | Jacksonville, FL 32225 |
| PH | 28168 | 05/21/2014 | Premier Rx Lic | | | | 4810 Executive Park Court Suite 107A | Jacksonville, FL 32216 |
| PH | 28169 | 05/21/2014 | La Botica Pharmacy Inc. No 02 | | | | 1159 West 29 Street | Hialeah, FL 33012 |
| PH | 28170 | 05/21/2014 | La Salle Pharmacy Lic | | | | 390 Nw 2Nd Street Suite 100 | Miami, FL 33128 |
| PH | 28171 | 05/21/2014 | Primrose Pharmacy, Lic | | | | 4733 W. Atlantic Ave Ste C-5 | Delray Beach, FL 33445 |
| PH | 28172 | 05/21/2014 | Coastal Care Pharmacy Lic | | | | 11939 Panamacitybeach Pkwy | Panamacity Beach, FL 32407 |
| PH | 28173 | 05/21/2014 | Rai Care Center Of Rockledge, Lic | | | | 577 Barnes Blvd Ste 100 | Rockledge, FL 32955 |
| PH | 28174 | 05/22/2014 | Florida Pain & Rehabilitation Asso. Inc. | | | | 1693 Lee Rd. Ste. B | Winter Park, FL 32789 |
| PH | 28175 | 05/23/2014 | Waso Health Care | | | | 4421 Roosevelt Blvd Suite H | Middletown, OH 45044 |
| PH | 28176 | 05/23/2014 | Abn Healthcare, Inc | | | | 529 N Chicago Rd | Thornton, IL 60476 |
| PH | 28177 | 05/28/2014 | Prime Pharmacy Solutions, Lic | | | | 1346 Lindberg Drive Suite 6 | Sidell, LA 70458 |
| PH | 28178 | 05/29/2014 | Center For Drug-Free Living, Inc. | | | | 5332 Riveredge Drive | Titusville, FL 32780 |



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| PH | 28179 | 05/29/2014 | White Sands Rehabilitation Services, Llc | | | | 1870 Colonial Boulevard | Fort Myers, FL 33907 |
| PH | 28180 | 05/29/2014 | Tmrx Ventures, Llc | | | | 1430 North Mills Ave Ste 120 | Orlando, FL 32803 |
| PH | 28181 | 05/29/2014 | Darig Pharmacy | | | | 12702 Starkey Road | Largo, FL 33773 |
| PH | 28182 | 05/29/2014 | Susy'S Pharmacy Inc | | | | 12887 Sw 42Nd Street | Miami, FL 33175 |
| PH | 28183 | 05/29/2014 | Quality Respiratory Inc | | | | 14965 Hwy 59 Ste 101 | Foley, AL 36535 |
| PH | 28184 | 05/29/2014 | Adams Pharmacy, Inc | | | | 922 Ohio Ave | Lynn Haven, FL 32444 |
| PH | 28185 | 05/30/2014 | Med Mpack Direct, Llc | | | | 8150 S. Kyrene Road | Tempe, AZ 85284 |
| PH | 28186 | 05/30/2014 | Entracell Pharmacy, Inc | | | | 10435 Santa Monica Blvd 1St Fl | Los Angeles, CA 90025 |
| PH | 28187 | 06/02/2014 | Jcb Laboratories, Llc | | | | 7335 W. 33Rd St. North | Wichita, KS 67205 |
| PH | 28188 | 06/02/2014 | Viera Nh Llc | | | | 8050 Spyglass Hill Road | Viera, FL 32940 |
| PH | 28189 | 06/03/2014 | Ability Pharmacy, Inc. | | | | 558 Hemphill Street | Fort Worth, TX 76104 |
| PH | 28190 | 06/03/2014 | Alternative Medicine And Pharmacy, Inc | | | | 4916 Main Street Suite 100 | Houston, TX 77054 |
| PH | 28191 | 06/03/2014 | Oglethorpe Of St. Cloud, Llc | | | | 81 Beehive Circle Drive | Saint Cloud, FL 34769 |
| PH | 28192 | 06/03/2014 | Milo Pharmacy & Discount Inc | | | | 857 Palm Ave | Hialeah, FL 33010 |
| PH | 28193 | 06/03/2014 | Alba Pharmacy And Discount Inc | | | | 918 E 25Th St | Hialeah, FL 33013 |
| PH | 28194 | 06/03/2014 | Recovery Resources Enterprises, Inc | | | | 120 State Market Road | Panokee, FL 33476 |
| PH | 28195 | 06/04/2014 | Walgreen Co. | | | | 313 N Monroe St | Tallahassee, FL 32301 |
| PH | 28196 | 06/04/2014 | Cornerstone Pharmacy Of Bella Vista, Llc | | | | 1 Mercy Way Suite 50 | Bella Vista, AR 72714 |
| PH | 28197 | 06/05/2014 | Poplv Llc | | | | 4445 S. Eastern Ave. Ste. B | Las Vegas, NV 89119 |
| PH | 28198 | 06/05/2014 | Smartpractice Allergen Bank, Llc | | | | 3400 E. Mcdowell Rd | Phoenix, AZ 85008 |
| PH | 28199 | 06/05/2014 | Gateway Pharmaceuticals Llc | | | | 3532 Vann Road Suite 106 B | Trussville, AL 35235 |
| PH | 28200 | 06/05/2014 | Lenoxhill Pharmacy, Inc. | | | | 1103 Lexington Avenue | New York City, NY 10075 |



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|------|---------|------------|---|------------|--------------|-----------------|----------------------------------|----------------------------|
| PH | 28201 | 06/05/2014 | Center For Drug-Free Living, Inc. | | | | 1405 West Michigan Street | Orlando, FL 32805 |
| PH | 28202 | 06/05/2014 | Pharmacy Medical Services Inc | | | | 3850 Coconut Creek Parkway | Coconut Creek, FL 33066 |
| PH | 28203 | 06/05/2014 | Community Hospice Of Northeast Florida, Performspecialty, Llc | | | | 1385 South 18Th Street Suite 101 | Fernandina Beach, FL 32034 |
| PH | 28204 | 06/05/2014 | | | | | 2416 Lake Orange Drive Suite 190 | Orlando, FL 32837 |
| PH | 28205 | 06/06/2014 | David Pharmacy, Llc | | | | 1518 E. Main Street | Lancaster, OH 43130 |
| PH | 28206 | 06/06/2014 | Caprock Discount Drug | | | | 2625 50Th | Lubbock, TX 79413 |
| PH | 28207 | 06/09/2014 | Liberty For All Pharmacy, Inc. | | | | 3034 S Jog Road | Greenacres, FL 33467 |
| PH | 28208 | 06/09/2014 | Birds Hill Pharmacy Inc | | | | 401 Great Plain Ave | Needham, MA 02492 |
| PH | 28209 | 06/09/2014 | Factor One Source Pharmacy | | | | 308 Virginia Avenue | Cumberland, MD 21502 |
| PH | 28210 | 06/11/2014 | Vital Rx, Inc. | | | | 1000 E. Atlantic Blvd. #110 | Pompano Beach, FL 33060 |
| PH | 28211 | 06/11/2014 | Advantage Medical Infusion, Llc | | | | 5296 Old Hwy 11 Ste 4 | Hattiesburg, MS 39402 |
| PH | 28212 | 06/11/2014 | Amber Enterprises, Inc. | | | | 1004 So. 152Nd Street Ste. A | Omaha, NE 38138 |
| PH | 28213 | 06/11/2014 | Amber Enterprises, Inc. | | | | 323 Norristown Road Ste. 100 | Ambler, PA 19002 |
| PH | 28214 | 06/11/2014 | Publix Super Markets, Inc. | | | | 311 Sw 7Th St | Miami, FL 33130 |
| PH | 28215 | 06/11/2014 | Publix Super Markets, Inc. | | | | 15755 Sw 56Th St | Miami, FL 33185 |
| PH | 28216 | 06/11/2014 | Millian Pharmacy Inc | | | | 6801 Nw 77 Ave Suite 106 | Miami, FL 33166 |
| PH | 28217 | 06/11/2014 | E And L Pharmacy Discount Llc | | | | 237 Nw 12 Av Suite C | Miami, FL 33128 |
| PH | 28218 | 06/11/2014 | Forest Hill Pharmacy Llc | | | | 2939 Forest Hill Blvd | West Palm Beach, FL 33406 |
| PH | 28219 | 06/12/2014 | Good Health, Inc. | | | | 2657 Saturn St | Brea, CA 92821 |
| PH | 28220 | 06/12/2014 | Acaria Health Pharmacy, Inc | | | | 2924 Telestar Court | Falls Church, VA 22042 |
| PH | 28221 | 06/12/2014 | Barsky Enterprise, Llc. | | | | 3033 W. Parker Rd Suite 100 | Plano, TX 75023 |



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|------|---------|------------|--|------------|--------------|-----------------|---------------------------------------|-----------------------------|
| PH | 28222 | 06/12/2014 | Vet Meds N More, Inc | | | | 300 Chukai Rd Ste C-315 | Kilhe, HI 96753 |
| PH | 28223 | 06/12/2014 | Wal-Mart Stores East, Lp | | | | 13600 Sw 288Th St | Homestead, FL 33033 |
| PH | 28224 | 06/12/2014 | Ton-Lor Corp | | | | 8416 Kenned Blvd West | North Bergen, NJ 07047-7445 |
| PH | 28225 | 06/13/2014 | Aspirar Pharmacy Lic | | | | 135 Parkway Office Ct Ste 105 | Cary, NC 27518 |
| PH | 28226 | 06/13/2014 | University Of South Florida Board Of Tru | | | | 13330 Usf Laurel Drive Suite 1001 | Tampa, FL 33612 |
| PH | 28227 | 06/13/2014 | All Children'S Hospital, Inc. | | | | 12220 Bruce B. Downs Blvd | Tampa, FL 33612 |
| PH | 28228 | 06/13/2014 | Gloria Pharmacy Corp. | | | | 2742 Sw 8 St Ste 12-13 | Miami, FL 33135 |
| PH | 28229 | 06/13/2014 | Forever Pharmacy Corp | | | | 710 Sw 17 Ave | Miami, FL 33135 |
| PH | 28230 | 06/13/2014 | K P Pharmacy Corp | | | | 17027 S Dixie Hwy | Palmetto Bay, FL 33157 |
| PH | 28231 | 06/13/2014 | Western Pharmacy Corp | | | | 1609 Sw 67 Ave | Miami, FL 33155 |
| PH | 28232 | 06/13/2014 | First Pharmacy Corp | | | | 551 East 49 St Suite # 16 | Hialeah, FL 33013 |
| PH | 28233 | 06/16/2014 | Bills Prescription Center, Inc. | | | | 20 East Brandon Boulevard | Brandon, FL 33511 |
| PH | 28234 | 06/16/2014 | Northern Va Compounding | | | | 4080 Lafayette Center Drive Suite 270 | Charlilly, VA 20151 |
| PH | 28235 | 06/16/2014 | Medical Group, Inc | | | | 3131 McMullen Booth Rd | Largo, FL 33761 |
| PH | 28236 | 06/16/2014 | Vitas Healthcare Corporation Of Florida | | | | 8300 Collier Blvd 3Rd Floor North | Naples, FL 34114 |
| PH | 28237 | 06/17/2014 | Nemours Foundation, A Florida Not-For-Pr | | | | 745 Orienta Avenue Suite 1011 | Altamonte Springs, FL 32701 |
| PH | 28238 | 06/17/2014 | Nemours Foundation, A Florida Not-For-Pr | | | | 1481 Wp Ball Blvd | Sanford, FL 32771 |
| PH | 28239 | 06/17/2014 | Life And Health Pharmacy Lic | | | | 4065 East 8Th Ave | Hialeah, FL 33013 |
| PH | 28240 | 06/17/2014 | Shertech Pharmacy Piedmont | | | | 1470 Hampton Plaza Dr. | Kennersville, NC 27284 |
| PH | 28241 | 06/19/2014 | Publix Super Markets, Inc. | | | | 4760 W Hill sboro Blvd | Coconut Creek, FL 33073 |



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| PH | 28242 | 06/19/2014 | A And B Pharmaceutical Services Inc | | | | 4750 E. Moody Blvd | Bunnell, FL 32110 |
| PH | 28243 | 06/19/2014 | Ricc Investment Corp | | | | 10618 Devco Dr | Port Richey, FL 34668 |
| PH | 28244 | 06/19/2014 | Wal-Mart Stores East, Lp | | | | 6670 Mobile Highway | Pensacola, FL 32526 |
| PH | 28245 | 06/19/2014 | Holiday Cvs, Llc | | | | 2393 Sw 67Th Avenue | Miami, FL 33155 |
| PH | 28246 | 06/19/2014 | Holiday Cvs, Llc | | | | 2713 Sw 8Th Street | Miami, FL 33135 |
| PH | 28247 | 06/19/2014 | Wal-Mart Stores East, Lp | | | | 28500 State Road 54 | Wesley Chapel, FL 33543 |
| PH | 28248 | 06/19/2014 | Guanabo Pharmacy Discount Inc | | | | 362 E 4 Ave | Hiialeah, FL 33010 |
| PH | 28249 | 06/19/2014 | North East Pharmacy Llc | | | | 15980 Nw 27 Av | Miami Gardens, FL 33054 |
| PH | 28250 | 06/19/2014 | Shivsal Rx Llc | | | | 1808 S French Ave | Sanford, FL 32771 |
| PH | 28251 | 06/19/2014 | Yera Pharmacy Corp | | | | 11629 Sw 216 St | Miami, FL 33170 |
| PH | 28252 | 06/19/2014 | Kemet Care Compounding, Llc | | | | 7111 Grand National Drive Suite 105 | Orlando, FL 32819 |
| PH | 28253 | 06/19/2014 | Corizon, Llc | | | | 3142 Thomas Dr | Bonifay, FL 32425 |
| PH | 28254 | 06/19/2014 | Corizon Llc | | | | 5563 10Th St | Malone, FL 32445 |
| PH | 28255 | 06/19/2014 | Apa Pharmacy Inc | | | | 2282 Sw 22 St | Miami, FL 33145 |
| PH | 28256 | 06/19/2014 | Test For That Llc | | | | 210 Brendan Way | Greenville, SC 29615 |
| PH | 28257 | 06/23/2014 | Publix Super Markets, Inc. | | | | 14630 Sw 26Th St | Miami, FL 33175 |
| PH | 28258 | 06/23/2014 | Wal-Mart Stores East, Lp | | | | 2271 N. Sermoran Blvd | Orlando, FL 32907 |
| PH | 28259 | 06/23/2014 | Medina-Meds Pharmacy Llc | | | | 4675 Old Pleasant Hill Road | Kissimmee, FL 34759 |
| PH | 28260 | 06/23/2014 | Corizon, Llc | | | | 20706 U.S. Highway 90 West | Sanderson, FL 32087 |
| PH | 28261 | 06/26/2014 | Samson Merger Sub, Llc | | | | 1651 Se Us Highway 19 | Crystal River, FL 34429 |
| PH | 28262 | 06/26/2014 | Apothecary By Design | | | | 84 Marginal Way | Portland, ME 04101 |
| PH | 28263 | 06/27/2014 | Ocoee Health Facilities, L.P. | | | | 1556 Maguire Road | Ocoee, FL 34761 |
| PH | 28264 | 06/27/2014 | Chobee Pharmacy Llc | | | | 1535 W. Okeechobee Rd | Hiialeah, FL 33010 |
| PH | 28265 | 06/27/2014 | Goverdhan Llc | | | | 4347-3 University Blvd S. | Jacksonville, FL 32216 |



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| PH | 28266 | 06/27/2014 | Corizon, L L C | | | | 630 Opportunity Lane | Havana, FL 32333 |
| PH | 28267 | 06/27/2014 | Hiialeah Discount Pharmacy, Corp. | | | | 791 W. 29Th Street | Hiialeah, FL 33012 |
| PH | 28268 | 06/27/2014 | St. Mohrael And St. Philopateer | | | | 4012 Sawyer Rd Suite 107 | Sarasota, FL 34233 |
| PH | 28269 | 06/27/2014 | Absolute Pharmacy, Llc | | | | 16011 N Nebraska Ave Suite 103 | Lutz, FL 33549 |
| PH | 28270 | 06/27/2014 | Palm Springs General Hospital | | | | 1475 West 49Th Pl | Hiialeah, FL 33012 |
| PH | 28271 | 06/27/2014 | Bay County Health System, Llc | | | | 23040 Panama City Beach Parkway | Panama City Beach, FL 32413 |
| PH | 28272 | 06/27/2014 | Lucky Rx Pharmacy, Inc. | | | | 486 Palm Ave | Hiialeah, FL 33010 |
| PH | 28273 | 06/27/2014 | Florida Department Of Health | | | | 1750 17Th Street Sarasota | Sarasota, FL 34234 |
| PH | 28274 | 06/27/2014 | Corizon, L L C | | | | 500 Ike Steele Rd | Wewahitchka, FL 32465 |
| PH | 28275 | 06/27/2014 | Corizon, Llc | | | | 110 Melaleuca Drive | Crawfordville, FL 32327 |
| PH | 28276 | 06/27/2014 | Corizon, Llc | | | | 1760 Highway 67 North | Carrabelle, FL 32322 |
| PH | 28277 | 06/27/2014 | Corizon, Llc | | | | 691 Institution Road | Defuniak Springs, FL 32433 |
| PH | 28278 | 06/27/2014 | Corizon, Llc | | | | 2225 Pat Thomas Parkway | Quincy, FL 32351 |
| PH | 28279 | 06/27/2014 | Corizon Llc | | | | 3950 Tiger Bay Rd | Daytona Beach, FL 32124 |
| PH | 28280 | 06/27/2014 | Corizon, Llc | | | | 11064 N W Dempsey Barron Rd | Bristol, FL 32321 |
| PH | 28281 | 06/27/2014 | Corizon, Llc | | | | 3222 Doc Whitfield Rd | Wewahitchka, FL 32465 |
| PH | 28282 | 06/27/2014 | Wellington Retreat, Inc | | | | 7051 Seacrest Blvd | Lantana, FL 33462 |
| PH | 28283 | 06/30/2014 | Sunquest Pharmaceuticals Inc. | | | | 150 Eileen Way Ste 1 | Syosset, NY 11791 |
| PH | 28284 | 06/30/2014 | Shertech Pharmacy - Spartanburg | | | | 1360 Drayton Road | Spartanburg, SC 29307 |
| PH | 28285 | 06/30/2014 | Kvo Llc | | | | 7404 Airline Dr. Ste E | Houston, TX 77076 |
| PH | 28286 | 06/30/2014 | Ab Pharmacy Inc. | | | | 6407 S. Cooper St Ste 113B | Arlington, TX 76001 |



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Total Records: 189

**COMPAS DataMart Reporting System
Pharmacy Ratio Modifiers Report**

Processed: 07/01/2014 12:40:54PM

Modifier Effective Date: 05/01/2014 - 06/30/2014

| Prof | Organization Name | DBA Name | Rank | License # | File # | Issue Date | Modifier Effect Date | Mod Cde | Lic Status | Mailing Address | Phone | County |
|------|-----------------------------------|-------------------------------------|------|-----------|--------|------------|-------------------------|---------|---------------|--|----------------|--------------|
| 2205 | 995 WASHINGTON HOLDINGS LLC | LEE ANN DRUGS | | | 21660 | | 06/23/2014 | 3PTR | APPL IN PROOC | 995 WASHINGTON AVE MIAMI BEACH, FL 33139 | 3055311256 | Miami-Dade |
| 2205 | AAP PHARMACY INC | AAP PHARMACY | | | 21591 | | 06/02/2014 | 3PTR | APPL IN PROOC | 1771 WESTWARD DRIVE MIAMI SPRINGS, FL 33165 | 305-200-5043 | Miami-Dade |
| 2205 | ADVANCE PHARMACY SERVICE, LLC | | | | 21644 | | 06/12/2014 | 3PTR | APPL IN PROOC | 14457 CORONADO DR SPRING HILL, FL 34609 | 810-594-5416 | Hernando |
| 2205 | ADVANCED RX DERM, LLC | | | | 21678 | | 06/30/2014 | 3PTR | APPL IN PROOC | 115 HIGHLAND AVE LARGO, FL 33145 | | Pinellas |
| 2205 | APA PHARMACY INC | | | | 21568 | | 05/20/2014 | 3PTR | CLEAR | 2282 SW 22 ST MIAMI, FL 33126 | | Miami-Dade |
| 2205 | AQUA PHARMACY INC | AQUA PHARMACY INC | | | 21662 | | 06/30/2014 | 2PTR | APPL IN PROOC | 4243 WFLAGLER ST MIAMI, FL 33134 | 7665259016 | Miami-Dade |
| 2205 | ATLANTIS PHARMACY RX, LLC | ATLANTIS PHARMACY | | | 21666 | | 06/26/2014 | 3PTR | APPL IN PROOC | 100 JOHN F. KENNEDY DRIVE ATLANTIS, FL 33462 | 5612322893 | Palm Beach |
| 2205 | BS PHARMACY CORP. | BS PHARMACY CORP | | | 21515 | | 05/07/2014 | 3PTR | CLEAR | 10788 SW 24TH ST MIAMI, FL 33165 | | Miami-Dade |
| 2205 | BARNES HEALTHCARE OF FLORIDA, LLC | BARNES PRECISION SPECIALTY PHARMACY | | | 21526 | | 05/07/2014 | 3PTR | APPL IN PROOC | P O BOX 160 VALDOSTA, GA 31603 | | Unknown |
| 2205 | BAYCARE HOME CARE, INC. | BAYCARE PHARMACY | | | 19567 | | 12/26/2012 | 3PTR | CLEAR | 620 10TH STREET NORTH SAINT PETERSBURG, FL 33705 | 727-394-6577 | Pinellas |
| 2205 | BRIGHT PHARMACY DISCOUNT INC | BRIGHT PHARMACY DISCOUNT INC | | | 21675 | | 06/30/2014 | 3PTR | APPL IN PROOC | 2 ST 7945 NW 2 ST MIAMI, FL 33126 | 3052656122 | Miami-Dade |
| 2205 | CHARLES DRUG STORE INC | CHARLES DRUG STORE INC | | | 21667 | | 06/27/2014 | 3PTR | APPL IN PROOC | 2350 W 84 ST BAY 15 HIALEAH, FL 33016 | 3054776502 | Miami-Dade |
| 2205 | CHARLES DRUG STORE INC | CHARLES DRUG STORE INC | | | 21668 | | 06/27/2014 | 3PTR | APPL IN PROOC | 2350 W 84 ST BAY 15 HIALEAH, FL 33016 | 3054776502 | Miami-Dade |
| 2205 | COAST QUALITY PHARMACY, LLC | ANAZAO HEALTH | | | 21640 | | 06/13/2014 | 3PTR | APPL IN PROOC | 5710 HOOVER BLVD TAMPA, FL 33634 | 800-995-4363 | Hillsborough |
| 2205 | COAST QUALITY PHARMACY, LLC | | | | 21642 | | 06/12/2014 | 3PTR | APPL IN PROOC | 5710 HOOVER BLVD TAMPA, FL 33634 | | Hillsborough |
| 2205 | COAST QUALITY PHARMACY, LLC | | | | 21643 | | 06/16/2014 | 3PTR | APPL IN PROOC | 5710 HOOVER BLVD TAMPA, FL 33634 | | Hillsborough |
| 2205 | COAST QUALITY PHARMACY, LLC | | | | 21601 | | 06/04/2014 | 3PTR | APPL IN PROOC | 19 TOWN CENTER LOOP, UNIT 1A SANTA ROSA BEACH, FL 32459 | 8506601571 | Walton |
| 2205 | COASTAL SPECIALTY PHARMACY | COASTAL SPECIALTY PHARMACY | | | 21590 | | 05/30/2014 | 3PTR | APPL IN PROOC | 801 NW 37 AVE SUITE # 833 MIAMI, FL 33125 | 7664315733 | Miami-Dade |
| 2205 | DOUGLAS RD PHARMACY DISCOUNT CORP | DOUGLAS RD PHARMACY DISCOUNT CORP | | | 21573 | | 05/23/2014 | 2PTR | CLEAR | 237 NW 12 AV SUITE C MIAMI, FL 33128 | 5618563829 | Miami-Dade |
| 2205 | E AND L PHARMACY DISCOUNT LLC | E AND L PHARMACY DISCOUNT LLC | | | 21501 | | 05/01/2014 | 3PTR | APPL IN PROOC | 3491 E 4 AVE HIALEAH, FL 33013 | | Miami-Dade |
| 2205 | EBENEZER PHARMACY INC | EBENEZER PHARMACY INC | | | 21586 | | 05/30/2014 | 3PTR | APPL IN PROOC | 2350 W 80 ST SUITE 5 HIALEAH, FL 33016 | 7668044233 | Miami-Dade |
| 2205 | EXPRESS PHARMACY DISCOUNT INC | EXPRESS PHARMACY DISCOUNT INC | | | 18878 | | 01/19/2012 | 3PTR | CLEAR | 1416 LAKE BASS DRIVE LAKE WORTH, FL 33461 | (561) 432-2273 | Palm Beach |
| 2205 | FAMILY CARE RX, LLC | FAMILY CARE RX, LLC | | | 21519 | | 05/07/2014 | 3PTR | APPL IN PROOC | 3750 W/16 AVE SUITE 100 HIALEAH, FL 33012 | | Miami-Dade |
| 2205 | FLA PHARMACY INC | THE FLA PHARMACY INC | | | 21540 | | 05/13/2014 | 3PTR | APPL IN PROOC | 2349 VILLAGE SQUARE PARKWAY UNIT #106 FLEMING ISLAND, FL 32003 | | Clay |
| 2205 | FLEMING ISLAND PHARMACY | FLEMING ISLAND PHARMACY | | | 21633 | | 06/23/2014 | 3PTR | CLEAR | P O BOX 2856 SARASOTA, FL 34230 | 9418612932 | Sarasota |
| 2205 | FLORIDA DEPARTMENT OF HEALTH | CHILDRENS HEALTH CENTER | | | 28273 | | 06/27/2014 | 3PTR | CLEAR | | | |



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| Prof | Organization Name | DBA Name | Rank | License # | File # | Issue Date | Modifier Efile Date | Mod Cde | Lic Status | Mailing Address | Phone | County |
|------|------------------------------------|------------------------------------|------|-----------|--------|------------|------------------------|---------|--------------|--|--------------|------------|
| 2205 | FOREST HILL PHARMACY LLC | | PH | 28218 | 21595 | 06/11/2014 | 06/03/2014 | 3PTR | CLEAR | 2939 FOREST HILL BLVD WEST PALM BEACH, FL 33406 | | Palm Beach |
| 2205 | FOREVER PHARMACY CORP | FOREVER PHARMACY CORP | PH | 28229 | 21534 | 06/13/2014 | 05/09/2014 | 3PTR | CLEAR | 710 SW 17 AVE MIAMI, FL 33135 | | Miami-Dade |
| 2205 | FRITZ PHARMACY INC | FRITZ PHARMACY INC | | | 21657 | | 06/23/2014 | 3PTR | APPL IN PROC | 1301 PALM AVE SUITE 105 HIALEAH, FL 33010 | | Miami-Dade |
| 2205 | GABLES PHARMACY, INC | GABLES PHARMACY, INC | | | 21589 | | 05/30/2014 | 3PTR | APPL IN PROC | 706 SW 57 AVE CORAL GABLES, FL 33144 | 7866838119 | Miami-Dade |
| 2205 | GOLD STANDARD RX LLC | GOLD STANDARD RX | | | 21541 | | 05/13/2014 | 3PTR | APPL IN PROC | 450 N PARK ROAD SUITE 302 HOLLYWOOD, FL 33021 | | Broward |
| 2205 | GREEN CROSS DRUG STORE INC | GREEN CROSS DRUG STORE INC | | | 21630 | | 06/11/2014 | 3PTR | APPL IN PROC | 5540 SW 85T MIAMI, FL 33134 | 3054776502 | Miami-Dade |
| 2205 | GUANABO PHARMACY DISCOUNT INC | GUANABO PHARMACY DISCOUNT INC | PH | 28248 | 21546 | 06/19/2014 | 05/14/2014 | 3PTR | CLEAR | 632 E 4AVE HIALEAH, FL 33010 | 786-444-9195 | Miami-Dade |
| 2205 | H C PHARMACY LLC | HC PHARMACY LLC | | | 21604 | | 06/04/2014 | 3PTR | APPL IN PROC | 33048 US HWY 27 HAINES CITY, FL 33844 | | Polk |
| 2205 | HOLIDAY CVS, LLC | CVS/PHARMACY #10131 | PH | 28245 | 21523 | 06/19/2014 | 05/07/2014 | 3PTR | CLEAR | ONE CVS DR LICENSING DEPT MD 23062A WOODSOCKET, RI 02895 | | Unknown |
| 2205 | HOLIDAY CVS, LLC | CVS/PHARMACY #1126 | PH | 28246 | 21524 | 06/19/2014 | 05/07/2014 | 3PTR | CLEAR | ONE CVS DR LICENSING DEPT MD 23062A WOODSOCKET, RI 02895 | | Unknown |
| 2205 | INTERAMERICAN SERVICES CORPORATION | INTERAMERICAN SERVICES CORPORATION | | | 21535 | | 05/09/2014 | 3PTR | APPL IN PROC | 1095 E 4 AVE HIALEAH, FL 33010 | | Miami-Dade |
| 2205 | IPHARMACY DISCOUNT INC | IPHARMACY DISCOUNT INC | | | 21645 | | 06/13/2014 | 3PTR | APPL IN PROC | 3027 NW 7 ST MIAMI, FL 33125 | 3056427177 | Miami-Dade |
| 2205 | J S RX INC | J S RX INC | | | 21537 | | 05/12/2014 | 3PTR | APPL IN PROC | 1970 OPA LOCKA BLVD OPA LOCKA, FL 33054 | | Miami-Dade |
| 2205 | JDS PHARMACY CORP | JDS PHARMACY CORP | | | 21514 | | 05/07/2014 | 3PTR | APPL IN PROC | 2183 SW 1 STREET MIAMI, FL 33135 | | Miami-Dade |
| 2205 | JMPHARMACY125@GMAIL.COM | JMPHARMACY125@GMAIL.COM | | | 21621 | | 06/10/2014 | 3PTR | APPL IN PROC | 1250 NW 7 ST SUITE101-102 MIAMI, FL 33125 | 3054776500 | Miami-Dade |
| 2205 | JUPITER COMPOUNDING LLC | JUPITER COMPOUNDING | | | 21566 | | 05/15/2014 | 3PTR | APPL IN PROC | 155 TONEY PENNA DR JUPITER, FL 33458 | | Palm Beach |
| 2205 | K MART CORPORATION | KMART PHARMACY #323 | PH | 7400 | 943 | 12/02/1979 | 05/09/2014 | 3PTR | CLEAR | 200 IRWIN AVE NE FT WALTON BCH, FL 32548-4435 | | Okaloosa |
| 2205 | K P PHARMACY CORP | KP PHARMACY CORP | PH | 28230 | 21564 | 06/13/2014 | 05/15/2014 | 3PTR | CLEAR | 17027 S DIXIE HWY PALMETO BAY, FL 33157 | | Miami-Dade |
| 2205 | KRS GLOBAL BIOTECHNOLOGY INC | KRS GLOBAL BIOTECHNOLOGY INC | | | 21505 | | 05/02/2014 | 3PTR | APPL IN PROC | 791 PARK OF COMMERCE BLVD BOCA RATON, FL 33487 | | Palm Beach |
| 2205 | LIFE AND HEALTH PHARMACY LLC | LIFE AND HEALTH PHARMACY LLC | PH | 28239 | 21554 | 06/17/2014 | 05/15/2014 | 3PTR | CLEAR | 4065 EAST 8TH AVE HIALEAH, FL 33013 | | Miami-Dade |
| 2205 | LUL CORPORATION | | | | 21572 | | 05/21/2014 | 3PTR | APPL IN PROC | 9600 SW 8TH ST #44 MIAMI, FL 33174 | 305-552-6655 | Miami-Dade |
| 2205 | LUCKY RX PHARMACY, INC. | LUCKY RX PHARMACY, INC | PH | 28272 | 21593 | 06/27/2014 | 06/03/2014 | 3PTR | CLEAR | 486 PALM AVE HIALEAH, FL 33010 | 786-317-216 | Miami-Dade |
| 2205 | MAA ASHAPURI LLC | | | | 21656 | | 06/23/2014 | 3PTR | APPL IN PROC | 4330 FOUNTAINVIEW LANE APT 6204 ORLANDO, FL 32808 | | Orange |
| 2205 | MAX PHARMACY CORP | MAX PHARMACY CORP | | | 21646 | | 06/13/2014 | 3PTR | APPL IN PROC | 326 SW 17 AVE MIAMI, FL 33135 | 3054776502 | Miami-Dade |
| 2205 | MERSY PHARMACY CORP | MERSY PHARMACY CORP | | | 21654 | | 06/23/2014 | 3PTR | APPL IN PROC | 2900 W 12ND AVE STE 25 2ND FLOOR HIALEAH, FL 33012 | 7869554872 | Miami-Dade |

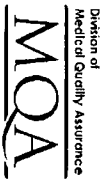


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|------|---------------------------------------|--|------|-----------|--------|------------|------------------------|---------|--------------|---|----------------|--------------|
| 2205 | MILAN PHARMACY INC | MILAN PHARMACY INC | PH | 28216 | 21555 | 06/11/2014 | 05/15/2014 | 3PTR | CLEAR | 6801 NW 77 AVE SUITE 106 MIAMI, FL 33166 | | Miami-Dade |
| 2205 | MY DRUG STORE INC | MY DRUG STORE INC | | | 21634 | 06/12/2014 | 06/12/2014 | 3PTR | APPL IN PROC | 1901 WFLAGLER ST MIAMI, FL 33135 | 3055102034 | Miami-Dade |
| 2205 | NIMOH PHARMACY AND COMPOUNDING LLC | NIMOH PHARMACY AND COMPOUNDING LLC | | | 21658 | 06/23/2014 | 06/23/2014 | 2PTR | APPL IN PROC | 20024 DATE PALM WAY TAMPA, FL 33647 | 5023193419 | Hillsborough |
| 2205 | NORTH EAST PHARMACY LLC | NORTH EAST PHARMACY LLC | PH | 28249 | 21567 | 06/19/2014 | 05/15/2014 | 2PTR | CLEAR | 15980 NW 27 AV MIAMI GARDENS, FL 33054 | | Miami-Dade |
| 2205 | NORTHWEST MEDICAL PHARMACY | NORTHWEST MEDICAL PHARMACY | | | 21563 | 05/15/2014 | 05/15/2014 | 2PTR | APPL IN PROC | 2089 SW 67 AVE SUITE B MIAMI, FL 33155 | | Miami-Dade |
| 2205 | ONCOLOGY PLUS, INCORPORATED | ONCOLOGY PLUS | PH | 18045 | 10117 | 07/26/2001 | 05/02/2014 | 3PTR | CLEAR | 1070 E BRANDON BLVD BRANDON, FL 33511 | (813) 689-6303 | Hillsborough |
| 2205 | ONE SOURCE PHARMACY, LLC | PRRX KISSIMEE | PH | 23234 | 15842 | 03/05/2008 | 05/08/2014 | 2PTR | CLEAR | 6191 Orange Dine Suite 6177 DAVIE, FL 33314 | | Broward |
| 2205 | OPTIMUN RX PHARMACY LLC | OPTIMUN RX PHARMACY LLC | | | 21669 | 06/27/2014 | 06/27/2014 | 3PTR | APPL IN PROC | 6900 WEST 32 AVE STE # 16 HIALEAH, FL 33018 | 3055574995 | Miami-Dade |
| 2205 | ORANGE PHARMACY CORP | ORANGE PHARMACY CORP | | | 21662 | 06/24/2014 | 06/24/2014 | 3PTR | APPL IN PROC | 336 NW 12 AVE MIAMI, FL 33128 | 785713183 | Miami-Dade |
| 2205 | ORLANDO COMPOUNDING PHARMACY LLC | FORMULA PHARMACY | | | 21562 | 05/15/2014 | 05/15/2014 | 3PTR | APPL IN PROC | 3119 MAPLERIDGE DRIVE LUTZ, FL 33558 | | Hillsborough |
| 2205 | PALM SPRINGS GENERAL HOSPITAL | PALM SPRINGS GENERAL HOSPITAL | PH | 28270 | 21579 | 06/27/2014 | 05/28/2014 | 3PTR | CLEAR | 1475 WEST 49TH PL HIALEAH, FL 33012 | 3058244780 | Miami-Dade |
| 2205 | PHARMA AMERICA CORP | PHARMA AMERICA CORP | | | 21536 | 05/09/2014 | 05/09/2014 | 3PTR | APPL IN PROC | 3001 W12 AVE SUITE 7 HIALEAH, FL 33012 | | Miami-Dade |
| 2205 | PHARMALAND LLC | LIFECORE PHARMACY | | | 21627 | 06/11/2014 | 06/11/2014 | 3PTR | APPL IN PROC | 3426 13TH AVE NORTH SAINT PETERSBURG, FL 33713 | 727-209-1282 | Pinellas |
| 2205 | PICH KTM CORP | MEDTOWN PHARMACY | | | 21504 | 05/02/2014 | 05/02/2014 | 3PTR | APPL IN PROC | PO BOX 23356 JACKSONVILLE, FL 32241 | | Duval |
| 2205 | PUBLIX SUPERMARKETS, INC | PUBLIX PHARMACY #471 | | | 21577 | 05/23/2014 | 05/23/2014 | 3PTR | APPL IN PROC | P O BOX 32027 LAKELAND, FL 33802 | | Polk |
| 2205 | PUBLIX SUPERMARKETS, INC | PUBLIX PHARMACY #1427 | | | 21578 | 05/28/2014 | 05/28/2014 | 3PTR | APPL IN PROC | P O BOX 32027 LAKELAND, FL 33802 | | Polk |
| 2205 | PUBLIX SUPERMARKETS, INC | PUBLIX PHARMACY #1468 | | | 21602 | 06/04/2014 | 06/04/2014 | 3PTR | APPL IN PROC | P O BOX 32027 LAKELAND, FL 33802 | 863-688-7407 | Polk |
| 2205 | RIVERO PHARMACY INC | RIVERO PHARMACY INC | | | 21565 | 05/15/2014 | 05/15/2014 | 3PTR | APPL IN PROC | 13621 SW 26 ST MIAMI, FL 33175 | | Miami-Dade |
| 2205 | SAMSON MERGER SUB, LLC | WINN DIXIE #2421 | PH | 28261 | 21542 | 06/26/2014 | 05/14/2014 | 3PTR | CLEAR | P O BOX 2209 JACKSONVILLE, FL 32203 | | Duval |
| 2205 | SENIOR CARE PHARMACY OF FLORIDA | | | | 21550 | 05/15/2014 | 05/15/2014 | 3PTR | APPL IN PROC | 4175 S PIPKIN ROAD SUITE 208 LAKELAND, FL 33811 | | Polk |
| 2205 | UMBRELLA PHARMACY DISCOUNT CORP | UMBRELLA PHARMACY DISCOUNT CORP | | | 21624 | 06/10/2014 | 06/10/2014 | 3PTR | APPL IN PROC | 10521 SW 40 STREET MIAMI, FL 33165 | 3059847612 | Miami-Dade |
| 2205 | UNIVERSITY OF MIAMI | UNIVERSITY OF MIAMI HOSPITAL | | | 21679 | 06/11/2014 | 06/11/2014 | 3PTR | APPL IN PROC | 1400 NW 12TH AVENUE SUITE 1-101 MIAMI, FL 33135 | 305-689-5722 | Miami-Dade |
| 2205 | V AND S PHARMACY AND DISCOUNT INC | V AND S PHARMACY AND DISCOUNT INC | | | 21517 | 05/07/2014 | 05/07/2014 | 3PTR | APPL IN PROC | 13806 NE 12 AVE NORTH MIAMI, FL 33161 | | Miami-Dade |
| 2205 | VITAL LIFE PHARMACY | VITAL LIFE PHARMACY | PH | 28149 | 21520 | 05/14/2014 | 05/07/2014 | 3PTR | CLEAR | 6063 SW 18TH STREET BAY 112 BOCA RAYON, FL 33433 | | Palm Beach |
| 2205 | WAL-MART STORES EAST, LP | WALMART PHARMACY #10-4159 | | | 21527 | 05/08/2014 | 05/08/2014 | 3PTR | APPL IN PROC | 702 SW 8TH ST BENTONVILLE, AR 72716 | | Unknown |
| 2205 | WAL-MART STORES EAST, LP | WALMART PHARMACY #10-3418 | PH | 28247 | 21528 | 06/19/2014 | 05/08/2014 | 3PTR | CLEAR | 702 SW 8TH ST BENTONVILLE, AR 72716 | | Unknown |



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|------|------------------------------|------------------------------|------|-----------|--------|------------|------------------------|---------|--------------|--|--------------|------------|
| 2205 | WAL-MART STORES EAST, LP | WALMART PHARMACY #10-6548 | | | 21549 | | 05/14/2014 | 3PTR | APPL IN PROC | 702 SW8TH ST BENTONVILLE, AR 72716 | | Unknown |
| 2205 | WAL-MART STORES EAST, LP | WALMART PHARMACY #10-3858 | | | 21598 | | 06/04/2014 | 3PTR | APPL IN PROC | 702 SW8TH ST BENTONVILLE, AR 72716 | | Unknown |
| 2205 | WAL-MART STORES EAST, LP | WALMART PHARMACY #10-4161 | | | 21599 | | 06/04/2014 | 3PTR | APPL IN PROC | 702 SW8TH ST BENTONVILLE, AR 72716 | | Unknown |
| 2205 | WAL-MART STORES EAST, LP | | | | 21671 | | 06/27/2014 | 3PTR | APPL IN PROC | 702 SW8TH ST BENTONVILLE, AR 72716 | | Unknown |
| 2205 | WESTERN FLORIDA PHARMACY LLC | WESTERN FLORIDA PHARMACY LLC | | | 21605 | | 06/05/2014 | 3PTR | APPL IN PROC | 5001 COMMERCE PARK CIRCLE SUITE B PENSACOLA, FL 32505 | | Escambia |
| 2205 | WINN-DIXIE STORES, INC | WINN-DIXIE PHARMACY #741 | PH | 16212 | 6729 | 09/24/1998 | 05/09/2014 | 3PTR | CLEAR | POST OFFICE BOX 2209 JACKSONVILLE, FL 32203 | | Duval |
| 2205 | WINN-DIXIE STORES, INC. | | | | 21665 | | 06/26/2014 | 3PTR | APPL IN PROC | P. O. BOX 2209 JACKSONVILLE, FL 32254 | | Duval |
| 2205 | YERA PHARMACY CORP | YERA PHARMACY CORP | PH | 28251 | 21632 | 06/19/2014 | 06/11/2014 | 3PTR | CLEAR | 11629 SW 216 ST MIAMI, FL 33170 | 305-251-2852 | Miami-Dade |

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|------|---------|------------|---|------------|--------------|-----------------|--------------------------------------|-----------------------------|
| RTTP | 541 | 05/05/2014 | Capital Pharmacy And Discount | | | | 137 S.W 57Th Ave | Miami, FL 33144 |
| RTTP | 542 | 05/06/2014 | Ba Pharmacy Inc | | | | 5221 N.W 79 Ave | Doral, FL 33166 |
| RTTP | 543 | 05/07/2014 | Comfort Pharmacy Llc | | | | 8300 W Flagler Street #165 | Miami, FL 33144 |
| RTTP | 544 | 05/14/2014 | Miami Pharmacy Corp. | | | | 15552 Sw 72 St | Miami, FL 33193 |
| RTTP | 545 | 05/14/2014 | Mangalmurti, Lcc | | | | 17435 Us Highway 441 Suite 102 | Mount Dora, FL 32757 |
| RTTP | 546 | 05/22/2014 | Blue Sky Discount Pharmacy, Llc | | | | 115 Hickory St #101 | West Melbourne, FL 32904 |
| RTTP | 547 | 05/23/2014 | Oshun Pharmacy Discount Inc | | | | 1554 West 68Th Street | Hialeah, FL 33014 |
| RTTP | 548 | 05/23/2014 | Tirumala Pharmacy Pc Inc | | | | 4543 Pleasant Hill Road | Kissimmee, FL 34759 |
| RTTP | 549 | 05/29/2014 | Pvrx Pharmacy Corp. | | | | 10327 Nw 27 Ave | Miami, FL 33147 |
| RTTP | 550 | 06/02/2014 | Pharmakon Lic | | | | 2386 Dunn Ave Suite 117 | Jacksonville, FL 32218 |
| RTTP | 551 | 06/02/2014 | Callahan Pharmacy Inc. | | | | 450077 State Road 200 | Callahan, FL 32011 |
| RTTP | 552 | 06/03/2014 | Rx Express Pharmacy Of Panama City, Inc | | | | 540B E 6Th Street | Panama City, FL 32401 |
| RTTP | 553 | 06/04/2014 | Palmetto Pharmacy ll Corp. | | | | 1526 Alton Rd | Miami Beach, FL 33139 |
| RTTP | 554 | 06/06/2014 | Dia Rx Lic | | | | 11509 Dr. Milk Jr. Blvd | Mango, FL 33550 |
| RTTP | 555 | 06/11/2014 | Peter Botros Pharmacy Inc. | | | | 1431 Orange Camp Rd Suite #102 | Deland, FL 32724 |
| RTTP | 556 | 06/11/2014 | Lemon Bay Drugs North Inc | | | | 13221 Tamiami Trail | North Port, FL 34287 |
| RTTP | 557 | 06/12/2014 | Vocational Institute Of Florida | | | | 1849 W. Flagler Street | Miami, FL 33135 |
| RTTP | 558 | 06/12/2014 | Malabar Pharmacy, Llc | | | | 930 Malabar Road Suite 1 | Palm Bay, FL 32907 |
| RTTP | 559 | 06/13/2014 | Ready Pharmacy, Inc. | | | | 5782 West Flagler Street | Miami, FL 33144 |
| RTTP | 560 | 06/13/2014 | University Of South Florida Continuing E | | | | 4202 E Fowler Nec 116 | Tampa, FL 33620 |
| RTTP | 561 | 06/13/2014 | Rx Care 11 Lic | | | | 13020 Livingston Rd. Ste. 8 | Naples, FL 34105 |
| RTTP | 562 | 06/19/2014 | Broward College | | | | 1000 Coconut Creek Blvd. Bc-North | Coconut Creek, FL 33066 |



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| Rank | Lic Nbr | Issue Date | Licensee Name | Birth Date | EDU Provider | EDU Institution | PL Address | PL Location |
|------|---------|------------|---------------------------------------|------------|--------------|-----------------|-------------------------------|------------------------------|
| RTTP | 563 | 06/19/2014 | Mizner Pharmacy Inc | | | | 104 N E 2Nd Street | Boca Raton, FL 33432 |
| RTTP | 564 | 06/25/2014 | Carolina Pharmacy And Discount Co. | | | | 4705 Sw 8Th Street | Miami, FL 33134 |
| RTTP | 565 | 06/27/2014 | Imperial Point Pharmacy Center Inc | | | | 6310 North Federal Highway | Fort Lauderdale, FL 33308 |
| RTTP | 566 | 06/30/2014 | Nuclear Education Online | | | | 2502 Marble Ne | Albuquerque, NM 87131 |

Total Records: 26

| Provider Name | Provider # | Course Name | Course # | Status | Approved Date |
|--|------------|--|-----------|----------|---------------|
| FLORIDA A&M UNIVERSITY COLLEGE OF PHARMACY AND PHARMACEUTICAL SCIENCES | 50-3072 | MINI COURSE IN DIABETES MANAGEMENT AND EDUCATION | 20-441566 | APPROVED | 5/23/2014 |
| UNIVERSITY OF MIAMI MAGEC | 50-3120 | 2014 LICENSURE RENEWAL | 20-443842 | APPROVED | 4/25/2014 |
| AKH INC. ADVANCING KNOWLEDGE IN HEALTHCARE | 50-2560 | MEDICATION ERRORS: PREVENTION IS THE KEY | 20-441037 | APPROVED | 5/23/2014 |
| CW PROFESSIONAL SERVICES | 50-14997 | HIV / AIDS AWARENESS | 20-441248 | APPROVED | 6/23/2014 |
| FLORIDA HOSPITAL DEPARTMENT OF PHARMACY | 50-16380 | MONOCLONAL ANTIBODY THERAPY | 20-434303 | APPROVED | 10/1/2013 |
| FLORIDA PHARMACY ASSOCIATION | 50-754 | REDUCING MEDICATION ERRORS THROUGH IMPLEMENTING A CONTINUOUS QUALITY IMPROVEMENT PROGRAM | 20-448477 | APPROVED | 6/20/2014 |
| FLORIDA PHARMACY ASSOCIATION | 50-754 | FPA 31ST ANNUAL SOUTHEASTERN GATHERIN | 20-448470 | APPROVED | 6/20/2014 |
| FREECE.COM | 50-3515 | MEDICATION ERROR PREVENTION: STRATEGIES FOR PHARMACISTS & PHARMACY TECHNICIANS | 20-444610 | APPROVED | 6/6/2014 |
| UNIVERSITY OF FLORIDA COLLEGE OF PHARMACY | 50-2419 | PHA 5597: PROTECTIVE AND STRUCTURAL SYSTEM DISORDERS | 20-441590 | APPROVED | 4/7/2014 |
| DARICE E. RICHARD, PHARM.D. (MAGELLAN HEALTHCARE) | 50-14652 | MED ERRORS AND PUBLIC SAFETY 2014 | 20-437829 | APPROVED | 5/29/2014 |
| FLORIDA HOSPITAL DEPARTMENT OF PHARMACY | 50-16380 | BEST OF ASCO 2014 | 20-443662 | APPROVED | 10/1/2013 |
| AMERICAN SOCIETY OF CONSULTANT PHARMACISTS | 50-3997 | ANNUAL FL-ASCP CONFERENCE AND EXHIBITION | 20-446134 | APPROVED | 6/10/2014 |
| VANGUARD ADVANCED PHARMACY SYSTEMS, INC. | 50-2112 | MEDICAL MISADVENTURES IN THE ELDERLY: PREVENTING MEDICAL ERRORS | 20-443571 | APPROVED | 5/23/2014 |
| AMERICAN SOCIETY OF CONSULTANT PHARMACISTS | 50-3997 | ASCP 2-DAY CGP EXAM PREPARATION & RECERTIFICATION BOOT CAMP | 20-448522 | APPROVED | 6/23/2014 |
| FLORIDA SOCIETY OF HEALTH SYSTEM PHARMACISTS | 50-3036 | PHARMACY TECHNICIAN'S ROLE IN KEEPING OUR PATIENTS SAFE | 20-442022 | APPROVED | 5/6/2014 |
| DARICE E. RICHARD, PHARM.D. (MAGELLAN HEALTHCARE) | 50-14652 | HIV-AIDS DIAGNOSIS AND TREATMENT-2014 | 20-437817 | APPROVED | 5/29/2014 |
| NOVA SOUTHEASTERN UNIVERSITY COLLEGE OF PHARMACY | 50-2759 | 25TH ANNUAL CONTEMPORARY PHARMACY ISSUES CONFERENCE | 20-439862 | APPROVED | 5/9/2014 |
| BAYCARE EDUCATION SERVICES | 50-201 | PREVENTING HEALTHCARE ERRORS, PROMOTING PATIENT SAFETY | 20-437026 | APPROVED | 6/6/2014 |
| FLORIDA SOCIETY OF HEALTH SYSTEM PHARMACISTS | 50-3036 | MEDICATION ERRORS | 20-445441 | APPROVED | 5/23/2014 |
| MAD-ID, INC | 50-9707 | 17TH ANNUAL MAD ID: MAKING A DIFFERENCE IN INFECTIOUS DISEASE PHARMACOTHERAPY MEETING | 20-442770 | APPROVED | 5/9/2014 |
| FLORIDA PHARMACY ASSOCIATION | 50-754 | HIV AIDS UPDATE | 20-448473 | APPROVED | 6/20/2014 |
| FLORIDA HOSPITAL DEPARTMENT OF PHARMACY | 50-16380 | DRY EYE SYNDROME 2013 | 20-440550 | APPROVED | 10/1/2013 |
| CW PROFESSIONAL SERVICES | 50-14997 | MEDICATION ERRORS & PREVENTION | 20-441249 | APPROVED | 6/23/2014 |
| BIOLOGIX SOLUTIONS LLC | 50-12950 | HIV/AIDS FOR HEALTHCARE PROFESSIONALS 1CE | 20-351270 | APPROVED | 6/23/2014 |
| FLORIDA HOSPITAL DEPARTMENT OF PHARMACY | 50-16380 | THE SKINNY ON OBESITY 2013 | 20-440556 | APPROVED | 10/1/2013 |
| FLORIDA SOCIETY OF HEALTH SYSTEM PHARMACISTS | 50-3036 | IDENTIFICATION AND PREVENTION OF MEDICATION ERRORS | 20-447684 | APPROVED | 6/25/2014 |
| NCH HEALTHCARE SYSTEM | 50-1425 | BASAL BOLUS INSULIN GLYCEMIC MANAGEMENT IN THE HOSPITAL SETTING, CHALLENGES AND OPPORTUNITIES FOR CLINICIANS | 20-372751 | APPROVED | 6/6/2014 |
| AMERICAN SOCIETY OF CONSULTANT PHARMACISTS | 50-3997 | ENGAGING PHARMACISTS IN EMERGING MODELS OF CARE | 20-445723 | APPROVED | 6/23/2014 |

| Provider Name | Provider # | Course Name | Course # | Status | Approved Date |
|--|------------|--|-----------|----------|---------------|
| FLORIDA A&M UNIVERSITY COLLEGE OF PHARMACY AND PHARMACEUTICAL SCIENCES | 50-3072 | MINI COURSE IN DIABETES MANAGEMENT AND EDUCATION | 20-441566 | APPROVED | 5/23/2014 |
| UNIVERSITY OF MIAMI MAGEC | 50-3120 | 2014 LICENSURE RENEWAL | 20-443842 | APPROVED | 4/25/2014 |
| AKH INC. ADVANCING KNOWLEDGE IN HEALTHCARE | 50-2560 | MEDICATION ERRORS: PREVENTION IS THE KEY | 20-441037 | APPROVED | 5/23/2014 |
| CW PROFESSIONAL SERVICES | 50-14997 | HIV / AIDS AWARENESS | 20-441248 | APPROVED | 6/23/2014 |
| FLORIDA HOSPITAL DEPARTMENT OF PHARMACY | 50-16380 | MONOCLONAL ANTIBODY THERAPY | 20-434303 | APPROVED | 10/1/2013 |
| FLORIDA PHARMACY ASSOCIATION | 50-754 | REDUCING MEDICATION ERRORS THROUGH IMPLEMENTING A CONTINUOUS QUALITY IMPROVEMENT PROGRAM | 20-448477 | APPROVED | 6/20/2014 |
| FLORIDA PHARMACY ASSOCIATION | 50-754 | FPA 31ST ANNUAL SOUTHEASTERN GATHERIN | 20-448470 | APPROVED | 6/20/2014 |
| FREECE.COM | 50-3515 | MEDICATION ERROR PREVENTION: STRATEGIES FOR PHARMACISTS & PHARMACY TECHNICIANS | 20-444610 | APPROVED | 6/6/2014 |
| UNIVERSITY OF FLORIDA COLLEGE OF PHARMACY | 50-2419 | PHA 5597: PROTECTIVE AND STRUCTURAL SYSTEM DISORDERS | 20-441590 | APPROVED | 4/7/2014 |
| DARICE E. RICHARD, PHARM.D. (MAGELLAN HEALTHCARE) | 50-14652 | MED ERRORS AND PUBLIC SAFETY 2014 | 20-437829 | APPROVED | 5/29/2014 |
| FLORIDA HOSPITAL DEPARTMENT OF PHARMACY | 50-16380 | BEST OF ASCO 2014 | 20-443662 | APPROVED | 10/1/2013 |
| AMERICAN SOCIETY OF CONSULTANT PHARMACISTS | 50-3997 | ANNUAL FL-ASCP CONFERENCE AND EXHIBITION | 20-446134 | APPROVED | 6/10/2014 |
| VANGUARD ADVANCED PHARMACY SYSTEMS, INC. | 50-2112 | MEDICAL MISADVENTURES IN THE ELDERLY: PREVENTING MEDICAL ERRORS | 20-443571 | APPROVED | 5/23/2014 |
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| FLORIDA SOCIETY OF HEALTH SYSTEM PHARMACISTS | 50-3036 | PHARMACY TECHNICIAN'S ROLE IN KEEPING OUR PATIENTS SAFE | 20-442022 | APPROVED | 5/6/2014 |
| DARICE E. RICHARD, PHARM.D. (MAGELLAN HEALTHCARE) | 50-14652 | HIV-AIDS DIAGNOSIS AND TREATMENT-2014 | 20-437817 | APPROVED | 5/29/2014 |
| NOVA SOUTHEASTERN UNIVERSITY COLLEGE OF PHARMACY | 50-2759 | 25TH ANNUAL CONTEMPORARY PHARMACY ISSUES CONFERENCE | 20-439862 | APPROVED | 5/9/2014 |
| BAYCARE EDUCATION SERVICES | 50-201 | PREVENTING HEALTHCARE ERRORS, PROMOTING PATIENT SAFETY | 20-437026 | APPROVED | 6/6/2014 |
| FLORIDA SOCIETY OF HEALTH SYSTEM PHARMACISTS | 50-3036 | MEDICATION ERRORS | 20-445441 | APPROVED | 5/23/2014 |
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| BIOLOGIX SOLUTIONS LLC | 50-12950 | HIV/AIDS FOR HEALTHCARE PROFESSIONALS 1CE | 20-351270 | APPROVED | 6/23/2014 |
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| NCH HEALTHCARE SYSTEM | 50-1425 | BASAL BOLUS INSULIN GLYCEMIC MANAGEMENT IN THE HOSPITAL SETTING, CHALLENGES AND OPPORTUNITIES FOR CLINICIANS | 20-372751 | APPROVED | 6/6/2014 |
| AMERICAN SOCIETY OF CONSULTANT PHARMACISTS | 50-3997 | ENGAGING PHARMACISTS IN EMERGING MODELS OF CARE | 20-445723 | APPROVED | 6/23/2014 |

Individual Name

John Kennedy
Kerri Wyse
Virgil Ljifrock
Kathryn Blake
Gregory Astle

Title of Course

International Society for the Advancement of Spine Surgery
American Academy of Neurology Meeting
Optimal Management of HIV& HCV
17th World Congress of Basic and Clinical Pharmacology

Hours Offered

21.5 hours of general credit
11 hours of live general credit
11 hours of general credit
15 hours of general credit

Individual Name
Gregory Astle

Title of Course
Pharmacy-Based Immunization Delivery 13th Edition

Hours Offered
21 hours of Consultant Recertification

**MINUTES
DEPARTMENT OF HEALTH
BOARD OF PHARMACY
FULL BOARD MEETING**

June 10-11, 2014

Embassy Suites – Lake Buena Vista
4955 Kyngs Heath Road
Kissimmee, FL 34746
(407) 597-4000

Board Members:

Jeffrey J. Mesaros, PharmD, Chair, Orlando
Michele Weizer, PharmD, Vice-Chair, Boca Raton
Goar Alvarez, PharmD, Cooper City
Leo J. “Lee” Fallon, BPharm, PhD, The Villages
Debra B. Glass, BPharm, Tallahassee
Gavin Meshad, Consumer Member, Sarasota
Mark Mikhael, PharmD, Orlando
Jeenu Philip, BPharm, Jacksonville

Board Staff:

Patrick Kennedy, Executive Director
Tammy Collins, Program Operations Administrator
Jay Cumbie, Regulatory Specialist II

Board Counsel:

David Flynn, Assistant Attorney General
Lynette Norr, Assistant Attorney General

Department of Health Staff:

Yolonda Green, Assistant General Counsel
Matthew Witters, Assistant General Counsel

Tuesday, June 10, 2014 – 1:02p.m.

1:00 p.m. Call to Order by Jeffrey J. Mesaros, PharmD, Chair

All members present with the exception of Goar Alvarez and Gavin Meshad.

TAB 1

REPORTS

A. Chair’s Report – Jeffrey J. Mesaros, PharmD, Chair

Dr. Mesaros welcomed new Executive Director Patrick Kennedy to the Board of Pharmacy.

Dr. Mesaros then gave a brief report of the proceedings from the 110th Annual NABP Meeting in Phoenix, AZ.

Dr. Mesaros informed the audience that the Board will be hosting a conference call in July with the purpose of discussing House Bill 323. Dr. Mesaros then requested that any parties interested in participating in the call as an industry or community advisor submit a letter or email of interest to Board staff.

B. Executive Director’s Report – Patrick Kenned, MA

1. Legislative Update – Patrick Kennedy, MA

Mr. Kennedy presented the legislative update that included the passage of both House Bill 323 and House Bill 7077. Mr. Kennedy informed the Board and the audience that the bills have been presented to the Governor and are awaiting his signature.

Mr. Kennedy then informed the Board and audience that Senate Bill 1030 specifically exempts the dispensing of medical marijuana from Chapter 465 and stated that the Board of Pharmacy will not be afforded an official role in the dispensing of medical marijuana.

2. Compounding Rules Committee Report – Michele Weizer, PharmD

Dr. Weizer started her report by presenting the new recommended language changes to Rule 64B16-27.797(3) that shall read as follows: “**Current Good Manufacturing Practices:** The Board deems that this rule is complied with for any sterile products that are compounded in strict accordance with Current Good Manufacturing Practices per 21 U.S.C. § 501 (2012), adopted and incorporated herein by reference and 21 C.F.R. Parts 210 and 211 (2011), adopted and incorporated herein by reference.”

Motion: by Dr. Weizer, seconded by Dr. Mikhael, to approve new language. Motion carried.

Dr. Weizer then moved to the next recommended change to 64B16-27.797 which included the striking of section 5 and 6 from the rule.

Motion: by Dr. Mesaros, seconded by Dr. Fallon, to strike section 5 and 6 from Rule 64B16-27.797. Motion carried.

Dr. Weizer then presented language regarding an air flow exemption that had been discussed at the June 9, 2014 Compounding Rules Committee.

Motion: by Dr. Weizer, seconded by Dr. Fallon, to approve the language. Motion carried.

Motion: by Dr. Weizer, seconded by Dr. Fallon, that the three modifications to Rule 64B16-27.797 will not have a negative economic impact and that a SERC is not required. Motion carried.

C. Attorney General’s Report – David Flynn, Assistant Attorney General

1. Rules Report – Lynette Norr, Assistant Attorney General

Ms. Norr presented the June rules report which included the current status of Rules: 64B16-27.700, 64B16-27.797, 64B16-28.820, 64B16-27.100, 64B16-26.1031, 64B16-26.2034, 64B16-26.351, 64B16-26.601, 64B16-603, 64B16-27.210, 64B16-27.300, 64B16-27.800, 64B16-27.851, 64B16-28.2021, 64B16-28.450, 64B16-28.503, 64B16-28.605, 64B16-28.606, 64B16-28.607, 64B16-28.702, and 64B16-29.0041.

2. Petition for Declaratory Statements – Mart T. Mason

David Flynn advised the Board to deny the petition for declaratory statement based on the fact that the request doesn’t meet the requirements as set by Chapter 120.565 “Petitions for Declaratory Statements.” Mr. Flynn followed up by stating that the Board cannot rule on a Statute that isn’t in effect.

Motion: by Dr. Mesaros, seconded by Dr. Fallon, to deny the Petition for Declaratory Statement. Motion carried.

3. PDMP Compliance Letter

The Board members discussed the PDMP Compliance Letter which reminded the profession that you are required to report to the PDMP even if there are zero additions.

D. Prosecution Services Report – Yolonda Green, Assistant General Counsel

Mrs. Green presented the Prosecution Services Report which outlined the prosecution services unit's current caseload and informed the Board that the Pharmacy prosecution team is now fully staffed.

Motion: by Dr. Weizer, seconded by Mrs. Glass, to allow Prosecution Services to continue prosecuting cases one year or older. Motion carried.

E. Chief Investigative Services Report – Mark Whitten

Mr. Whitten provided the Board with a report from the Chief Investigative Services Unit. Mr. Whitten stated that 93% of pharmacies have been inspected and made note that the number is short of 100% due to the fact sterile compounding facilities have been made the top priority. Mr. Whitten followed that by stating that 100% of sterile compounding facilities in the state of Florida have been inspected. Mr. Whitten then informed the Board and audience of the new processes in place for inspectors.

TAB 2 BUSINESS – Jeffrey J. Mesaros, PharmD, Chair

A. Ratification of Issued Licenses/Certificates & Staffing Ratios

1. Pharmacist (Licensure) (Client 2201) – 107
2. Pharmacist (Exam Eligibility) (Client 2201) – 117
3. Pharmacist Interns (Client 2202) – 130
4. Registered Pharmacy Technicians (Client 2208) – 1,067
5. Consultant Pharmacist (Client 2203) – 35
6. Nuclear Pharmacist (Client 2204) – 0
7. Pharmacies/Facilities (Client 2205) – 509
8. Registered Pharmacy Technician Ratios (2:1 or 3:1)- 302
9. Pharmacy Technician Training Program (Client 2209) - 28
10. CE Providers – 12
11. CE Courses – 30
12. CE Individual Requests (Approved) – 4
13. CE Individual Requests (Denied) - 1

Motion: by Dr. Mesaros, seconded by Mrs. Glass, to ratify issued licenses/certificates & staffing ratios. Motion carried.

B. Review and Approval of Minutes

1. April 1-2, 2014 Meeting Minutes

Motion: by Mrs. Glass, seconded by Dr. Weizer, to approve the minutes from the April 1-2, 2014 Meeting. Motion carried.

Dr. Mesaros informed the Board and audience that the presentation originally scheduled to take place had been moved to later a meeting.

Brad Feiger and Martin Dix, Esquire approached the Board to discuss Mr. Feiger's application for pharmacist licensure by examination (permitted by Dr. Jeff Mesaros, PharmD, Chair).

Mr. Dix stated that his client had just graduated and cited the timeframe between the agenda cycles as his basis of good cause for amending the agenda.

Motion: by Dr. Mesaros, seconded by Dr. Weizer, that there is good cause to amend the agenda. Motion carried.

Mr. Feiger was present and sworn in by the court reporter.

Motion: by Dr. Weizer, seconded by Mrs. Glass, to allow applicant to sit for the exam upon receipt of the applicant's medical errors CE certificate. Motion carried.

Public Comments:

Dr. Mesaros opened the floor to public comments.

Michael Jackson (Florida Pharmacy Association) approached the Board to request that Patrick Kennedy and Dr. Fallon attend the July FPA Annual Meeting to present the 50 year pharmacist certificates.

Dr. Mesaros requested Mr. Jackson bring a list of the recipients of the 50 year pharmacist certificates to be read into the record at the August Florida Board of Pharmacy meeting.

Mr. Kennedy requested that Board vote on proposed meeting dates and locations for the 2015 calendar year. Mr. Kennedy also requested that Board decide if they would like to keep the meetings on Tuesday and Wednesdays or move them to Thursday and Fridays for 2015.

After much deliberation, Dr. Mesaros suggested the Board put some thought into the schedule and bring back any recommendations to Wednesday's meeting.

Motion: by Mr. Philip, seconded by Dr. Fallon, to adjourn the meeting at 2:26p.m.

Wednesday, June 11, 2014 – 9:00 a.m

9:00 a.m. Call To Order by Jeff J. Mesaros, PharmD

All members were present with the exception of Goar Alvarez, PharmD

Dr. Mesaros welcomed the students from the various schools around the state to the meeting.

Dr. Mesaros requested any suggestions from Board members regarding 2015 meeting dates and locations per the discussion from the June 10, 2014 meeting be proposed at this time.

Motion: by Dr. Fallon, seconded by Dr. Weizer, to keep the Tuesday/Wednesday meeting schedule with meetings taking place in the following cities: Orlando (twice), Tampa, Deerfield Beach, Gainesville, and Tallahassee. Motion carried.

TAB 3 Rules Committee Report – Jeffrey J. Mesaros, PharmD, Chair

Ms. Norr gave a brief report of the proceedings from the June 10, 2014 Rules Committee which included the proposed annual regulatory plan.

Motion: by Dr. Mesaros, seconded by Mr. Philip, to accept the annual regulatory plan created at the June 10, 2014 Board of Pharmacy Rules Committee. Motion carried.

TAB 4 DISCIPLINARY CASES – Yolonda Green, Assistant General Counsel

Dr. Mesaros informed the Board and audience that the cases will be taken out of order due to a scheduling conflict.

Please note Settlement Agreements – A-1, A-14, and A-15 were heard after the Informal Cases section.

A. SETTLEMENT AGREEMENT– APPEARANCE REQUIRED CASES

A-1 Alan C. Zimmer, PS 23369 – Boca Raton, FL
 Case No. 2012-12992 - PCP Fallon/Meshad

Respondent violated:

Count One: Section 456.072(1)(x), Florida Statutes (2011), which provides that failing to report to the Board, or the department if there is no Board, in writing within thirty days after the licensee has been convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction constitutes grounds for discipline.

Terms of the Settlement Agreement: Respondent shall be present. Respondent shall pay a fine of \$1,000.00. Respondent shall pay costs of \$611.31. Respondent shall complete a 12 hour Laws and Rules CE.

Respondent was present and sworn in by the court reporter. Respondent was represented by Bill Furlow, Esquire.

Motion: by Dr. Weizer, seconded by Mr. Philip, to accept the settlement agreement. Motion carried.

A-2 Magdi Mikhail Bishara, PS 47410 – Clearwater, FL
 Case No. 2013-09121 – PCP Mesaros/Risch

Respondent violated:

Count One: Section 465.016(1)(m) by being unable to practice pharmacy with reasonable skill and safety by reason of use of drugs or narcotics.

Count Two: Section 465.016(1)(i), F.S. (2012-2013), by dispensing controlled substances to himself for reasons outside of the course of the professional practice of pharmacy.

Count Three: Section 465.016(1)(r), F.S. (2012-2013), by violating Section 456.072(1)(b), F.S. (2012-2013), by making misleading or fraudulent representations in the practice of pharmacy.

Terms of the Settlement Agreement: Respondent shall be present. Respondent shall pay a fine of \$1,000.00. Respondent shall pay costs not to exceed \$3,554.40. Respondent must complete a 12 hour Laws and Rules CE within one year. Respondent shall undergo and evaluation from PRN and follow all requirements and recommendations. Respondent shall be placed on probation for a year concurrent with his PRN contract if one is offered.

Case A-2 was pulled from the agenda by Prosecution Services.

A-3 Kerri Morelock Wenslow, PS 44198
 Case No. 2013-15058 – PCP – Weizer/Philip

Respondent violated:

Count One: Section 456.072(1)(q), F.S. (2012), by violating a lawful order of the department of the Board, or failing to comply with a lawfully issued subpoena of the department.

Terms of the Settlement Agreement: Respondent shall be present. Respondent shall pay an administrative fine in the amount of \$1,000.00 payable within 30 days. Respondent shall pay costs of \$355.82 within 90 days. Respondent shall complete 4 hours of med errors continuing education credit and 32 hours of credit of any Florida Approved General Pharmacists Courses of which 20 hours must be attended live by respondent within one year.

Respondent was not present nor represented by counsel.

Motion: by Mr. Meshad, seconded by Dr. Fallon, to accept the settlement agreement. Motion carried.

A-4 Donna M. Fulton, PS 29339 – Tampa, FL
Case No. 2013-09986 – PCP – Glass/Mikhael

Respondent violated:

Count One: Section 456.072(1)(k), F.S. (2013), by violating Section 465.022(11)(a), F.S. (2013), by failing to ensure the permittee's compliance with all rules adopted under those chapters as they relate to the practice of the profession of pharmacy and the sale of prescription drugs.

Terms of the Settlement Agreement: Respondent shall be present. Respondent shall pay administrative fine in the amount of \$2,000.00 payable within 30 days. Respondent shall pay costs of \$1,623.56. Respondent shall complete a 12 hour laws and rules CE to be completed within 1 year.

Respondent was present and sworn in by the court reporter. Respondent was represented by Daniel Fernandez, Esquire.

Respondent stated for the record her name is now Donna M. Dunn.

Motion: by Dr. Fallon, seconded by Mr. Philip, to accept the settlement agreement. Motion carried.

The respondent requested the Board extend the payment deadline to 180 days.

Motion: by Mr. Philip, seconded by Dr. Fallon to allow the respondent 180 days to pay the fines and costs associated with this case.

A-5 Future Pharmacy, LLC, PH 24109 – Tampa, FL
Case No. 2013-09966 – PCP – Glass/Mikhael

Respondent violated:

Count One: Section 465.023(1)(c), F.S. (2013), by violating Rule 64B16-28.110, F.A.C., persons qualified to do so shall examine the stock of the prescription department of each pharmacy at a minimum interval of four months, and shall remove all deteriorated pharmaceuticals or pharmaceuticals which bear upon the container an expiration date which date has been reached.

Count Two: Section 465.023(1)(c), F.S. (2013), by violating Rule 64B16-27.797(4), F.A.C., a policy and procedure manual shall be prepared and maintained for the compounding, dispensing, and delivery of sterile preparations prescriptions and shall be available for inspection by the Department.

Terms of the Settlement Agreement: Respondent shall be present. Respondent shall impose an administrative fine \$1,000.00 within 30 days. Respondent shall pay costs of \$1,757.00 within 90 days. Respondent shall complete a 12 hour Laws and Rules CE within one year.

Respondent was present and sworn in by the court reporter. Respondent was represented by Daniel Fernandez, Esquire.

The Board recommends the settlement agreement be orally amended to include that the respondent be placed on probation for a period of one year with semiannual inspections at the respondent's costs.

The respondent accepted the orally amended settlement agreement.

Motion: by Dr. Weizer, seconded by Mr. Meshad, to accept the amended settlement agreement. Motion carried.

A-6 Mercy Pharmacy Corp., PH 24592 – Coral Gables, FL
Case No. 2013-15391 – PCP – Weizer/Philip

Respondent Violated

Count One: Section 465.023(1)(c), F.S. (2013), by violating Rule 64B16-28.1081, F.A.C., which requires that any person who receives a community pharmacy permit pursuant to Section 465.018, F.S., and commences to operate such an establishment shall keep the prescription department of the establishment open for a minimum of forty (40) hours per week.

Terms of the Settlement Agreement: Respondent shall be present. Respondent shall pay administrative fine in the amount of \$1,000.00 payable within 30 days. Respondent must pay costs of \$1,334.63 within 90 days. Respondent shall complete a 12 hour Laws and Rules CE within one year.

Respondent (President of Mercy of Pharmacy Eliseo Degesus Esbaillat) was present and sworn in by the court reporter.

Motion: by Mrs. Glass, seconded by Mr. Meshad, to accept the settlement agreement. Motion carried.

A-7 Jide Collins Akambi, PS 17857 – Miramar, FL
Case No. 2013-15392 – PCP Weizer/Philip

Respondent Violated:

Count One: Section 456.072(1)(k), F.S. (2013), by violating Section 465.022(11)(a), F.S. (2013), by failing to sure the permittee's compliance with Rule 64B6-28.1081, F.A.C., which requires that any person who receives a community pharmacy permit pursuant to Section 465.018, F.S., and commences to operate such an establishment shall keep prescription department of the establishment open for a minimum of forty (40) hours per week.

Terms of the Settlement Agreement: Respondent shall be present. Respondent shall pay a fine of \$1,000.00 within 30 days. Respondent shall pay costs of \$1,026.65 within 90 days. Respondent shall complete a 12 hour laws and rules CE to be completed within one year. Respondent shall be placed on probation for a period of one year.

Respondent was present and sworn in by the court reporter.

Motion: by Dr. Fallon, seconded by Mrs. Glass, to reject the settlement agreement. Motion carried.

Motion: by Mr. Meshad, seconded by Dr. Fallon, for all the terms of the original settlement agreement with the addition of a probationary period of one year, during which time the respondent may not serve as a prescription department manager. The probationary period will begin upon completion of the 12 hour Laws and Rules CE course. Motion carried.

The respondent chose not to accept the counter offer at the meeting.

Please note that cases A-8 & A-9 contain the same facts for the same person and were considered at the same time.

Respondent was present and sworn in by the court reporter. Respondent was represented by Martin Dix, Esquire.

A-8 Samir V. Amin, PU 4620 – Orlando, FL
 Case No. 2012-13559 – PCP Glass/Mikhael

Respondent Violated:

Count One: Section 456.072(1)(o), F.S. (2011-2012), practicing or offering to practice beyond the scope permitted by law or accepting and performing responsibilities the licensee knows, or has reason to know, the licensee is not competent to perform.

Count Two: Section 456.072(1)(m), F.S. (2011-2012), making deceptive, untrue, or fraudulent representations in or related to the practice of a profession or employing a trick or scheme in or related to the practice of a profession.

Terms of the Settlement Agreement: Respondent shall be present. Respondent shall pay costs of \$1,822.50 within 90 days. Respondent shall complete a 12 hour laws and rules CE course within one year. Respondent shall be placed on probation for 2 years.

Motion: by Dr. Fallon, seconded by Mr. Philip, to reject the settlement agreements for both A-8 & A-9. Motion carried.

Motion: by Dr. Fallon, seconded by Mr. Philip, to collect costs and not allow the respondent to renew his consultant license. Motion carried.

A-9 Samir V. Amin, PS 28174 – Orlando, FL
 Case No. 2012-13506 – PCP Glass/Mikhael

Respondent Violated:

Count One: Section 456.072(1)(o), F.S. (2011-2012), practicing or offering to practice beyond the scope permitted by law or accepting and performing responsibilities the licensee knows, or has reason to know, the licensee is not competent to perform.

Count Two: Section 456.072(1)(m), F.S. (2011-2012), making deceptive, untrue, or fraudulent representations in or related to the practice of a profession or employing a trick or scheme in or related to the practice of a profession.

Terms of the Settlement Agreement: Respondent shall be present. Respondent shall pay a fine of \$6,000.00. Respondent shall pay costs not to exceed \$2,426.99 within 90 days. Respondent shall complete a 12 hour laws and rules CE credit within one year. Respondent shall be placed on probation for a period of 2 years.

Settlement agreement was rejected as part of the motion for agenda item A-8.

Motion: by Dr. Weizer, seconded by Dr. Fallon, for a settlement agreement with the same terms with the addition that the respondent cannot be a prescription department manager during probationary period. Motion carried.

Respondent accepted the counter offers for both A-8 & A-9.

A-10 Biosic-Winzeler, Inc., PH 12866 – Miami, FL
Case No. 2013-15420 – PCP Mesaros/Mikhael

Respondent Violated:

Count One: Section 465.023(1)(c), F.S. (2013), by violating Rule 64B16-28.109(1), F.A.C., the prescription department of any community pharmacy permittee shall be considered closed whenever the establishment is open and a pharmacist is not present and on duty.

Count Two: Section 465.023(1)(c), F.S. (2013), by violating Rule 64B16-109(5), F.A.C., whenever the prescription department of any community pharmacy establishment is closed, no person other than a pharmacist shall enter, be permitted to enter, or remain in the prescription department.

Terms of the Settlement Agreement: Respondent shall be present. Respondent shall pay an administrative fine of \$1,000.00 within 30 days. Respondent shall pay costs not to exceed \$889.20 within 90 days. Respondent shall be placed on probation for a period of one year.

Zurita Winzeler was present on behalf of the respondent and sworn in by the court reporter. Respondent was not represented by counsel.

Mrs. Glass recommended a 12 hour laws and rules CE course for the president of the pharmacy to complete within one year.

Ms. Winzeler agreed to the additional stipulation.

Motion: by Mrs. Glass, seconded by Mr. Philip, to accept the amended settlement agreement. Motion carried.

A-11 Shafali Data, PS 25758 – Parkland, FL
Case No. 2012-19066 – PCP Fallon/Glass

Respondent Violated:

Count One: Section 456.072(1)(k), F.S. (2012), by violating Section 465.022(11)(a), F.S. (2012), by failing to ensure the permittee's compliance with all rules adopted under those chapters as they relate to the practice of the profession of pharmacy and the sale of prescription drugs.

Terms of the Settlement Agreement: Respondent shall be present. Respondent shall pay a fine of 2,000.00. Respondent shall pay costs not to exceed \$2,041.89 within 90 days. Respondent shall complete a 12 hour laws and rules CE within one year. Respondent shall be placed on probation for a period of 2 years.

Respondent was present and sworn in by the court reporter. Respondent was represented by Christopher Brown, Esquire.

Motion: by Dr. Weizer, seconded by Dr. Mikhael, to reject the settlement agreement. Motion carried.

Motion: by Dr. Weizer, seconded by Mr. Meshad, for a settlement agreement with the same terms and with the addition of a permanent restriction for the entire length of licensure on acting as a prescription department manager. Motion carried with Mr. Philip in opposition.

Respondent did not accept the counter-offer at the meeting.

Please note A-13 was taken before A-12 due to the fact that it is related to A-11.

A-13 Coral Springs Specialty Pharmacy, Inc., PH 24616 – Coral Springs, FL
Case No. 2012-19067 – PCP Fallon/Glass

Respondent violated:

Count One: Section 465.023(1)(c), F.S. (2012), by violating Section 499.005(1), F.S. (2012), by manufacturing, repackaging, selling, delivering, or holding or offering for sale any drug, device, or cosmetic that is adulterated or misbranded or has otherwise been rendered unfit for human or animal use.

Count Two: Section 465.023(1)(c), F.S. (2012), by having an affiliated person, partner, officer, director, or agent of the Respondent violate the requirements of Chapter 465, F.S., Chapter 893, F.S., or the rules of the Board of Pharmacy.

Terms of the Settlement Agreement: Respondent shall be present. Respondent shall pay a fine of \$500.00 within 90 days. Respondent shall pay costs not to exceed \$2,154.32 within 90 days. Respondent shall be placed on probation for a period of one year with semiannual inspections at the respondent's cost.

Raj Data was present on behalf of the respondent and sworn in by the court reporter. Respondent was represented by Christopher Brown, Esquire.

Dr. Weizer requested the settlement agreement have a stipulation added that requires the respondent to complete a 12 hour laws and rules CE course.

Motion: by Dr. Weizer, seconded by Mr. Philip, to accept the amended settlement agreement. Motion carried.

A-12 Village Fertility Pharmacy, PH 23449 – Waltham, MA 02451
Case No. 2013-03343 – PCP Mesaros/Mikhael

Respondent Violated:

Count One: Section 465.023(1)(c), F.S. (2013), by violating Section 465.016(1)(h), F.S. (2013), by having been disciplined by a regulatory agency in another state for any offense that would constitute a violation of this chapter.

Terms of the Settlement Agreement: Respondent shall be present. Respondent shall pay fine of \$5,000.00 within 90 days. Respondent shall pay costs not to exceed \$2,577.12 within 90 days. Respondent shall be placed on probation for a period of 2 years.

David Brass was present on behalf of the respondent and sworn in by the court reporter. Respondent was not represented by counsel.

Motion: by Mr. Philip, seconded by Dr. Fallon, to accept the settlement agreement. Motion carried.

A-14 RPh Solution, Inc., PH 19484 – Dade City, FL
Case No. 2013-12131 – PCP – Glass/Risch

Respondent violated:

Count One: Section 465.023(1)(c), F.S. (2013), through a violation of Rule 64B16-28.140(3)(d), F.A.C., and/or Rule 64B16-28.140(4)(d), F.A.C.

Terms of the Settlement Agreement: Respondent shall be present. Respondent shall pay a fine of \$1,500.00 within 90 days. Respondent shall pay costs of \$1,334.95 within 90 days. Respondent shall be placed on probation for a period of one year including semiannual inspections at respondent's costs.

Haresh Patel (Prescription Department Manager) was present on behalf of the respondent and sworn in by the court reporter. Respondent was represented by Ed Bayo, Esquire.

Motion: by Dr. Weizer, seconded by Dr. Mikhael, to accept the settlement agreement. Motion carried.

A-15 Haresh C. Patel, PS 30906 – Tampa, FL
Case No. 2013-12130 – PCP – Glass/Risch

Respondent violated:

Count One: Section 456.072(1)(k), F.S. (2013) by violating Section 465.016(1)(r), F.S. (2013), through a violation of Section 465.22(11)(a), F.S. (2013), by failing to ensure the permittee's compliance with all rules adopted under those chapters as they relate to the practice of the profession of pharmacy and sale of prescription drugs.

Terms of the Settlement Agreement: Respondent shall be present. Respondent shall pay a fine of \$1,000.00 within 90 days. Respondent shall pay costs of \$670.41 within one year. Respondent must complete a 12 hour laws and rules CE course within one year. Respondent shall be placed on probation for a period of one year.

Respondent was present and sworn in by the court reporter. Respondent was represented by Ed Bayo, Esquire.

Dr. Weizer requested the settlement agreement be amended to restrict Mr. Patel's ability to be a PDM to the current permit.

The respondent agreed to the orally amended settlement agreement.

Motion: by Dr. Fallon, seconded Dr. Weizer, to accept the amended settlement agreement. Motion carried.

A-16 PharmaCity, LLC – PH 26251 – Miami, FL
Case No. 2013-02155 – PCP – Mesaros and Mikhael

Respondent violated:

Count One: Section 456.072(1)(k), F.S. (2012-2013), by failing to perform any statutory or legal obligation placed on a licensee, by violating Rules 64B16-28.102(1), 64B16-28.102(5)(a), 64B16-28.108, and 64B16-28.1081, F.A.C.

Terms of the Settlement Agreement: Respondent shall be present. Respondent shall pay a fine of \$1,000.00 within 90 days. Respondent shall pay costs not to exceed \$1,746.24 within 90 days. Respondent shall complete a 12 hour Laws and Rules CE course within one year.

Respondent was not present nor represented by counsel.

Motion: by Mrs. Glass, seconded by Mr. Philip to proceed without appearance.

Motion: by Mr. Meshad, seconded by Dr. Fallon, to accept the settlement agreement. Motion carried.

B. DETERMINATION OF WAIVER

DOW-1 Robert E. Thurn, PS 23814 – Hunt, TX
Case No. 2013-15061 – PCP Mesaros/Mikhael

Respondent was not present nor represented by counsel.

Count One: Respondent 456.072(1)(q), F.S. (2012), by violating a lawful order of the department or board, or failing to comply with a lawfully issued subpoena of the department.

Motion: by Mr. Philip, seconded by Mrs. Glass, to accept the investigative report into evidence for the purposes of imposing a penalty, find that respondent was properly served and has waived the right to a formal hearing, and adopt the findings, facts, and conclusions of law set forth in the Administrative Complaint. Motion carried.

Motion: by Mrs. Glass, seconded by Mr. Philip, to adopt the conclusions of law set forth in the Administrative Complaint and find that this constitutes a violation of the Pharmacy Practice Act. Motion carried.

Recommended Penalty: \$1,000.00 Fine to paid within one year, costs, and suspension until respondent has complied with the final order from case no. 2012-05706 and the final order issued from this case.

Motion: by Mr. Philip, seconded by Dr. Fallon, for revocation. Motion carried.

The Department withdrew the motion for costs.

DOW-2 Laura L. Raymo, PS 29844 – Hickory, NC
Case No. 2013-15052 – PCP Mikhael/Mesaros

Respondent was not present nor represented by counsel.

Count One: Section 456.072(1)(q), F.S. (2012), by violating a lawful order of the department of Board, or failing to comply with a lawfully issued subpoena of the department.

Motion: by Mr. Philip, seconded by Mrs. Glass, to accept the investigative report into evidence for the purposes of imposing a penalty, find that respondent was properly served and has waived the right to a formal hearing, and adopt the findings, facts, and conclusions of law set forth in the Administrative Complaint. Motion carried.

Motion: by Mr. Philip, seconded by Mrs. Glass, to adopt the conclusions of law set forth in the Administrative Complaint and find that this constitutes a violation of the Pharmacy Practice Act. Motion carried.

Recommended Penalty: \$500.00 Fine

Motion: by Mrs. Glass, seconded by Mr. Philip, to accept the recommendations of the Department. Motion carried.

Motion: by Mr. Philip, seconded by Dr. Fallon, to assess costs of \$147.86. Motion carried.

DOW-3 Thomas Washington III, RPT 14609 – Tampa, FL
Case No.2013-06311- PCP Glass/Fallon

Count One: Respondent violated Section 456.072(1)(c), F.S. (2011-2012), by being convicted or found guilty of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime of any jurisdiction which relates to the practice of, or to the ability to practice pharmacy.

Count Two: Respondent violated Section 456.072(1)(x), F.S. (2011-2012), by failing to report to the Board, or the department if there is no Board, in writing within 30 days after the licensee has been convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction.

Count Three: Respondent violated Section 456.072(1)(aa). F.S. (2012), by testing positive for a drug, as defined in Section 112.0455, on a confirmed pre-employment or employer-ordered drug screening when the practitioner does not have a lawful prescription and legitimate medical reason for using the drug.

Respondent was not present nor represented by counsel.

Motion: by Dr. Mikhael, seconded by Dr. Weizer, to accept the investigative report into evidence for the purposes of imposing a penalty. Motion carried.

Motion: by Dr. Weizer, seconded by Dr. Mikhael, to find that respondent was properly served and has waived the right to a formal hearing. Motion carried.

Motion: by Dr. Mikhael, seconded by Dr. Weizer, to adopt the findings and facts as set forth in the Administrative Complaint. Motion carried.

Motion: by Dr. Mikhael, seconded by Dr. Weizer, to adopt the conclusions of law set forth in the Administrative Complaint and find that this constitutes a violation of the Pharmacy Practice Act. Motion carried.

Recommended Penalty: Revocation

Motion: by Dr. Weizer, seconded by Dr. Mikhael, to accept the recommendations of the Department. Motion carried.

The Department withdrew the motion for costs.

Please note that DOW-4 was taken as an Informal Hearing.

DOW-4 Lucretia D. Pitts, PS 24121 – Miami, FL
Case No. 2013-13389 – PCP Meshad/Weizer

Respondent was present and sworn in by the court reporter. Respondent was represented by Vincent Brown, Esquire.

Count One: Respondent violated Section 456.072(1)(m), F.S. (2011-2012), by making deceptive, untrue, or fraudulent representations in or related to the practice of a profession or employing a trick or scheme in or related to the practice of a profession.

Motion: by Mrs. Glass, seconded by Dr. Mikhael, to accept the investigative report into evidence for the purposes of imposing a penalty. Motion carried.

Motion: by Mrs. Glass, seconded by Dr. Mikhael, to find that respondent was properly served and has waived the right to a formal hearing. Motion carried.

Motion: by Mrs. Glass, seconded by Dr. Mikhael, to adopt the findings and facts as set forth in the Administrative Complaint. Motion carried.

Motion: by Mrs. Glass, seconded by Dr. Mikhael, to adopt the conclusions of law set forth in the Administrative Complaint and find that this constitutes a violation of the Pharmacy Practice Act. Motion carried.

Recommended Penalty: \$10,000.00 fine, costs of \$1,574.43, one year suspension, one year probationary period to follow suspension where the respondent cannot act as a PDM and also requires an appearance before the Board within the last 3 months of probation. Respondent shall also complete a 12 hour laws and rules CE during the year of probation.

Motion: by Dr. Mikhael, seconded by Mrs. Glass, for a probationary period of 2.5 years with the following stipulations: 6 month suspension starting January 1, 2015, \$5,000.00 administrative fine to be paid during the probationary period, and completion of a 12 hour laws and rules during the probationary period. Motion carried.

DOW-5 Five Star Pharmacy & Discount, Inc., PH 25730 – Miami, FL
Case No. 2013-15383 – PCP Weizer & Philip

Respondent was not present nor represented by counsel.

Count One: Respondent violated Section 465.023(1)(c), F.S. (2013), by violating a rule of the Board of Pharmacy through a violation of Rule 64B16-28.202(3), F. A.C., by failing to notify the Board of Pharmacy in writing as to the effective date of closure, return the pharmacy permit to the Board of pharmacy office or arrange with the local Buruea of Investigative Services of the Department to have the pharmacy permit returned to the Board of Pharmacy, and/or notify the Board of Pharmacy, which permittee is to receive the prescription files.

Motion: by Mrs. Glass, seconded by Dr. Mikhael, to accept the investigative report into evidence for the purposes of imposing a penalty. Motion carried.

Motion: by Mrs. Glass, seconded by Dr. Mikhael, to find that respondent was properly served and has waived the right to a formal hearing. Motion carried.

Motion: by Mrs. Glass, seconded by Dr. Fallon, to adopt the findings and facts as set forth in the Administrative Complaint. Motion carried.

Motion: by Mrs. Glass, seconded by Dr. Fallon, to adopt the conclusions of law set forth in the Administrative Complaint and find that this constitutes a violation of the Pharmacy Practice Act. Motion carried.

Recommended Penalty: Revocation

Motion: by Mrs. Glass, seconded by Dr. Mikhael, to accept the recommendations of the Department. Motion carried.

The Department withdrew the motion for costs.

DOW-6 Kevin Benjamin Sheppard, RPT 40450 – Jacksonville, FL
 Case No. 2013-05507 – PCP Mullins/Risch

Respondent was not present nor represented by counsel.

Count One: Respondent violated Section 456.072(1)(aa), F.S. (2012), by testing positive for cannabinoids, cocaine, and opiates, as defined in s. 112.0455, on any confirmed pre-employment or employer-ordered drug screening when the practitioner does not have a lawful prescription and legitimate medical reason for using the drug.

Motion: by Mrs. Glass, seconded by Dr. Weizer, to accept the investigative report into evidence for the purposes of imposing a penalty. Motion carried.

Motion: by Mrs. Glass, seconded by Dr. Weizer, to find that respondent was properly served and has waived the right to a formal hearing. Motion carried.

Motion: by Mrs. Glass, seconded by Dr. Weizer, to adopt the findings and facts as set forth in the Administrative Complaint. Motion carried.

Motion: by Mrs. Glass, seconded by Dr. Weizer, to adopt the conclusions of law set forth in the Administrative Complaint and find that this constitutes a violation of the Pharmacy Practice Act. Motion carried.

Recommended Penalty: Revocation

Motion: by Mrs. Glass, seconded by Dr. Weizer, to accept the recommendations of the Department. Motion carried.

The Department withdrew the motion for costs.

DOW-7 Jeremy Ryan Niewinski, RPT 41431 – Orlando, FL
 Case No. 2013-11959 – PCP Weizer/Glass

Respondent was present and sworn in by the court reporter. Respondent was not represented by counsel.

Count One: Respondent violated Section 456.072(aa), F.S. (2012), by testing positive for any drug, as defined in s. 112.0455, on any confirmed pre-employment or employer-ordered screening when the practitioner does not have a lawful prescription and legitimate medical reason for using such drug.

Motion: by Dr. Mikhael, seconded by Mr. Philip, to accept the investigative report into evidence for the purposes of imposing a penalty. Motion carried.

Motion: by Dr. Mikhael, seconded by Dr. Fallon, to find that respondent was properly served and has waived the right to a formal hearing. Motion carried.

Motion: by Dr. Mikhael, seconded by Dr. Fallon, to adopt the findings and facts as set forth in the Administrative Complaint. Motion carried.

Motion: by Dr. Mikhael, seconded by Dr. Fallon, to adopt the conclusions of law set forth in the Administrative Complaint and find that this constitutes a violation of the Pharmacy Practice Act. Motion carried.

Mr. Niewinski approached the Board and requested revocation of his license.

Recommended Penalty: Revocation

Motion: by Dr. Mikhael, seconded by Dr. Fallon, to accept the recommendations of the Department. Motion carried.

The Department withdrew the motion for costs.

C. VOLUNTARY RELINQUISHMENTS

Please note that the Voluntary Relinquishment section was moved until after the informal cases section.

VR's voted on at one time: Voluntary Relinquishment Numbers: 1,2,3,4,5,6,7,8,9,10,11,12, and 13.

Motion: by Dr. Weizer, seconded by Mrs. Glass, to accept/reject the above-listed Voluntary Relinquishments. Motion carried.

VR-1 Flores &Mowatt Rx Group. Inc., PH 24590 – Hialeah, FL
 Case No. 2013-18769 – PCP Waived

The Department suggests that the Board entertain a Motion Accepting the Voluntary Relinquishment executed by Respondent in resolution of this case.

Motion: See group motion.

VR-2 Flores &Mowatt Rx Group, Inc., PH 26857 – Hialeah, FL
 Case No. 2013-18771 – PCP Waived

The Department suggests that the Board entertain a Motion Accepting the Voluntary Relinquishment executed by Respondent in resolution of this case.

Motion: See group motion.

VR-3 Vivi Pharmacy, LLC, PH 25554 – Miami, FL
 Case No. 2013-18555 – PCP Waived

The Department suggests that the Board entertain a Motion Accepting the Voluntary Relinquishment executed by Respondent in resolution of this case.

Motion: See group motion.

VR-4 Amber N. Bizzell, RPT 31116 – Hollywood, FL
Case No. 2014-01121 – PCP Waived

The Department suggests that the Board entertain a Motion Accepting the Voluntary Relinquishment executed by Respondent in resolution of this case.

Motion: See group motion.

VR-5 Alvin Grullon Bueno, RPT 16716 – North Lauderdale, FL
Case No.2014-02347 – PCP Waived

The Department suggests that the Board entertain a Motion Accepting the Voluntary Relinquishment executed by Respondent in resolution of this case.

Motion: See group motion.

VR-6 Jason Romano, RPT 9592 – Port St. Lucie, FL
Case No. 2014-00789 – PCP Waived

The Department suggests that the Board entertain a Motion Accepting the Voluntary Relinquishment executed by Respondent in resolution of this case.

Motion: See group motion.

VR-7 Gloryvee Perez, RPT 18855 – Margate, FL
Case No. 2014-03631 – PCP Waived

The Department suggests that the Board entertain a Motion Accepting the Voluntary Relinquishment executed by Respondent in resolution of this case.

Motion: See group motion.

VR-8 Florida Pharmacy & Discount Corporation, PH 26028 – Miami, FL
Case No. 2014-01247 – PCP Waived

The Department suggests that the Board entertain a Motion Accepting the Voluntary Relinquishment executed by Respondent in resolution of this case.

Motion: See group motion.

VR-9 Florida Pharmacy & Discount Corporation, PH 26028 – Miami, FL
Case No. 2014-01248 – PCP Waived

The Department suggests that the Board entertain a Motion Accepting the Voluntary Relinquishment executed by Respondent in resolution of this case.

Motion: See group motion.

VR-10 Ambulatory and Professional Medical Equipment, Inc., PH 23392 – Hialeah, FL
Case No. 2013-20508 – PCP Waived

The Department suggests that the Board entertain a Motion Accepting the Voluntary Relinquishment executed by Respondent in resolution of this case.

Motion: See group motion.

VR-11 Charles R. Diffenderfer, PS 32915 – Alachua, FL
Case No. 2014-04502 – PCP Waived

The Department suggests that the Board entertain a Motion Accepting the Voluntary Relinquishment executed by Respondent in resolution of this case.

Motion: See group motion.

VR-12 Steve P. Albert, PS 29045 – Beaumont, TX
Case No. 2014-00983 – PCP Waived

The Department suggests that the Board entertain a Motion Accepting the Voluntary Relinquishment executed by Respondent in resolution of this case.

Motion: see group motion.

VR-13 17th Street Pharmacy & Discount Inc., PH 26047 - Miami, FL
Case No. 2014-03218 – PCP Waived

The Department suggests that the Board entertain a Motion Accepting the Voluntary Relinquishment executed by Respondent in resolution of this case.

Motion: See group motion.

VR-14 William E.M. Whatley, PS 20453 – New Smyrna Beach, FL
Case No. 2013-07262 – PCP Garcia/Glass

The Department suggests that the Board entertain a Motion Accepting the Voluntary Relinquishment executed by Respondent in resolution of this case.

Motion: by Dr. Weizer, seconded by Mrs. Glass, to accept the Voluntary Relinquishment. Motion carried.

VR-15 NW Pharmacy, Inc., PH 25097 – Miami, FL
Case No. 2013-00710 – PCP Weizer/Meshad

The Department suggests that the Board entertain a Motion Accepting the Voluntary Relinquishment executed by Respondent in resolution of this case.

Motion: by Mrs. Glass, seconded by Mr. Philip, to accept the Voluntary Relinquishment. Motion carried.

D. BOARD ACTION BY HEARING NOT INVOLVING DISPUTED ISSUES OF MATERIAL FACT

I-1 Naranja Pharmacy, PH 26258 – Homestead, FL
Case No. 2013-10828 – PCP Glass/Mikhael

Count One: Respondent violated Section 456.072(1)(k), F.S. (2012, 2013), by violating Section 465.023(1)(c), F.S. (2012, 2013), by violating Section 499.005(18), F.S. (2012, 2013), through a violation of Rule 61N-1.012(1)(a), F.A.C., which requires that records to document the movement of drugs, devices, or cosmetics must provide a complete audit trail from a person's receipt or acquisition to sale or other disposition of the product or component.

Respondent was not present nor represented by counsel.

Motion: by Dr. Weizer, seconded by Mr. Philip, to accept the investigative report into evidence for the purposes of imposing a penalty. Motion carried.

Motion: by Dr. Weizer, seconded by Mr. Philip, to find that respondent was properly served and has requested a formal hearing. Motion carried.

Motion: by Dr. Weizer, seconded by Mr. Philip, to adopt the findings and facts as set forth in the Administrative Complaint. Motion carried.

Motion: by Dr. Weizer, seconded by Mr. Philip, to adopt the conclusions of law set forth in the Administrative Complaint and find that this constitutes a violation of the Pharmacy Practice Act. Motion carried.

Departments Recommendation: Revocation

Motion: by Dr. Weizer, seconded by Mr. Philip, to accept the recommendations of the Department. Motion carried.

I-2 Lamonte George Hambrick, RPT 35920 – Tampa, FL
Case No. 2013-01501. PCP – Meshad/Weizer

Count One: Respondent violated Section 456.072(1)(c), F.S. (2012), by being convicted or found guilty of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the practice of, or the ability to practice, a licensee's profession.

Count Two: Respondent violated Section 456.072(1)(x), F.S. (2012), failing to report to the Board, or the department if there is no board, in writing within 30 days after the licensee has been convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction.

Respondent was present and sworn in by the court reporter. Respondent was not represented by counsel.

Motion: by Mrs. Glass, seconded by Dr. Mikhael, to accept the investigative report into evidence for the purposes of imposing a penalty. Motion carried.

Motion: by Mrs. Glass, seconded by Dr. Fallon, to find that respondent was properly served and has requested a formal hearing. Motion carried.

Motion: by Mrs. Glass, seconded by Mr. Philip, to adopt the findings and facts as set forth in the Administrative Complaint. Motion carried.

Motion: by Mrs. Glass, seconded by Dr. Fallon, to adopt the conclusions of law set forth in the Administrative Complaint and find that this constitutes a violation of the Pharmacy Practice Act. Motion carried.

Departments Recommendation: Revocation

Motion: by Mr. Philip, seconded by Dr. Fallon, to accept the recommendations of the Department. Motion carried.

The Department withdrew the motion for costs.

TAB 5 **APPLICATIONS REQUIRING BOARD REVIEW – Debra Glass, BPharm**

A. Endorsement Applicants

1. James Sadler, File: 44199 – North Branch, MI

Respondent was not present nor represented by counsel.

Motion: by Dr. Weizer, seconded by Dr. Mikhael, to approve the application. Motion carried.

2. Nicole Hudgins, File: 36681 – Tampa, FL

Respondent was not present nor represented by counsel.

Motion: by Dr. Weizer, seconded by Mr. Philip, to approve the application. Motion carried.

B. Examination Applications.

1. John Major, File: 43928 – Indian Shores, FL

Respondent was present and sworn in by the court reporter. Respondent was not represented by counsel.

No action was taken on Mr. Major’s application.

C. Registered Pharmacy Technician Applications.

1. Michelle Lorraine Rissky, File: 52234 – Naples, FL

Respondent was not present nor represented by counsel.

Motion: by Mrs. Glass, seconded by Dr. Weizer, to approve the application. Motion carried.

2. Daniel Joseph Allen, File: 55819 – Palmetto Bay, FL

Respondent was not present nor represented by counsel.

Motion: by Mrs. Glass, seconded by Dr. Mikhael, to deny the application. Motion carried.

3. Omar Emilio Fernandez, File: 55819 – Palmetto Bay, FL

Respondent was not present nor represented by counsel.

Motion: by Dr. Weizer, seconded by Mrs. Glass, to deny application. Motion carried.

4. Wandey Alexis, File: 43696 – Boca Raton

Respondent withdrew their application from consideration.

D. Pharmacy Permit Applications

1. AcariaHealth, Inc., File: 20537 – Falls Church, VA

James Whitford (Director of Pharmacy) & Steve Cobb (Vice-President of Operations) were present on behalf of AcariaHealth, Inc. Mr. Whitford and Mr. Cobb were sworn in by the court reporter. No counsel was present.

Motion: by Dr. Mikhael, seconded by Mrs. Glass, to approve the application. Motion carried.

2. Barsky Enterprises, LLC, File: 20524 – Plano, TX

Dr. Donna Barsky (Owner) was present on behalf of the respondent and was sworn in by the court reporter. Respondent was not represented by counsel.

Motion: by Dr. Mikhael, seconded by Dr. Weizer, to approve the application. Motion carried.

3. Vet Meds N More, File: 21144 – Kihei, HI

Respondent was not present nor represented by counsel.

Motion: by Dr. Mikhael, seconded by Mr. Philip, to approve the application. Motion carried.

4. Professional Pharmacy & Compounding Services, LLC – Miami, FL

Azubueze Ikejiani was present on behalf of the respondent and sworn in by the court reporter. Respondent was represented by Bill Furlow, Esquire.

Motion: by Dr. Weizer, seconded by Mrs. Glass, to approve the community pharmacy permit application with the conditions of one year of probation with semiannual inspections at the respondent's cost and a 12 hour laws and rules CE course to be completed over the course of probation. Motion carried.

The respondent withdrew is application for a special sterile compounding permit.

TAB 6 LICENSURE ISSUES

A. Request for Termination of Probation

1. Lisa A. McGrail, PS 28141 – Parkland, FL

Respondent was present and sworn in by the court reporter. Respondent was represented by Ed Bayo, Esquire.

Motion: by Dr. Weizer, seconded by Dr. Mikhael, to terminate probation. Motion carried.

2. Kendall D. Morris, PS 43086 – Brandon, FL

Respondent was present and sworn in by the court reporter. Respondent was not represented by counsel.

Motion: by Mr. Philip, seconded by Dr. Fallon, to terminate probation. Motion carried.

3. Kenneth J. Pettengill, PS 27736 – Gainesville, FL

Respondent was present and sworn in by the court reporter. Respondent was not represented by counsel.

Motion: by Dr. Fallon, seconded by Dr. Mikhael, to terminate probation. Motion carried.

B. Request for Board Appearance

1. Richard Alonso, PS 39780 – Safety Harbor, FL

Respondent was present and sworn in by court reporter. Respondent was not represented by counsel.

Mr. Flynn informed the Board that Mr. Alonso is requesting a modification to his previous final order. Mr. Flynn then informed the Board that they cannot make a ruling as Mr. Alonso is currently in violation of said final order and under an emergency suspension order.

2. Daniel Singer, PS 27033 – Coral Springs, FL

Respondent was present and sworn in by the court reporter. Respondent was represented by Bill Furlow, Esquire.

Motion: by Dr. Mesaros, seconded by Dr. Fallon, to lift restriction that prohibits the respondent from engaging in any sterile compounding, or acting as a PDM at a pharmacy that engages in sterile compounding upon successful completion of a board approved sterile compounding course to be submitted to the Board office for approval by the Board Chair. Motion carried.

3. Lindsay Marie Wolfe, PS 45441 – Tampa, FL

Respondent was present and sworn in by the court reporter. Respondent was represented by Tim Sweeney, Esquire.

Dr. Martha Brown (PRN) was present and stated that the respondent was in compliance and doing well.

Motion: by Dr. Fallon, seconded by Mr. Philip, to require the respondent to pay \$200.00 a month until fines and costs are paid in full. Motion carried.

Dr. Mesaros appointed Mrs. Glass as the new Healthy Weight of the State Liaison.

Motion: by Dr. Fallon, seconded by Mrs. Glass, to adjourn the meeting at 4:03pm. Motion carried.

Mission:

To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.



Vision: To be the Healthiest State in the Nation

Rick Scott
Governor

John H. Armstrong, MD, FACS
Surgeon General & Secretary

MEMORANDUM

TO: Patrick W. Kennedy, M.A., Executive Director, Board of Pharmacy
FROM: Yolonda Green, Assistant General Counsel
RE: **RO Received from DOAH**
SUBJECT: DOH v. Christopher Stephen Switlyk, R.PH.
DOH Case Number 2011-20634
DATE: July 2, 2014

Enclosed you will find materials in the above-referenced case to be placed on the agenda for final agency action for the **August 13, 2014** meeting of the board. The following information is provided in this regard.

Subject: Christopher Stephen Switlyk, R.PH.
Subject's Address of Record: 2410 Victoria Gardens Lane
Tampa, FL 33609-4107

Additional Address: Federal Correctional Institute, Register No. 53913-018
Post Office Box 779800
Miami, FL 33177-9800

Enforcement Address: 2410 Victoria Gardens Lane
Tampa, FL 33609-4107

Subject's License No: 36908 **Rank:** PS

Licensure File No: 27027

Initial Licensure Date: 7/31/2002

Board Certification: No

Required to Appear: No

Current IPN/PRN Contract: No

Allegation(s): COUNT I: Section 456.072(1)(c), F.S. (2012)
COUNT II: Section 456.072(1)(x), F.S. (2012)

Prior Discipline: None

Probable Cause Panel: December 19, 2013
Mark Mikhael & Jeffrey Mesaros

Subject's Attorney: John P Perrin, Esquire
2401 West Bay Drive, Suite 424
Largo, FL 33770

Complainant/Address: Department Of Health/Investigative Services/Tampa

Florida Department of Health
Office of the General Counsel - Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65 • Tallahassee, FL 32399-1701
Express mail address: 2585 Merchants Row - Suite 105
PHONE: 850/245-4444 • FAX 850/245-4683

www.FloridasHealth.com
TWITTER: HealthyFLA
FACEBOOK: FLDepartmentofHealth
YOUTUBE: #doh

Materials Submitted:

Memorandum to the Board
Motion For Final Order
Motion to Bifurcate and Retain Jurisdiction to
Assess Costs in Accordance with Section
456.072, Florida Statutes (2014)
Cover Letter with Recommended Order
Amended Administrative Complaint
Petitioner's Proposed Recommended Order
Respondent's Proposed Recommended Order
United States District Court Middle District of
Florida Tampa Division
 Exhibit 1 – Plea Agreement
 Exhibit 4 – Defendant Christopher Switlyk's
 Sentencing Memorandum
 Exhibit 6 - Motion to Vacate, Set Aside, or
 Correct Sentence
Transcript of Telephonic Proceedings
United States District Court Middle District of
Florida Tampa Division
 Exhibit 2 – Transcript of Sentencing Hearing
 Before the Honorable Virginia M.
 Hernandez-Covington, United
 States District Court Judge
 Exhibit 3A – Evaluation
 Exhibit 5 – Letter from Todd Foster to Dr.
 Rivenbark with PRN
 Exhibit 6 – Letter from Christopher Switlyk
 Exhibit 8 – Pharmacy Time – Office of Continuing
 Education
Petitioner's Response to Respondent's Motion to
Reconsider Rulings Concerning Exhibits &
Motions to Admit Exhibit 9 and 10
Motion to Reconsider Rulings Concerning Exhibits
Certificate of Service
Amendment to Rulings or Objections and Further Post
Post-Hearing Procedures
Petitioner's Notice of Withdrawal of Request to Offer
Rebutal Evidence
Rulings of Objections and Further Post-Hearing
Procedures
Petitioner's Amended Notice of Filing Objections to
Respondent's Exhibits
Acknowledgement of Searing Witness
Petitioner's Notice of Filing Composite Exhibit 6
Email from Christopher Switlyk
Petitioner's Notice or Filing Objections to
Respondent's Filing Motion to Vacate, Set Aside,
Or Correct Sentence

Notice of Filing Late Exhibit
Petitioner's Witness List
Order Allowing Appearance by Telephone
Second Amended Notice of Taking Telephonic
Deposition in lieu of Live Testimony
Amended Notice of Taking Telephonic Deposition in Lieu
of Live Testimony
Petitioner's Motion for Respondent to Appear
Telephonically at Hearing
Motion to Take Telephonic Deposition of Ronald Salem,
Expert Witness for Petitioner
Notice of Taking Deposition In Lieu of Live Testimony
Order of Prehearing Instructions
Notice of Hearing
Unilateral Response to Initial Order
Notice of Appearance of Co-Counsel
Notice of Service of Petitioner's First Request for
Production, First Set of Interrogatories and First Request
for Admissions to Respondent
Initial Order
Notice of Appearance
Administrative Complaint
Election of Rights
Letter to Robert S. Cohen requesting Formal Hearing
with Attachment of Amended Administrative Complaint

**STATE OF FLORIDA
DEPARTMENT OF HEALTH
BOARD OF PHARMACY**

DEPARTMENT OF HEALTH,

Petitioner,

v.

**DOAH Case NO. 14-0883PL
DOH CASE NO. 2011-20634**

CHRISTOPHER S. SWITLYIK, R.PH.,

Respondent.

MOTION FOR FINAL ORDER

The Department of Health requests that this Honorable Board of Pharmacy enter a Final Order in the above-styled cause. As grounds therefore, the Petitioner would state that:

1. Petitioner is the state agency charged with regulating the practice of pharmacy pursuant to Section 20.43, Florida Statutes; Chapter 456, Florida Statutes; and Chapter 465, Florida Statutes.

2. On December 19, 2013, Petitioner filed an Amended Administrative Complaint in DOH Case Number 2011-20634 against Respondent alleging a violation of Sections 456.072(1)(c), Florida Statutes (2012) and Section 456.072(1)(x), Florida Statutes (2012).

3. On February 24, 2014, the Amended Administrative Complaint in this case was filed with the Division of Administrative Hearings ("DOAH").

4. On March 26, 2013, a final hearing took place in Tallahassee, Florida.

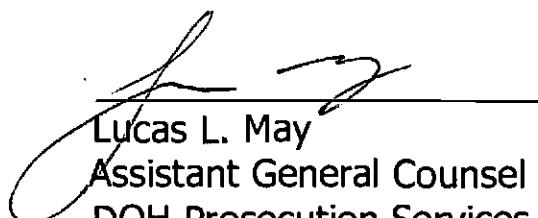
5. On June 23, 2014, the Administrative Law Judge issued a Recommended Order in the above-styled cause.

6. Respondent has been advised by a copy of this Motion that the Board will consider the record which includes the following documents in this matter: Recommended Order, Amended Administrative Complaint, Petitioner's Proposed Recommended Order, Respondent's Proposed Recommended Order, Motion to Assess Costs with attachments, Transcript of Hearing, Petitioner's Exhibits 1 - 6, Respondent's proffered but not admitted exhibits 1, 4, 6, Respondent's admitted exhibits 2, 3, 5, 7, 8 and DOAH Pleadings.

[Signatures appear on the following page.]

WHEREFORE, Petitioner would respectfully request that the Board enter a Final Order in this case.

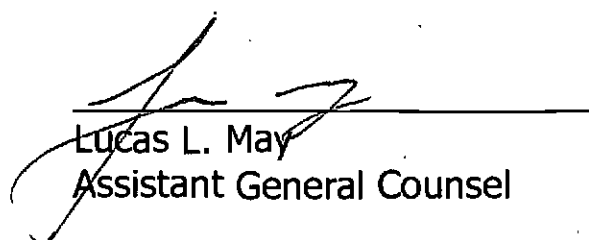
Respectfully submitted,



Lucas L. May
Assistant General Counsel
DOH Prosecution Services Unit
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Tallahassee, Florida 32399-3265
Florida Bar #010274
850.245.4444 TELEPHONE
850.245.4683 FACSIMILE
Lucas.May@flhealth.gov

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Motion for Final Order has been furnished via U. S. Certified Mail to Christopher S. Switlyk, Register No. 53913-018, Federal Correctional Institution, Post Office Box 779800 Miami, Florida 33177-9800, on this 3 day of July, 2014.



Lucas L. May
Assistant General Counsel

**STATE OF FLORIDA
DEPARTMENT OF HEALTH
BOARD OF PHARMACY**

DEPARTMENT OF HEALTH,

Petitioner,

v.

**DOAH CASE NO. 14-0883PL
DOH CASE No. 2011-20634**

CHRISTOPHER S. SWITLYK, R.PH.

Respondent.

**MOTION TO BIFURCATE AND RETAIN JURISDICTION
TO ASSESS COSTS IN ACCORDANCE WITH
SECTION 456.072, FLORIDA STATUTES (2014)**

The Department of Health, by and through undersigned counsel requests that the Board of Medicine enter an Order bifurcating the issue of costs and retaining jurisdiction to assess costs, against Respondent for the investigation and prosecution of this case in accordance with Section 456.072(4), Florida Statutes (2014). Petitioner states the following in support of this Motion:

1. At its next regularly scheduled meeting, the Board of Pharmacy will take up for consideration the above-styled disciplinary action and will enter a Final Order therein.

2. Pursuant to Section 120.569(2)(1), Florida Statutes (2014), the Final Order in a proceeding heard by an administrative law judge, which affects a party's substantial interest, must be rendered within ninety (90) days after a Recommended Order is submitted to an agency, unless the ninety (90) days is waived by the Respondent.

3. The Administrative Law Judge's Recommended Order was submitted to the department on or about June 23, 2014; and ninety (90) days from that date is on or about September 21, 2014.

4. Section 456.072(4), Florida Statutes (2014), states as follows:

In addition to any other discipline imposed through final order, or citation, entered on or after July 1, 2001, pursuant to this section or discipline imposed through final order, or citation, entered on or after July 1, 2001, for a violation of any practice act, the board, or the department when there is not board, shall assess costs related to the investigation and prosecution of the case. The costs related to the investigation and prosecution include, but are not limited to, salaries and benefits of personnel, costs related to the time spent by the attorney and other personnel working on the case, and any other expenses incurred by the department for the case. The board, or the department when there is no board, shall determine the amount of costs to be assessed after its consideration of an affidavit of itemized costs and any written objections thereto . . . (emphasis added)

5. In order for the Board to assess costs against the Respondent, under the current case law, the Department is required to obtain an

outside expert attorney's opinion verifying the reasonableness of the time spent by the Department's attorneys on this matter or the amount of fees sought. *Georges v. Department of Health*, 75 So. 3d 759 (Fla, 2nd DCA 2011).

6. In order for the Board to assess costs against the Respondent, under the current case law, the Department is also required to verify attorney's time spent on the case and prepare supporting affidavits for the amount of attorney's time sought to be recovered. *Georges v. Department of Health*, 75 So. 3d 759 (Fla, 2nd DCA 2011).

7. There is insufficient time for the Department to verify its attorneys' time spent on the case; prepare supporting affidavits for the amount of attorneys' time sought to be recovered; and obtain an outside expert attorney's opinion verifying the reasonableness of the time spent by the Department's attorneys on this matter or the amount of fees sought.

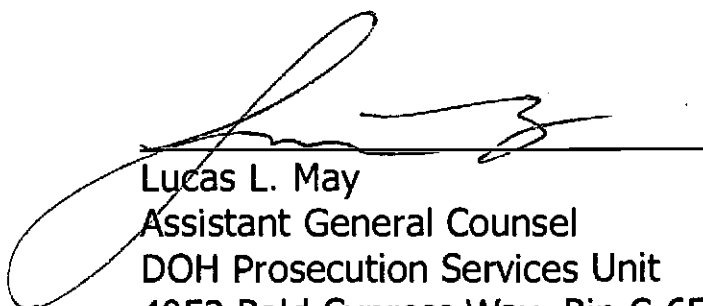
8. The bifurcation of the issue of cost recovery by the Department and its postponement to a later date will not cause any undue hardship to the Respondent as it will delay, rather than expedite, the date at which a Final Order on the assessment of costs would be entered against

Respondent, and thus delay the date upon which any payment for costs would be due and owing.

9. Petitioner requests that the Board grant this motion, bifurcate the issue of assessment of costs and retain jurisdiction to assess costs against Respondent once the Department has obtained an outside expert attorney's opinion verifying the reasonableness of the time spent by the Department's attorneys on this matter or the amount of fees sought, obtains supporting affidavits for the amount of attorney's time sought to be recovered and brings a motion to assess costs before the Board of Medicine.

WHEREFORE, the Department of Health requests that the Board of Medicine enter an Order bifurcating the issue of cost assessment and retaining jurisdiction to assess costs against Respondent.

Respectfully Submitted



Lucas L. May
Assistant General Counsel
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Florida Bar No.: 0102747

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(850) 245 - 4683 Facsimile
Lucas.May@flhealth.gov

CERTIFICATE OF SERVICE

I HEREBY CERTIFY a true and correct copy of the Motion to Bifurcate and Retain Jurisdiction to Assess Costs has been furnished to Christopher S. Switlyk, Register No. 53913-018, Federal Correctional Institution, Post Office Box 779800, Miami, FL 33177-9800 by U.S. Certified Mail, this 3 day of July, 2014.



Lucas L. May
Assistant General Counsel

State of Florida
Division of Administrative Hearings

Rick Scott
Governor

Robert S. Cohen
Director and Chief Judge

Claudia Lladó
Clerk of the Division



David M. Maloney
Deputy Chief
Administrative Law Judge

David W. Langham
Deputy Chief Judge
Judges of Compensation Claims

June 23, 2014

Mark Whitten, Executive Director
Board of Pharmacy
Department of Health
4052 Bald Cypress Way, Bin C-04
Tallahassee, Florida 32399-3254

Re: DEPARTMENT OF HEALTH, BOARD OF PHARMACY vs. CHRISTOPHER
STEPHEN SWITLYK, R.P.H., DOAH Case No. 14-0883PL

Dear Mr. Whitten:

Enclosed is my Recommended Order in the referenced case. Also enclosed is the one-volume Transcript, together with the Petitioner's Exhibits numbered 1-6 and the Respondent's Exhibits numbered 2, 3, 5, 7 and 8. Copies of this letter will serve to notify the parties that my Recommended Order and the hearing record have been transmitted this date.

As required by section 120.57(1)(m), Florida Statutes, you are requested to furnish the Division of Administrative Hearings with a copy of the Final Order within 15 days of its rendition. Any exceptions to the Recommended Order filed with the agency shall be forwarded to the Division of Administrative Hearings with the Final Order.

Sincerely,

J. LAWRENCE JOHNSTON
Administrative Law Judge

JLJ/ts

Enclosures

cc: Jennifer A. Tschetter, General Counsel
Yolanda Y. Green, Esquire
Lucas L. May, Esquire
Christopher S. Switlyk

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

DEPARTMENT OF HEALTH,
BOARD OF PHARMACY,

Petitioner,

vs.

Case No. 14-0883PL

CHRISTOPHER STEPHEN
SWITLYK, R.PH.,

Respondent.

RECOMMENDED ORDER

On March 26, 2014, a final administrative hearing in this case was held in Tallahassee, Florida, before J. Lawrence Johnston, Administrative Law Judge, Division of Administrative Hearings (DOAH). The Respondent, who was in prison in Estill, South Carolina, participated in the hearing by telephone.

APPEARANCES

For Petitioner: Yolanda Y. Green, Esquire
Lucas L. May, Esquire
Department of Health
4052 Bald Cypress Way, Bin C-65
Tallahassee, Florida 32399-3265

For Respondent: Christopher S. Switlyk, pro se
Register No. 53913-018
Federal Satellite Camp
Post Office Box 779800
Miami, Florida 33177-9800

STATEMENT OF THE ISSUE

The issue in this case is whether the Respondent's license to practice pharmacy should be revoked or otherwise disciplined based on conduct that resulted in criminal convictions and his failure to report the convictions to the Board of Pharmacy (Board), as required.

PRELIMINARY STATEMENT

The Petitioner, Department of Health (DOH), filed an Amended Administrative Complaint against the Respondent, Christopher Stephen Switlyk, R.Ph., alleging that he was convicted in federal court of crimes that relate to his practice of, or his ability to practice, his licensed profession and that he failed to report the conviction to the Board, as required. The Respondent requested a hearing, and the matter was referred to DOAH.

At the DOAH hearing, DOH moved Petitioner's Exhibits 1 through 5 into evidence and questioned the Respondent under oath. The Respondent testified in his case-in-chief after DOH rested, and he offered numerous exhibits in evidence. The evidentiary record was left open to allow the Respondent time to file his proposed exhibits, DOH to file an additional exhibit, and for rulings on objections. On April 11, 2014, DOH filed an additional exhibit, Petitioner's Exhibit 6. On April 29 and 30, 2014, the Petitioner's Exhibit 6 and the Respondent's Exhibits 2, 5, and 7 were admitted in evidence; the Respondent's other

exhibits either were not filed, or DOH's objections to them were sustained; and the evidentiary record was closed. The Respondent moved for reconsideration of those rulings, and DOH responded by withdrawing its objections to the untimeliness of Respondent's Exhibits 3 and 8, and those exhibits are admitted in evidence. The Respondent's motion for reconsideration, as well as DOH's response, referenced additional proposed Respondent's Exhibits 9 and 10 (which DOH opposed), but those additional exhibits were not filed at DOAH, and DOH's objections are sustained.

The Transcript of the final hearing was filed on April 7, 2014. The parties were given until May 13, 2014, to file proposed recommended orders, which have been considered.

FINDINGS OF FACT

1. The Respondent has been a licensed pharmacist in Florida and held Florida license PS 36908 at all pertinent times, until it expired on September 30, 2013.

2. On December 14, 2010, the Respondent was indicted in federal court in the Middle District of Florida, Case No. 8:10-CR-530-T-33AEP.

3. On September 5, 2012, the Respondent pled guilty to one count of conspiring to violate 21 U.S.C. sections 841(a)(1), 843(a)(2), 843(a)(3), and 856(a)(1), all of which also constituted violations of 21 U.S.C. section 846, and to two counts of knowingly engaging in monetary transactions, in and

affecting interstate and foreign commerce, in property of a value of greater than \$10,000, which was derived from a felonious criminal conspiracy to traffick in controlled substances, in violation of 18 U.S.C. section 1957. The plea also admitted to the factual basis of the charges--namely, that the Respondent conspired to allow the pharmacy he owned and operated in Tampa, Florida, to be used by the criminal conspiracy to fill and dispense forged, and otherwise illegal, prescriptions for over a million doses of Schedule II controlled substances, mostly oxycodone. The cash proceeds of the illegal sales were treated as income of the pharmacy, and the Respondent and others participated in monetary transactions whereby the illegally-obtained cash was used to purchase cashier's checks and other assets and to conceal the illegal source of the money.

4. Based on his guilty pleas, the Respondent was adjudicated guilty and sentenced to 108 months in prison. The special conditions of supervision in the Judgment require the Respondent to "refrain from engaging in any employment related to dispensing prescriptions drugs either in a pharmacy, pain clinic, or other medical environment."

5. The Respondent's convictions clearly were related to his practice of pharmacy.

6. The Respondent now maintains that he should not have pled guilty and would not have done so but for the incompetence

of his attorney, who advised him to enter into the plea agreement. Based on this ground and others, he has been seeking to have his convictions vacated or his sentence reduced. There is no evidence that he has been successful in altering his convictions or sentence in any way, and the evidence does not suggest that it is likely that he will succeed in accomplishing either objective.

7. The Respondent did not report his guilty pleas to the Board in writing within 30 days. The Respondent contends that his incarceration since his arrest made it impossible for him to do so. However, the greater weight of the evidence was to the contrary. More likely, compliance with the technical requirement to report to the Board in writing was not in the forefront of his mind.

8. The Respondent has been licensed since July 31, 2002. This is the first time action has been taken by DOH and the Board to discipline his license.

9. The Respondent's actions had the potential to expose numerous people to harm from the misuse and abuse of oxycodone and other controlled substances. This violated the trust placed in him by the State of Florida when he became licensed as a pharmacist. His violation of the public trust demonstrated unsound judgment and a lack of integrity. As a result, the Respondent's professional standing among his peers was lowered.

(The only direct evidence of this was the testimony of DOH's expert witness, but this fact can be inferred from the nature of his convictions and sentence, as well as the comments of the sentencing federal judge, who viewed the Respondent's actions as an abuse of the public trust and undeserving of a second chance to be a pharmacist.)

10. The Respondent also contends that he should be treated leniently in this case because alcohol abuse and long-standing emotional and psychological problems were primary reasons for his actions. His contention belies the criminal convictions, which were for intentional crimes and based on voluntary guilty pleas. To the extent that these problems were contributory factors, it is commendable that the Respondent is taking them seriously, and he will benefit in the long run from continuing to seek treatment and counseling to address them. Neither the problems, in themselves, nor the start of treatment and counseling warrants lenient license discipline.

11. The Board has guidelines for the imposition of penalties for license violations. DOH submitted Petitioner's Exhibit 4 as evidence of the guidelines in effect at the time of the Respondent's guilty pleas and convictions. However, the exhibit actually purports to certify the guidelines in effect at various times from January 1, 2011, until December 31, 2013. It appears from the exhibit that as of the time of the Respondent's

guilty pleas and convictions, the range of penalties for a first violation of section 456.072(1)(c), Florida Statutes (2012), for a felony conviction or guilty plea was from a year probation and a \$3,000 fine to a year suspension to revocation and a \$5,000 fine. Fla. Admin. Code R. 64B16-30.001(o)3. (revised Nov. 29, 2006). The range of penalties for a first violation of section 456.072(1)(x), Florida Statutes (2012), is from a \$1,000 fine to a \$2,500 fine and a year probation. Fla. Admin. Code R. 64B16-30.001(o)(18) (revised Nov. 29, 2006). The guidelines in effect at that time also included aggravating circumstances that would justify deviating above the guidelines and mitigating circumstances that would justify deviating below the guidelines. The aggravating circumstances included: a history of previous violations; in the case of negligent acts, the magnitude and scope of the damage or potential damage inflicted on a patient or the general public; and violations of professional practice acts in other jurisdictions. The mitigating circumstances included: in the case of negligent acts, the minor nature of the damage or potential damage to the patient's or the general public's health, safety, and welfare; the lack of previous discipline; restitution of monetary damage suffered by the patient; the licensee's professional standing among his peers; the steps taken by the licensee to ensure the non-occurrence of similar violations in

the future, including continuing education; and the degree of financial hardship incurred by the licensee.

12. In this case, there are no aggravating circumstances justifying a deviation above the guidelines. As for mitigating circumstances: the minor nature of the damage or potential damage to the patient's or the general public's health, safety, and welfare from his failure to report his convictions and guilty pleas to the Board might justify a deviation below the guidelines for that violation, but not for the convictions and pleas, themselves; the Respondent's lack of previous discipline is a mitigating circumstance; restitution of monetary damage to the patient is not relevant; the Respondent's professional standing among his peers has suffered and does not justify a deviation below the guidelines in this case; the Respondent forfeited all ill-gotten gains to the federal government and has incurred financial hardship as a result of the forfeitures and his incarceration, but that does not justify a deviation below the guidelines in this case; the Respondent has taken several continuing education courses since he has been incarcerated, but that does not justify a deviation below the guidelines in this case.

CONCLUSIONS OF LAW

13. This is a license discipline case, which places the burden on DOH to prove the charges by clear and convincing

evidence. Dep't of Banking & Fin. v. Osborne Stern & Co., 670 So. 2d 932 (Fla. 1996); Ferris v. Turlington, 510 So. 2d 292 (Fla. 1987).

14. DOH has charged the Respondent with being convicted or found guilty of, or entering a plea of guilty to, crimes that relate to the practice of, or the ability to practice, the profession of licensed pharmacist. § 456.072(1)(c), Fla. Stat. (2012). See Rush v. Dep't of Bus. & Prof'l Reg., Bd. of Podiatry, 448 So. 2d 26, 27-28 (Fla. 1st DCA 1984) (although not arising in an office setting, crime of conspiracy to possess and import marijuana was a breach of trust and related to the practice of podiatry, which included dispensing drugs); Doll v. Dep't of Health, 969 So. 2d 1103 (Fla. 1st DCA 2007) (a crime that demonstrated a "lack of honesty, integrity, and judgment" related to the practice of chiropractic medicine); Dep't of Health, Bd. of Medicine v. Algirdas Krisciunas, M.D., Case No. 10-10229PL (Fla. DOAH June 27, 2011; Fla. DOH Amended FO, Aug. 17, 2011) (five counts of dispensing oxycodone and one count of conspiring to distribute oxycodone were related to the practice of medicine, in part, because the respondent's medical license was necessary to execute the crime). DOH proved this charge by clear and convincing evidence.

15. DOH also charged that the Respondent failed to report his convictions and guilty pleas to the Board in writing within

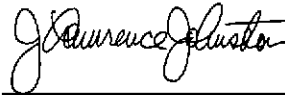
30 days. § 456.072(1)(x), Fla. Stat. (2012). DOH proved this charge by clear and convincing evidence.

16. The Board has guidelines for the imposition of penalties for license violations. Based on a consideration of the Board's penalty guidelines and possible aggravating and mitigating circumstances, the appropriate penalty in this case is revocation. If the Respondent continues to demonstrate his commitment to treatment and counseling for his alcohol abuse and psychological and emotional issues and to continuing education to maintain proficiencies as a pharmacist, he can present those matters to the Board in an application for the issuance of a new license after he is released from prison and has the special condition of supervision in his sentence modified.

RECOMMENDATION

Based on the foregoing Findings of Fact and Conclusions of Law, it is RECOMMENDED that the Board of Pharmacy enter a final order finding the Respondent guilty as charged and revoking his license to practice pharmacy.

DONE AND ENTERED this 23rd day of June, 2014, in
Tallahassee, Leon County, Florida.



J. LAWRENCE JOHNSTON
Administrative Law Judge
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-3060
(850) 488-9675
Fax Filing (850) 921-6847
www.doah.state.fl.us

Filed with the Clerk of the
Division of Administrative Hearings
this 23rd day of June, 2014.

COPIES FURNISHED:

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Board of Pharmacy
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Christopher S. Switlyk
Register No. 53913-018
Federal Satellite Camp
Post Office Box 779800
Miami, Florida 33177-9800

NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions within 15 days from the date of this Recommended Order. Any exceptions to this Recommended Order should be filed with the agency that will issue the Final Order in this case.

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

Petitioner,

v.

**DOAH CASE NO. 14-0883PL
DOH CASE NO. 2011-20634**

CHRISTOPHER STEPHEN SWITLYK, R.PH.,

Respondent.

**PETITIONER'S RESPONSE TO RESPONDENT'S LETTER
REGARDING DOAH CASE 14-0883PL, DATED JULY 1, 2014**

COMES NOW, DEPARTMENT OF HEALTH, (Petitioner), by and through its undersigned counsel and submits this Response to Respondent's e-mail objections to the Recommended Order in case number 14-0883PL, dated July 1, 2014, if that filing is accepted as Respondent's Exceptions to the Recommended Order issued by the Administrative Law Judge (ALJ), to the Board of Nursing ("Board") and in support thereof, states as follows:

Preliminary Statement

Section 120.57(1), Florida Statutes (2012), and case law have clarified the reviewing authority of a Board under the Administrative Procedures Act. Under the law, the Board may reject or modify the conclusions of law over which it has substantive jurisdiction and interpretation of administrative rules over which it has substantive jurisdiction. The Board is vested by the laws of Florida with the authority to interpret and apply such laws, regulations, and policies as are applicable to programs within the Board's regulatory sphere.

If the Board wishes to reject or modify a finding of fact, Section 120.57(1)(l), Florida Statutes (2012), requires that the agency make a determination from a review of the entire record and state with particularity in the order that the findings of fact were not based upon competent substantial evidence or that the proceeding on which the findings were based did not comply with essential requirements of law.

When determining whether to reject or modify findings of fact in a recommended order, the agency is not permitted to weigh the evidence, judge the credibility of the witnesses, or interpret the evidence to fit its ultimate conclusions. To do so is reversible error. See *Gross v. Dept. of Health*, 819 So.2d 997, 1001 (Fla. 5th DCA 2002); and *Aldrete v. Dept. of*

Health, 879 So.2d 1244, 1246, (Fla. 1st DCA 2004). The testimony of a credible witness is competent, substantial evidence. Furthermore, the credibility of a witness should be decided by the ALJ. *Heifitz v. Dept. of Bus. & Prof'l Reg.*, 475 So. 2d 1277, 1281 (Fla. 1st DCA 1985). As stated in *Heifitz*, "it is the hearing officer's function to consider all the evidence presented, judge the credibility of witnesses, draw permissible inferences from the evidence, and reach ultimate findings of fact based on competent, substantial evidence." *Id.*

It is not the Board's responsibility to reweigh the trial testimony against the other evidence in the record. See § 120.57(1)(l), Fla. Stat. (2012). It is the Board's responsibility to "review whether the record contains competent, substantial evidence to support the [ALJ's] order," not to "review whether there was competent, substantial evidence to support [Respondent's position]." *Swanigan v. Dobbs House*, 442 So. 2d 1026, 1027 (Fla. 1st DCA 1983).

In regard to the conclusions of law, the Board may reject or modify the conclusions of law to reflect a more reasonable interpretation of the applicable laws and rules. However, the Board must state with particularity the reasons for rejecting or modifying such conclusions of law or

interpretation of administrative rule and must make a finding that the substituted conclusion of law or interpretation of administrative rule is as or more reasonable than that which was rejected or modified. § 120.57(1)(I), Fla. Stat. (2012).

Rule 28-106.217, Florida Administrative Code, states that exceptions shall identify the disputed portion of the recommended order by page number and paragraph, shall identify the legal basis for the exception, and shall include any appropriate and specific citations to the record.

Record references use the following abbreviations:

| | |
|--------------------------|---------------|
| Recommended Order | (RO P. _ ¶ _) |
| Final Hearing Transcript | (Tr. P. _) |

Response To Respondent's Exceptions

1. Respondent presents for the Board's consideration the Respondent's request for exceptions to ruling, which appears to be exceptions to the recommended penalty of the Recommended Order (RO). Petitioner opposes Respondent's exceptions.

2. Respondent's request for exceptions to ruling, should not be considered as valid exceptions to the RO, because Respondent failed to meet the requirements of Rule 28-106.217, Florida Administrative Code,

by, failing to identify the disputed portion of the RO by page number and paragraph, failing to identify the legal basis for the exception, and failing to include any citations to the record.

3. Respondent's letter regarding DOAH case 14-0883PL, dated July 1, 2014 appears to contain what Petitioner considers to be exceptions to the RO.

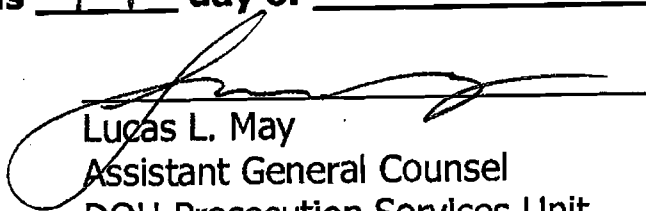
4. Respondent alleges that he was unable to report hit guilty pleas to the Department due to incarceration. This should be rejected because it is irrelevant to any of the issues in this case, and these facts were not presented during the Formal Hearing. The Agency may not reject, substitute, or make new findings of fact. See *Gross v. Dept. of Health*, 819 So.2d 997, 1001 (Fla. 5th DCA 2002).

5. Respondent asserts that his pleas of guilty were entered into involuntarily and were the product of fraud on the part of criminal defense attorney. This should be rejected because it is irrelevant to any of the issues in this case, and these facts were not presented during the Formal Hearing. The Agency may not reject, substitute, or make new findings of fact. See *Gross v. Dept. of Health*, 819 So.2d 997, 1001 (Fla. 5th DCA 2002).

6. Respondent also asserts that his pleas of guilty were to be withdrawn in the months following the court's acceptance of his pleas. This should be rejected because it is irrelevant to any of the issues in this case, and these facts were not presented during the Formal Hearing. The Agency may not reject, substitute, or make new findings of fact. See *Gross v. Dept. of Health*, 819 So.2d 997, 1001 (Fla. 5th DCA 2002).

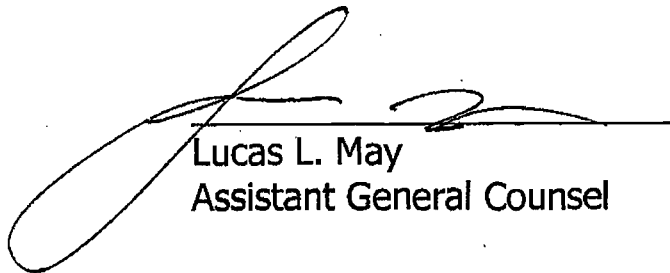
7. **WHEREFORE** the Petitioner respectfully requests that the Board of Nursing deny the Respondent's request for exceptions to ruling filed, and enter a Final Order as recommended by the Administrative Law Judge in this matter.

SIGNED this 14 **day of** July, **2014.**


Lucas L. May
Assistant General Counsel
DOH Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, Florida 32399-3265
Florida Bar No.: 0102747
(850) 245 - 4444
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY a true and correct copy of Petitioner's Response to Respondent's Letter Regarding DOAH case 14-0883PL, Dated July 1, 2014 has been furnished to Christopher S. Switlyk, Register No. 53913-018, Federal Correctional Institution, Post Office Box 779800, Miami, FL 33177-9800 by U.S. Certified Mail, this 15 day of July, 2014.



Lucas L. May
Assistant General Counsel

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK *Angel Sanders*
DATE DEC 19 2013

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO. 2011-20634

CHRISTOPHER STEPHEN SWITLYK, R.Ph.,

RESPONDENT.

AMENDED ADMINISTRATIVE COMPLAINT

COMES NOW, Petitioner, Department of Health, by and through its undersigned counsel, and files this Amended Administrative Complaint before the Board of Pharmacy against Respondent, Christopher Stephen Switlyk, R.Ph., and in support thereof alleges:

1. Petitioner is the state department charged with regulating the practice of pharmacy pursuant to Section 20.43, Florida Statutes; Chapter 456, Florida Statutes; and Chapter 465, Florida Statutes.

2. At all times material to this Administrative Complaint, Respondent was a licensed pharmacist within the state of Florida, having been issued license number PS 36908.

3. Respondent's address of record is 2410 Victoria Gardens Lane, Tampa, Florida 33609-4107.

4. The Department has reason to believe that Respondent may be located at FCI Estill, Federal Correctional Institution, Attention: Register Number 53913-018, P.O. Box 699, Estill, South Carolina 29918.

5. On or about September 5, 2012, in case number 8:10-CR-530-T-33AEP in the United States District Court for the Middle District of Florida, Respondent entered a plea of guilty to: one count of attempting or conspiring to commit any offense defined in this subchapter, a felony, in violation of 21 U.S.C. § 846; and two counts of knowingly engaging in monetary transactions, in and affecting interstate and foreign commerce, in criminally derived property of a value greater than \$10,000.00, such property having been from a specified unlawful activity, namely, a conspiracy to traffic in controlled substances, felonies, in violation of 18 U.S.C. § 1957.

6. Respondent failed to report entering pleas of guilty to crimes referenced in paragraph five to the Board of Pharmacy in writing within thirty days of the date he entered the plea on or about September 5, 2012.

COUNT ONE

7. Petitioner realleges and incorporates paragraphs one through six as if fully set forth herein.

8. Section 456.072(1)(c), Florida Statutes (2012), provides that being convicted or found guilty of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the practice of, or the ability to practice, a licensee's profession constitutes grounds for disciplinary action.

9. Respondent is licensed pursuant to Chapter 465, Florida Statutes, and is a health care practitioner as defined in Section 456.001(4), Florida Statutes (2012).

10. On or about September 5, 2012, in case number 8:10-CR-530-T-33AEP, in the United States District Court for the Middle District of Florida, Respondent entered a plea of guilty to: one count of attempting or conspiring to commit any offense defined in this subchapter, a felony, in violation of 21 U.S.C. 846; and two counts of knowingly engaging in monetary transactions, in and affecting interstate and foreign commerce, in criminally derived property of a value greater than \$10,000.00, such property having been from a specified unlawful activity, namely, a

conspiracy to traffic in controlled substances, felonies, in violation of 18 U.S.C. 1957.

11. Based on the foregoing, Respondent violated Section 456.072(1)(c), Florida Statutes (2012), by being convicted or found guilty of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the practice of, or the ability to practice, a licensee's profession.

COUNT TWO

12. Petitioner realleges and incorporates paragraphs one through six as if fully set forth herein.

13. Section 456.072(1)(x), Florida Statutes (2012), provides that failing to report to the board, or the department if there is no board, in writing within thirty (30) days after the licensee has been convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction, constitutes grounds for disciplinary action.

14. Respondent is licensed pursuant to Chapter 465, Florida Statutes, and is a health care practitioner as defined in Section 456.001(4), Florida Statutes (2012).

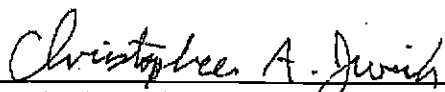
15. Respondent failed to report entering a plea of guilty to the crimes referenced in paragraph five to the Board of Pharmacy in writing within thirty days of the date he entered the plea on or about September 5, 2012.

16. Based on the foregoing, Respondent violated Section 456.072(1)(x), Florida Statutes (2012), by failing to report to the board in writing within thirty days after the licensee has been convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction.

WHEREFORE, the Petitioner respectfully requests that the Board of Pharmacy enter an order imposing one or more of the following penalties: permanent revocation or suspension of Respondent's license, restriction of practice, imposition of an administrative fine, issuance of a reprimand, placement of the Respondent on probation, corrective action, refund of fees billed or collected, remedial education and/or any other relief that the Board deems appropriate.

SIGNED this 19th day of December, 2013.

John H. Armstrong, MD, FACS
State Surgeon General and Secretary of Health


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/CAJ

PCP: December 19, 2013
PCP Members: Mark Mikhael & Jeffrey Mesaros

NOTICE OF RIGHTS

Respondent has the right to request a hearing to be conducted in accordance with Section 120.569 and 120.57, Florida Statutes, to be represented by counsel or other qualified representative, to present evidence and argument, to call and cross-examine witnesses and to have subpoena and subpoena duces tecum issued on his or her behalf if a hearing is requested.

NOTICE REGARDING ASSESSMENT OF COSTS

Respondent is placed on notice that Petitioner has incurred costs related to the investigation and prosecution of this matter. Pursuant to Section 456.072(4), Florida Statutes, the Board shall assess costs related to the investigation and prosecution of a disciplinary matter, which may include attorney hours and costs, on the Respondent in addition to any other discipline imposed.

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

DEPARTMENT OF HEALTH,

PETITIONER,

v.

DOAH CASE NO.: 14-0883PL
DOH CASE NO.: 2011-20634

CHRISTOPHER STEPHEN SWITLYK, R.PH.,

RESPONDENT.

PETITIONER'S PROPOSED RECOMMENDED ORDER

On March 26, 2014, a formal administrative hearing was held in this case in Tallahassee, before the Honorable Judge J. Lawrence Johnston, Administrative Law Judge, Florida Division of Administrative Hearings. The Respondent, Christopher Stephen Switlyk, R.PH., appeared by telephone.

APPEARANCES

For Petitioner:

Lucas L. May, Assistant General Counsel
Yolonda Y. Green, Assistant General Counsel
Department of Health
4052 Bald Cypress Way, Bin C-65
Tallahassee, Florida 32399-3265

For Respondent:

Christopher S. Switlyk, Pro Se

Register No. 53913-018
Post Office Box 699
Estill, South Carolina 29918-0699

STATEMENT OF THE ISSUES

The issues in this case are whether the Department of Health, Board of Pharmacy (hereinafter referred to as the "Board") should discipline Respondent's license on charges alleged in an Amended Administrative Complaint.

PRELIMINARY STATEMENT

On December 19, 2013, the Department filed a two count Amended Administrative Complaint, which alleges in Count One that Respondent violated Section 456.072(1)(c), Florida Statutes (2012), by being convicted of a crime, which relates to the practice of, or the ability to practice pharmacy. Count two of the Amended Administrative Complaint alleges that Respondent violated Section 456.072(1)(x), Florida Statutes (2012), by failing to report to the board, in writing within 30 days after the licensee has been convicted of a crime in any jurisdiction.

On or about January 13, 2014, Respondent disputed material issues of fact and requested a formal hearing. Petitioner referred this case to the Division of Administrative Hearings on February 24, 2014. The case was set for formal hearing on March 26, 2014 before the

Honorable Judge J. Lawrence Johnston in Tallahassee, Florida.

Based on Petitioner's knowledge that Respondent was incarcerated, Petitioner filed a Motion for Respondent to Appear Telephonically at Hearing, which Judge Johnston granted.

At the formal hearing, Petitioner offered Exhibits 1, 2, 3, 4, and 5. The Petitioner's Exhibits were admitted over Respondent's objection.

Petitioner called Respondent as its only witness in its case in chief. Respondent called himself as his only witness in his case in chief. Respondent did not offer evidence at the hearing.

Respondent requested additional time to submit evidence. Judge Johnston left the record open until not later than April 21st to submit additional evidence.

Post hearing, on April 11, 2014, Petitioner filed its composite Exhibit 6, the Pinellas County Sheriff's Office, Detention and Corrections Bureau, 2011 Inmate Handbook with an e-mail from the Pinellas County Sheriff's Office records custodian.

On April 17, Petitioner filed its Amended Notice of Filing Objections to Respondent's Proposed Exhibits. On April 29, 2014, A Ruling of Objections and Further Post-

Hearing Procedures was filed. In the Ruling, Judge Johnston admitted Petitioner's Exhibit 6. Respondent's Exhibits 2, 5 and 7 were offered into evidence and admitted. Respondent's Exhibits 1, 3 and 4 were proffered into evidence but not admitted.

In the Ruling, Judge Johnston stated that the Proposed Recommended Orders should be filed by May 13, 2014, if no rebuttal evidence is filed.

On April 29, 2014, Petitioner filed its Notice of Withdrawal of Request to Offer Rebuttal Evidence.

On April 30, 2014, an Amendment to Rulings on Objections and Further Post-Hearing Procedures was filed. Judge Johnston ruled that Respondent's exhibit 6 was proffered but not admitted and closed the evidentiary record.

On May 5th, Respondent submitted proposed exhibits 3, 4, 5, and 8. On May 12, 2014, Respondent filed a Motion to Reconsider Rulings Concerning Exhibits and submitted proposed exhibits 9 and 10. Petitioner filed its Response to Respondent's Motion to Reconsider Rulings Concerning Exhibits and Motions to Admit Exhibits 9 and 10 on May 12, 2014.

Petitioner's Proposed Recommended Order was filed on May 13, 2014, pending rulings on the above mentioned pleadings.

Record references use the following abbreviations:

| | |
|--------------------------|--------------------|
| Final Hearing Transcript | (Tr. P. __) |
| Petitioner's Exhibits | (Pet. Exhibit __) |
| Respondent's Exhibit | (Resp. Exhibit __) |

FINDINGS OF FACT

1. Petitioner is the state agency charged with regulating the practice of pharmacy pursuant to Section 20.43, Florida Statutes; Chapter 456, Florida Statutes; and Chapter 464, Florida Statutes.

2. Respondent is and has been at all times material to this case, a licensed pharmacist within the state of Florida, having been issued license number PS 36908. (Pet. Exhibit 1)

3. On or about December 14, 2010, an Indictment was filed against Respondent in the United States District Court for the Middle District of Florida, in case number 8:10-CR-530-T-33AEP. (Pet. Exhibit 3)

4. On or about September 5, 2012, in the United States District Court for the Middle District of Florida, in case number 8:10-CR-530-T-33AEP, Respondent entered a plea of guilty, in an Amended Plea Agreement, to one count

of attempting or conspiring to commit any offense defined in this subchapter, a felony, in violation of 21 U.S.C. § 846. In the same Amended Plea Agreement, Respondent entered pleas of guilty to two counts of knowingly engaging in monetary transactions, in and affecting interstate and foreign commerce, in criminally derived property of a value greater than \$10,000.00, such property having been from a specified unlawful activity, namely, a conspiracy to traffic in controlled substances, felonies, in violation of 18 U.S.C. § 1957. (Pet. Exhibit 3)

5. Respondent's Amended Plea Agreement set forth that Respondent "owned and operated the TNC Pharmacy, doing business as VIP Pharmacy." (Pet. Exhibit 3)

6. Respondent's Amended Plea Agreement set forth in pertinent part:

"Defendants BELTRAN and SWITLYK also cause and allowed many bottles of Oxycodone to be distributed and sold out of the TNC and VIP Pharmacies to individuals without any prescriptions whatsoever. They would then produce or cause to be produced forged prescriptions and false pharmacy profiles in order to appear that they had legitimately dispensed all the oxycodone that was illegally distributed." (Pet. Exhibit 3)

7. Respondent's Amended Plea Agreement set forth that between January through December 2009, TNC pharmacy purchased 1,541,640 dosage units of oxycodone. This

compares to an average of 111,874 dosage units by Florida pharmacies during the same time period. (Pet. Exhibit 3)

8. Respondent's Amended Plea Agreement set forth that between January through May 20, 2010, TNC pharmacy purchased 1,241,400 dosage units of oxycodone. This compares to an average of 48,322 dosage units by Florida pharmacies during the same time period. (Pet. Exhibit 3)

9. Respondent's Amended Plea Agreement set forth that "...because the TNC and VIP Pharmacies were used to commit and facilitate the commission of such offenses, any property of the business, including at least \$10,700,592.00 obtained from the sale of oxycodone, is subject to forfeiture." (Pet. Exhibit 3)

10. On or about September 5, 2012, in the United States District Court for the Middle District of Florida, in case number 8:10-CR-530-T-33AEP, Respondent entered an Acceptance of Plea of Guilty and Adjudication of Guilt. The United States Magistrate Judge determined that the guilty pleas were knowledgeable and voluntary. (Pet. Exhibit 3)

11. On or about September 5, 2012, in the United States District Court for the Middle District of Florida, in case number 8:10-CR-530-T-33AEP, a Judgment was entered against Respondent, which sentenced him to one hundred and eight (108) months imprisonment. (Pet. Exhibit 3)

12. As part of Respondent's Special Conditions of Supervision, included within Respondent's Judgment, the Court stated that "The defendant shall refrain from engaging in any employment related to dispensing prescription drugs either in a pharmacy, pain clinic, or other medical environment." (Pet. Exhibit 3)

13. The Pinellas County, Detention and Corrections, Inmate Handbook, in operation during the dates Respondent was imprisoned, states in pertinent part:

B. The Pinellas County Jail provides telephones for inmate convenience as a means to contact attorneys, bondsmen and family. All calls are on a "collect call" basis.

C. Inmates can purchase pre-paid phone cards that will enable them to make local and long distance calls. The deputy on duty can provide information on how to purchase one.

H. There are enough telephones to accommodate the number of inmates housed in each area. However, during times of high demand, be aware other inmates need to use the phone. No continuous calling is allowed during these times.

I. If an inmate feels he/she needs to make an emergency phone call, an Inmate Request Form addressed to the Social Worker is to be completed. (Pet. Exhibit 6, p. 13)

14. Respondent testified that he failed to report entering pleas of guilty to the crimes listed above, to the Board of Pharmacy, in writing, within thirty (30) days of the date he entered the pleas. (Tr. P. 33)

15. Respondent testified that while he was in jail, the government allowed him to use a computer and that he used that computer to send e-mails. (Tr. P. 36)

16. Petitioner deposed Ronald B. Salem, R.Ph., in lieu of live testimony. Dr. Salem was tendered as an expert in community pharmacy. (Pet. Exhibit 5, p. 12)

17. Ronald B. Salem stated in his deposition that a pharmacist obtains a DEA permit to order medications. Furthermore, a pharmacist must determine whether the prescription is appropriate and for a "viable reason." (Pet. Exhibit 5, p. 21)

18. Ronald B. Salem stated that a pharmacist should examine certain factors, including but not limited to, whether patients pay with cash, whether patients are local, and whether the pharmacy receives a large volume of controlled substance prescriptions from a single physician.

(Pet. Exhibit 5, p. 22)

19. Ronald B. Salem stated that that Respondent's plea of guilty to possession with intent to distribute quantities of controlled substances is related to the practice of pharmacy. Ronald B. Salem based this opinion on the evidence presented to him, through his professional experience as a registered pharmacist, and from his

experience as a member of the Florida Board of Pharmacy.
(Pet. Exhibit 5, pps. 27-29)

20. Ronald B. Salem stated that Respondent's crimes, to which he pleaded guilty to, presented a "tremendous potential for patient harm." (Pet. Exhibit 5, p. 56).

21. Ronald B. Salem stated that Respondent's pleas of guilty are related to the practice of pharmacy because they violated the public trust, negatively affected Respondent's integrity, and affected Respondent's ability to exercise sound judgment. (Pet. Exhibit 5, pps. 33-34)

22. The Honorable Virginia M. Hernandez-Covington (hereinafter referred to as "Sentencing Judge") stated in Respondent's sentencing hearing that "[Respondent] should not be allowed to practice as a pharmacist... I don't think he should ever have the right to ... work as a pharmacist again after it's been abused." (Resp. Exhibit 2, pps. 21, 23)

CONCLUSIONS OF LAW

23. The Division of Administrative Hearings has jurisdiction over the parties to and the subject matter of this proceeding. Fla. Stat. § 120.569 and Fla. Stat. § 120.57(1) (2012).

24. The Department has the burden to establish the allegations in the Administrative Complaint by clear and

convincing evidence. *Dep't of Banking & Fin. v. Osborne Stern & Co.*, 670 So.2d 932 (Fla. 1996).

25. The Florida Supreme Court has adopted the interpretation that the "clear and convincing" standard requires the Petitioner to provide evidence "of such weight that it produces in the mind of the trier of fact a firm belief or conviction, without hesitancy, as to the truth of the allegations sought to be established." *In re Davey*, 645 So.2d 398, 404 (Fla. 1994), adopting the language found in *Slomowitz v. Walker*, 429 So.2d 797, 800 (Fla. 4th DCA, 1983)

26. The Petitioner alleges that Respondent violated Section 456.072(1)(c) and 456.072(1)(x), Florida Statutes (2012), which provides in pertinent part:

(1) The following acts shall constitute grounds for which the disciplinary actions specified in subsection (2) may be taken:

* * *

(c) Being convicted or found guilty of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the practice of, or the ability to practice, a licensee's profession.

* * *

(x) Failing to report to the board, or the department if there is no board, in writing within 30 days after the licensee has been convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction. Convictions, findings,

adjudications, and pleas entered into prior to the enactment of this paragraph must be reported in writing to the board, or department if there is no board, on or before October 1, 1999.

27. The Petitioner has demonstrated by clear and convincing evidence that Respondent's pleas of guilty are related to the practice of Pharmacy and that Respondent failed to report such pleas.

28. Respondent's guilty pleas are related to the practice of pharmacy because his actions breached the trust invested in him by the Florida Legislature. The Florida First District Court of Appeal held that conspiracy to possess and import marijuana, in violation of Title 21, United States Code (1981), Section 841(a)(1) is directly related to the practice of podiatry. *Rush v. DBPR, Board of Podiatry*, 448 So.2d 26, 27-8 (Fla. 1st DCA, 1984). The court reasoned that a podiatrist was one of six categories of licensees that may dispense drugs. The court further reasoned that the actions of the licensee:

"constitute a breach of that trust and confidence which the people, through the Legislature, have placed in him. [Licensee's] conduct shows a lack of honesty, integrity, and judgment, and an unwillingness to abide by the Laws of the State of Florida which cannot be tolerated of a professional licensed to dispense dangerous drugs."

The Court in *Rush* delineated that a crime related to the practice need not be limited to "only those crimes which relate to the technical ability to practice podiatry or to those which arise out of misconduct in the office setting....."

a felony conviction for conspiracy to import a dangerous drug is within the scope of "those crimes which directly relate to the practice or ability to practice podiatry." *Id.* at 27-8. Respondent's profession as a pharmacist clearly allows him to dispense drugs, and as such, his guilty pleas also demonstrate a breach of trust. Furthermore, Respondent's crimes are more serious than those in *Rush* because Respondent's crimes arose directly from misconduct in the office setting.

29. Respondent's guilty pleas evidenced poor judgment, a lack of honesty, and a lack of integrity. The Florida First District Court of Appeal has held that pleading guilty to a crime that demonstrates a "lack of honesty, integrity, and judgment," relates to the practice of Chiropractic medicine. *Doll v. Department of Health*, 969 So.2d 1103 (Florida 1st DCA, 2007). As evidenced in the testimony of Dr. Ronald Salem, Respondent exercised poor judgment and Respondent's actions negatively affect his honesty and integrity.

30. Respondent's guilty pleas are also related to the practice of Pharmacy because licensure was necessary to commit the crimes. Respondent's status as a Pharmacist, which authorized him to prescribe and dispense controlled substances, enabled him to commit the crimes to which he pleaded guilty. In *Department of Health, Board of Medicine v. Algirdas Krisciunas, M.D.*, DOAH case number 10-10229PL (2011) (Adopted in toto by the Florida Board of Medicine), the Division of Administrative Hearings held that being adjudicated guilty of five counts of unlawfully dispensing oxycodone and one count of conspiring to distribute oxycodone is related to the practice of medicine. In *Algirdas*, the Department of Health alleged that Respondent violated 458.331(1)(c), Florida Statutes, which provides the same or similar language as Section 456.072(1)(c), Florida Statutes, (2012). The Court further opined that a crime is related to the practice of medicine if the license is necessary to execute said crime. The Court in *Algirdas* stated that the licensee:

"benefitted financially from the sale of controlled substances - for cash - to a patient who did not demonstrate any need for them. Finally, [licensee's] criminal conduct involved the provision of controlled substances for trade, barter, or sale."

In *Algirdas*, The Department of Administrative Hearings recommended revocation, which the Board of Medicine adopted. In the instant case, as evidenced by the Amended Plea Agreement, although subsequently forfeited, Respondent intended to and did derive a pecuniary benefit from the underlying criminal actions, which were similar to the crimes described in *Algirdas*.

31. Respondent admitted that he did not report his pleas of guilty to the Department, and the Pinellas County Inmate Handbook demonstrates that he was capable of communicating via telephone during the time at issue.

32. The Board of Pharmacy imposes penalties upon licensees in accordance with the disciplinary guidelines prescribed in Florida Administrative Code Rule 64B16-30.001. The range of penalties for a first offense comprising a single violation of Section 456.072(1)(c), Florida Statutes (2012), is set forth in Rule 64B16-30.001(o)(3) and may be disciplined by a minimum penalty of a \$3,000 fine and one year probation to the maximum penalty of Revocation. (Pet. Exhibit 4)

33. The range of penalties for a first offense comprising a single violation of Section 456.072(1)(x), Florida Statutes (2012), is set forth in Rule 64B16-

30.001(o)(18) and may be disciplined by a minimum penalty of a \$1,000 fine and a maximum penalty of Revocation.

34. Florida Administrative Code Rule 64B16-30.001(3) provides that, in applying the penalty guidelines, the following aggravating and mitigating circumstances are to be taken into account:

(a) Aggravating circumstances; circumstances which may justify deviating from the above set forth disciplinary guidelines and cause the enhancement of a penalty beyond the maximum level of discipline in the guidelines shall include but not be limited to the following:

1. History of previous violations of the practice act and the rules promulgated thereto.
2. In the case of negligent acts, the magnitude and scope of the damage or potential damage inflicted upon the patient or the general public by the licensee's misfeasance.
3. Evidence of violation of professional practice acts in other jurisdictions wherein the licensee has been disciplined by the appropriate regulatory authority.
4. Violation of the provision of the practice act wherein a letter of guidance as provided in Section 456.073(3), F.S., has been previously issued to the licensee.

(b) Mitigating circumstances; circumstances which may justify deviating from the above set forth disciplinary guidelines and cause the lessening of a penalty beyond the minimum level of discipline in the guidelines shall include but not be limited to the following:

1. In cases of negligent acts, the minor nature of the damage or potential damage to the patient's or the public's health, safety and welfare resulting from the licensee's misfeasance.

2. Lack of previous disciplinary history in this or any other jurisdiction wherein the licensee practices his profession.
3. Restitution of any monetary damage suffered by the patient.
4. The licensee's professional standing among his peers.

5. Steps taken by the licensee to insure the non-occurrence of similar violations in the future including continuing education
6. The degree of financial hardship incurred by a licensee as a result of the imposition of fines or the suspension of his practice.

35. The Petitioner has proved by clear and convincing evidence that Respondent entered 3 guilty pleas and that each guilty plea may be disciplined by a penalty of revocation. The Petitioner has proved by clear and convincing evidence that Respondent did not report his pleas of guilty to the Department, in writing within 30 days, in writing, after entering the pleas. This violation may also be punished by a penalty of revocation.

36. Respondent has presented mitigating circumstances through his own testimony. However, these mitigating circumstances can lessen neither the magnitude nor the multitudinous nature of the violations. Respondent introduced testimony that alcohol abuse led to his failure to properly monitor the pharmacy. However, expert testimony demonstrates that Respondent's crimes were committed intentionally, and as such, should not be considered to be "negligent" as pertaining to the disciplinary guidelines

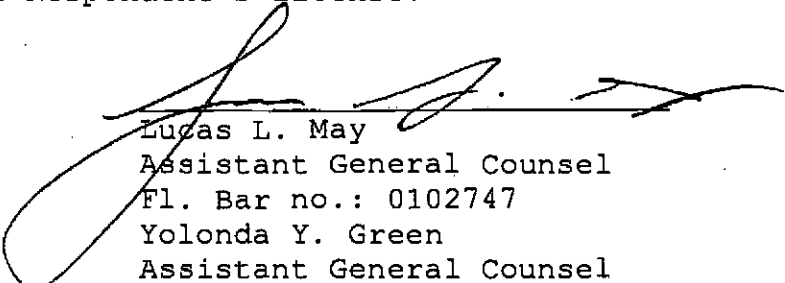
mitigating circumstances. In the alternative, should Respondent's guilty pleas be considered to have arisen from acts of negligence, expert testimony demonstrated that Respondent's actions posed a severe "potential damage inflicted upon the patient or the general public," which is the second aggravating factor listed above. Respondent's actions, evidenced through his guilty pleas to trafficking in oxycodone and dealing in monetary transactions derived from unlawful activities, placed patient health at risk and violated the public trust. The Sentencing Judge in Respondent's criminal case is also of the opinion that Respondent should never practice as a pharmacist based on the abuse of his license.

37. Respondent testified that he exercised poor judgment due to excessive alcohol consumption. However, Respondent's use of alcohol does not negate the existence of the guilty pleas. Such evidence of substance abuse lends further credence to Petitioner's argument that Respondent is not fit to practice pharmacy.

PROPOSED RECOMMENDATION

Based on the foregoing Findings of Fact and Conclusions of Law, it is recommended that the Administrative Law Judge enter a Recommended Order finding

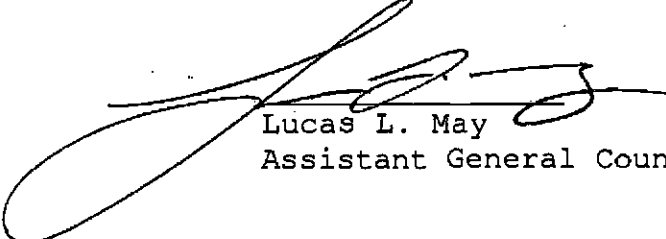
that Christopher Switlyk, R.P.H., violated Section 456.072(1)(c), Florida Statutes (2012) and Section 456.072(1)(x), Florida Statutes (2012). Pursuant to the disciplinary guidelines set forth in Florida Administrative Code Rule 64B16-30.001, an appropriate penalty is permanent revocation of Respondent's license.



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CERTIFICATE OF SERVICE

I CERTIFY that a true and correct copy hereof has been furnished to: Christopher S. Switlyk, Register #53913-018, FCI Estill, Post Office Box 699, Estill, South Carolina, 29918-0699 by U.S. mail and via facsimile on this 13 day of May, 2014.



Lucas L. May
Assistant General Counsel

STATE OF FLORIDA DIVISION OF ADMINISTRATIVE HEARINGS

DEPARTMENT OF HEALTH, Petitioner,

v.

DOAH CASE NO: 14 0883

DOH CASE NO: 0004

CHRISTOPHER SWITLYK, R.Ph., Respondent. /

RECEIVED
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DIVISION OF
ADMINISTRATIVE
HEARINGS

FILED

RESPONDENT'S PROPOSED RECOMMENDED ORDER

The violation which I am being penalized for is Violation Letter O, Number 3, of the Florida Department of Health's Disciplinary Guidelines which were in effect at the time of my offense. It reads, "Being convicted or found guilty of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the practice of, or the ability to practice a licensee's profession." According to these same Disciplinary Guidelines, the range of penalties for committing this particular violation is a minimum of a \$3,000.00 fine and 1 year of probation, and a maximum of license revocation.

The Disciplinary Guidelines also include a list of Mitigating Circumstances which may justify deviating from them, and cause the lessening of a penalty beyond the minimum level of discipline in the guidelines. These Mitigating Circumstances are:

- 1) In cases of negligent acts, the minor nature of the damage or potential damage to the patient's or the public's health, safety and welfare resulting from the licensee's misfeasance.

- 2) Lack of previous disciplinary history in this or any other jurisdiction wherein the licensee practices his profession.
- 3) Restitution of any monetary damage suffered by the patient.
- 4) The licensee's professional standing among his peers.
- 5) Steps taken by the licensee to insure the non-occurrence of similar violations in the future including continuing education.
- 6) The degree of financial hardship incurred by a licensee as a result of the imposition of fines or the suspension of his practice.

Without unnecessarily rehashing the specifics of my offense which lead me to being in this current predicament of my license to practice pharmacy in the future being in jeopardy, I propose that my penalty be a fine of \$3,000.00, and a license suspension of 5 years, followed by a probationary period of 2 years. Despite the minimum penalty for this type of violation being only the probation of an offender's medical license for 1 year, I acknowledge that certain circumstances surrounding my offense will likely be taken into consideration when determining my penalty and therefore likely increase it to a justifiable license suspension of 5 years (which in actuality would really be a 9 year suspension since I voluntarily stopped practicing as a pharmacist 4 years ago in May of 2010).

I feel that this proposed penalty is more than sufficient to satisfy the statutory purposes of the discipline of a licensee in my situation. I also feel that this penalty is not greater than necessary, which is important for the Court to take into consideration when making such a critical decision which would literally change every aspect of my impending future. I feel that any penalty imposed greater than this would cause unwarranted and irreparable harm to my future, my life, and my well-being.

A 5 year suspension, followed by 2 years of probation, would be more than enough punishment to deter me from jeopardizing my license and career ever again, especially knowing that it would be nearly impossible for me to start another promising career in my middle-age. Without a chance to reestablish my career in pharmacy, a field which I have worked in my whole adult life, any chance of me having and supporting a family would also be destroyed, which is something I have always wanted to do. Considering my age, extreme remorse, extensive cooperation, lack of criminal history, personal characteristics, post-offense efforts to address my mental issues which contributed to my offense, and my initiative to begin the process of my rehabilitation, I feel that this would be an appropriate penalty.

Also, just as there are factors which will be considered by the Court when they decide to increase my penalty above the minimum of 1 year probation, I feel that there are several factors which should also be considered by the Court which would likely motivate them to impose a penalty significantly less than the maximum of license revocation.

The factors and circumstances pertaining to my offense which qualify as Mitigating Circumstances in accordance with the Disciplinary Guidelines are:

1) There was no evidence ever presented that there was damage to any patients or to the health, safety, and welfare of the general public as a result of my offense. In fact, in my indictment, pre-sentence report, plea bargain, and sentencing documents, anywhere that there was a space for "victim", it always said "none".

2) I have never had any previous disciplinary history in this or any other jurisdiction where I have practiced pharmacy. Despite working tens of thousands of hours in the field of pharmacy since I was 16 years old, and despite practicing as a pharmacist for several years in numerous Walgreen's and CVS pharmacies which filled well over 1,000 prescriptions per day, I have never been cited for any improper conduct, not even a single miss-fill of a medication. I also have never been convicted of a crime before this incident, not even a misdemeanor.

3) There was no monetary loss suffered by any patients, the public, or the government, due to my offense. In fact, just the opposite happened, since I voluntarily turned over 7+ million dollars to the government on the first day of their investigation, which included a significant amount of money that I earned working as a pharmacist for the 8 years before the year I had my own pharmacy.

4) In spite of my offense, I still have a reputable professional standing among many of my peers. Many other pharmacists close to me and the situation knew that the government placed blame on me for the actions of other individuals which I did not even find out about until they were brought to my attention long after I voluntarily closed my pharmacy for them. Also 2 currently licensed pharmacists wrote character letters to my sentencing judge, which I forwarded to this Court as part of my Exhibit 4. I could easily have had a dozen more pharmacists write similar letters for me if the government did not unexpectedly revoke my bond in order to pressure me to plea to exaggerated charges.

5) I feel that I have taken several significant steps to insure the non-occurrence of similar violations in the future, including continuing education. As far as CE, as part of Exhibit 8, I already sent the Court the Continuing Education Certificates which were available to me that I earned for each course I completed in 2010, 2011, and 2012. Even though I voluntarily stopped practicing as a pharmacist on May 20, 2010 due to my pending criminal case, and despite going through significant legal problems while I was out on bond, I still spent a considerable amount of time completing Continuing Education Courses because I still cared about meeting the requirements to maintain my pharmacist license. I even completed several courses about Opioid Dependence in order to achieve a better understanding of it since my criminal case focused on an opioid medication.

As far as other proactive measures which I have taken in order to insure the non-occurrence of similar violations in my future, these include routinely attending therapy sessions with a Psychiatrist, getting put on and complying with a Psychiatrist's medication regimen, submitting myself to the 500-House In-House Residential Drug Abuse Program (which is the intense program offered by the Bureau of Prisons to help people overcome their addictions), and adhering to the strict guidelines which will be imposed on me during the 3 years of my supervised release subsequent to my release.

After enduring unfortunate learning experiences the past several years, I believe that I definitely learned how to prevent myself from getting into any situations which could have negative impacts on me. I also believe that I have learned how to be more responsible in my choice of the people I associate with in the future. I have completely cut ties with any individuals who were bad influences on me, as well as formed a closer bond with my family members. After going through this horrible experience it became painfully obvious to me that my family members are the only people who actually care about me and still support me. In addition to me being extremely disappointed in myself for getting into this situation, my family, especially my parents who are both physicians, are also extremely disappointed in me as well over it, which has caused me extreme embarrassment, which has been the worst punishment of all. After I am finally able to put this horrible ordeal behind me, I know that I will do whatever positive things I can do, not just for my own sake, but also to make my family proud of me again as well.

6) I have suffered, and continue to suffer, an extreme degree of financial hardship as a result of my offense and resulting closure of my practice. On May 20, 2010, I voluntarily closed my pharmacy for the DEA, gave them all of my medications, and all of my money to "hold on to." I later signed over everything to the government as part of my extensive cooperation, which literally left me penniless. Not only did I turn over everything which I legally earned from my businesses, but part of the seven-plus million I turned over included about 500 thousand that I had saved up the previous 10 years from working hard as a pharmacist at various pharmacies many, many hours.

As a result of losing everything due to this situation, after supporting myself for the past 15 years, I now have to depend completely on my parents for financial support in my late 30's, which causes me additional emotional frustration and embarrassment. Any further imposition of fines would be an extreme hardship considering my current circumstances, but I would be happy to enter into a payment program to pay off any fine which the Court imposes on me as part of my penalty as soon I am able to get my license reinstated on probationary status.

Additional Factors which I feel should also be considered by the Court when determining what my penalty will be for my offense are:

7) I have worked thousands of hours on extensive cooperation with the government concerning numerous significant cases, on top of voluntarily turning everything over. Exhibit 6 is a summary of a lot of the cooperation I have done during the 33 months prior to my sentencing.

8) I was suffering from untreated mental issues during the timeframe of my offense, as well as alcohol dependance and abuse, which I feel contributed to my lapse of judgement back then. Exhibits which support this factor are Exhibit 2 (My Sentencing Transcripts), Exhibit 3 (Psychiatric Medical Records), Exhibit 4 (My Sentencing Memorandum), and Exhibit 5 (Professional Resource Network Documents).

9) I was under serious coercion, duress, blackmail, and extortion during the timeframe of the offense, which significantly contributed to my involvement in the offense. Exhibit 9 (9A & 9B), which are text messages and an email, supports this factor.

10) Since the penalty which will be imposed on me by the Court correlates with my criminal sentence, I feel that the Court should consider the likely imminent reduction of my sentence through various methods when determining my penalty. Exhibits which support this factor are Exhibit 1 (My Pending Appeal), Exhibit 5 (500 Hour Residential Drug Abuse Program Eligibility), Exhibit 6 (Summary of My Cooperation), and Exhibit 10 (Articles about Ensuing Sentencing Reform).

Thus, for these reasons, as well as the fact that I am extremely remorseful for committing an offense related to the practice of pharmacy, and would never dare commit a similar offense in my future, I feel that my proposed recommended penalty is a just and proper resolution to this case. I feel that a 5 year suspension, followed by 2 years of probation is definitely a severe enough punishment for my offense, especially when my mitigating factors, and the circumstances surrounding my offense, are all taken into consideration. I pray that the Court will make a fair and just decision concerning this life-changing matter.

Respectfully Submitted,

signature/ Christopher Switlyk

CHRISTOPHER SWITLYK

date/ 05/06/2014

CERTIFICATE OF SERVICE

I, CHRISTOPHER STEPHEN SWITLYK, hereby certify under the penalty of perjury, 28 U.S.C. § 1746, that a true and correct copy of the forgoing "Respondent's Proposed Recommended Order" was deposited in the prison's legal mailing system on this 6th day of May of 2014, addressed to:

Lucas May, Assistant General Counsel
Florida Department of Health
Prosecutorial Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, FL 32399-3265

I further attest that first-class postage has been prepaid.

Executed on this 6th day of May of 2014.

signature/ Christopher Stephen Switlyk

CHRISTOPHER STEPHEN SWITLYK

JKR

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

UNITED STATES OF AMERICA

v.

Case No. 8:10-CR-530-T-33AEP

CHRISTOPHER SWITLYK

PLEA AGREEMENT

Pursuant to Fed. R. Crim. P. 11(c), the United States of America, by Robert E. O'Neill, United States Attorney for the Middle District of Florida, and the defendant, CHRISTOPHER SWITLYK, and the attorney for the defendant, Jeffrey Brown, Esq., mutually agree as follows:

A. Particularized Terms

1. Count Pleading To

The defendant shall enter a plea of guilty to Counts One, Five and Six of the Indictment. Count One charges the defendant with conspiring to

1) distribute and possess with intent to distribute quantities of controlled substances, primarily oxycodone, a Schedule II controlled substance, contrary to Title 21, United States Code, Section 841(a)(1);

2) dispense and distribute, and cause to be dispensed and distributed, quantities of controlled substances, primarily oxycodone, a Schedule II controlled substance, not for a legitimate medical purpose and not in the usual course of professional practice, contrary to Title 21, United States Code, Section 841(a)(1);

3) use, and cause to be used, a registration number that was issued to another person in the course of distributing and

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dispensing controlled substances, primarily oxycodone, a Schedule II Controlled Substance, contrary to Title 21, United States Code, Section 843(a)(2);

4) acquire and obtain possession, and cause the acquiring and obtaining of possession, of controlled substances, primarily oxycodone, a Schedule II Controlled Substance, by misrepresentation, fraud, forgery, deception or subterfuge, contrary to Title 21, United States Code, Section 843(a)(3); and

5) open, lease, rent, use and maintain, and cause to be opened, leased, rented, used, and maintained, certain places for the purpose of distributing and dispensing controlled substances, primarily oxycodone, a Schedule II Controlled Substance, contrary to Title 21, United States Code, Section 856(a)(1),

All in violation of Title 21, United States Code, § 846.

Counts Five and Six charge the defendant with engaging in monetary transactions, in and affecting interstate and foreign commerce, in criminally derived property of a value greater than \$10,000.00, such property having been from a specified unlawful activity, namely, a conspiracy to traffic in controlled substances in violation of Title 21, United States Code, Section 846, in violation of Title 18 United States Code, Sections 1957 and 2.

2. Minimum and Maximum Penalties

Count One is punishable by a term of imprisonment of up to 20 years, a fine of up to \$1 million, a term of supervised release of at least 3 years, and a special assessment of \$100, said special assessment to be due on the date of sentencing. Counts Five and Six are punishable by a term of imprisonment of up to 10 years, a fine of up to \$250,000, a term of supervised

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release of not more than three years, and a special assessment of \$100 per count, said special assessment to be due on the date of sentencing.

3. Elements of the Offense

The defendant acknowledges understanding the nature and elements of the offenses with which defendant has been charged and to which defendant is pleading guilty. The elements of Count One are:

First: That two or more persons in some way or manner came to a mutual understanding to try to accomplish a common and unlawful plan, as charged in the Indictment.

Second: That the defendant, knowing the unlawful purpose of the plan, willfully joined in it; and

Third: That the object of the unlawful plan was to That the object of the unlawful plan was 1) distribute and possess with intent to distribute, 2) to distribute or dispense not for a legitimate medical purpose and not in the usual course of professional practice, 3) to use or cause to be used a registration number that was issued to another person in the course of distributing and dispensing, 4) to acquire and obtain by misrepresentation, fraud, forgery, deception or subterfuge, and 5) to use and cause to be used certain places for the purpose of distributing and dispensing, controlled substances, primarily oxycodone, a Schedule III controlled substance, as charged.

The elements of Counts Five and Six are:

First: the Defendant knowingly engaged or attempted to engage in a monetary transaction;

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Second: the Defendant knew the transaction involved property or funds that were the proceeds of some criminal activity;

Third: the property had a value of more than \$10,000;

Fourth: the property was in fact proceeds of the specified unlawful activity described in the indictment; and

Fifth: the transaction took place in the United States.

4. Counts Dismissed

At the time of sentencing, the remaining counts against the defendant, Counts Two, Three and Four of the Indictment, will be dismissed pursuant to Fed. R. Crim. P. 11(c)(1)(A).

5. No Further Charges

If the Court accepts this plea agreement, the United States Attorney's Office for the Middle District of Florida agrees not to charge defendant with committing any other federal criminal offenses known to the United States Attorney's Office at the time of the execution of this agreement, related to the conduct giving rise to this plea agreement.

6. Acceptance of Responsibility - Three Levels

At the time of sentencing, and in the event that no adverse information is received suggesting such a recommendation to be unwarranted, the United States will recommend to the Court that the defendant receive a two-level downward adjustment for acceptance of responsibility, pursuant to USSG §3E1.1(a). The defendant understands that this recommendation or request is

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not binding on the Court, and if not accepted by the Court, the defendant will not be allowed to withdraw from the plea.

Further, at the time of sentencing, if the defendant complies with the provisions of USSG §3E1.1(b), the United States agrees to file a motion pursuant to USSG §3E1.1(b) for a downward adjustment of one additional level. The defendant understands that the determination as to whether the defendant has qualified for a downward adjustment of a third level for acceptance of responsibility rests solely with the United States Attorney for the Middle District of Florida, and the defendant agrees that the defendant cannot and will not challenge that determination, whether by appeal, collateral attack, or otherwise.

7. Low End

At the time of sentencing, and in the event that no adverse information is received suggesting such a recommendation to be unwarranted, the United States will recommend to the Court that the defendant receive a sentence at the low end of the applicable guideline range, as calculated by the Court. The defendant understands that this recommendation or request is not binding on the Court, and if not accepted by the Court, the defendant will not be allowed to withdraw from the plea.

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7. Safety Valve Provision

The United States will not oppose to the Court that it impose a sentence in accordance with the applicable guidelines without regard to any statutory minimum sentence, pursuant to USSG §5C1.2, if the Court finds that the defendant meets the criteria set forth in 18 U.S.C. § 3553(f). The defendant understands that this recommendation or request is not binding on the Court, and if not accepted by the Court, the defendant will not be allowed to withdraw from the plea.

8. Cooperation - Substantial Assistance to be Considered

Defendant agrees to cooperate fully with the United States in the investigation and prosecution of other persons, and to testify, subject to a prosecution for perjury or making a false statement, fully and truthfully before any federal court proceeding or federal grand jury in connection with the charges in this case and other matters, such cooperation to further include a full and complete disclosure of all relevant information, including production of any and all books, papers, documents, and other objects in defendant's possession or control, and to be reasonably available for interviews which the United States may require. If the cooperation is completed prior to sentencing, the government agrees to consider whether such cooperation qualifies as "substantial assistance" in accordance with the policy of the United States Attorney for the Middle District of Florida, warranting the filing of a motion at the time of

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sentencing recommending (1) a downward departure from the applicable guideline range pursuant to USSG §5K1.1, or (2) the imposition of a sentence below a statutory minimum, if any, pursuant to 18 U.S.C. § 3553(e), or (3) both. If the cooperation is completed subsequent to sentencing, the government agrees to consider whether such cooperation qualifies as "substantial assistance" in accordance with the policy of the United States Attorney for the Middle District of Florida, warranting the filing of a motion for a reduction of sentence within one year of the imposition of sentence pursuant to Fed. R. Crim. P. 35(b). In any case, the defendant understands that the determination as to whether "substantial assistance" has been provided or what type of motion related thereto will be filed, if any, rests solely with the United States Attorney for the Middle District of Florida, and the defendant agrees that defendant cannot and will not challenge that determination, whether by appeal, collateral attack, or otherwise.

9. Use of Information - Section 1B1.8

Pursuant to USSG §1B1.8(a), the United States agrees that no self-incriminating information which the defendant may provide during the course of defendant's cooperation shall be used in determining the applicable sentencing guideline range, subject to the restrictions and limitations set forth in USSG §1B1.8(b).

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10. Cooperation - Responsibilities of Parties

a. The government will make known to the Court and other relevant authorities the nature and extent of defendant's cooperation and any other mitigating circumstances indicative of the defendant's rehabilitative intent by assuming the fundamental civic duty of reporting crime. However, the defendant understands that the government can make no representation that the Court will impose a lesser sentence solely on account of, or in consideration of, such cooperation.

b. It is understood that should the defendant knowingly provide incomplete or untruthful testimony, statements, or information pursuant to this agreement, or should the defendant falsely implicate or incriminate any person, or should the defendant fail to voluntarily and unreservedly disclose and provide full, complete, truthful, and honest knowledge, information, and cooperation regarding any of the matters noted herein, the following conditions shall apply:

(1) The defendant may be prosecuted for any perjury or false declarations, if any, committed while testifying pursuant to this agreement, or for obstruction of justice.

(2) The United States may prosecute the defendant for the charges which are to be dismissed pursuant to this agreement, if any, and may either seek reinstatement of or refile such charges and prosecute the defendant thereon in the event such charges have been dismissed pursuant to

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this agreement. With regard to such charges, if any, which have been dismissed, the defendant, being fully aware of the nature of all such charges now pending in the instant case, and being further aware of defendant's rights, as to all felony charges pending in such cases (those offenses punishable by imprisonment for a term of over one year), to not be held to answer to said felony charges unless on a presentment or indictment of a grand jury, and further being aware that all such felony charges in the instant case have heretofore properly been returned by the indictment of a grand jury, does hereby agree to reinstatement of such charges by rescission of any order dismissing them or, alternatively, does hereby waive, in open court, prosecution by indictment and consents that the United States may proceed by information instead of by indictment with regard to any felony charges which may be dismissed in the instant case, pursuant to this plea agreement, and the defendant further agrees to waive the statute of limitations and any speedy trial claims on such charges.

(3) The United States may prosecute the defendant for any offenses set forth herein, if any, the prosecution of which in accordance with this agreement, the United States agrees to forego, and the defendant agrees to waive the statute of limitations and any speedy trial claims as to any such offenses.

(4) The government may use against the defendant its own admissions and statements and the information and books, papers,

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documents, and objects that the defendant has furnished in the course of the defendant's cooperation with the government.

(5) The defendant will not be permitted to withdraw the guilty plea to that count to which defendant hereby agrees to plead in the instant case but, in that event, defendant will be entitled to the sentencing limitations, if any, set forth in this plea agreement, with regard to the count to which the defendant has pled; or in the alternative, at the option of the United States, the United States may move the Court to declare this entire plea agreement null and void.

11. Forfeiture of Assets

The defendant agrees to forfeit to the United States immediately and voluntarily any and all assets and property, or portions thereof, subject to forfeiture, pursuant to Title 21, United States Code, Section 853, and Title 18, United States Code, Section 982(a)(1); whether in the possession or control of the United States or in the possession or control of the defendant or defendant's nominees. The assets to be forfeited specifically include, but are not limited to, the following:

- (a) \$1,609,520.00 in U.S. currency, seized from Regions Bank on May 20, 2010;
- (b) \$2,545.00 in U.S. currency, seized from Christopher Swittyk on May 20, 2010;
- (c) \$7,960.00 in U.S. currency, seized from Thomas Curtiss on May 20, 2010;

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- (d) \$425,730.00 in U.S. currency, seized from VIP Pharmacy on May 20, 2010;
- (e) \$25,630.00 in U.S. currency, seized from Tampa Bay Wellness Center on May 20, 2010;
- (f) Regions Bank cashier's check #5003014747, in the amount of \$42,101.94, seized on May 21, 2010;
- (g) 363 assorted money orders in the amount of \$267,650.00, seized from VIP Pharmacy on May 20, 2010;
- (h) 6 assorted money orders in the amount of \$4,000.00, seized from Thomas Curtiss on May 20, 2010;
- (i) Check #5808 from Infinity Abstract and Title, LLC, in the amount of \$400,000.00, seized on June 3, 2010;
- (j) One Lincoln MKX, Vehicle Identification Number 2LMDU68C77BJ08440, Florida Tag Number ACSG82, titled and registered in the name of Christopher Switlyk, seized on September 7, 2010; and
- (k) the real property, including all appurtenances thereto, located at 2410 Victoria Gardens Lane, Tampa, Florida 33609, the legal description of which is as follows:

LOT 1, BLOCK 4, VICTORIA PARK SOHO
TOWNHOMES, ACCORDING TO THE PLAT
THEREOF, RECORDED IN PLAT BOOK 99, PAGE
49 OF THE PUBLIC RECORDS OF
HILLSBOROUGH COUNTY, FLORIDA.

PARCEL ID #A2329187200000004000010.

The defendant agrees to execute any further documents necessary
to allow the United States to negotiate the money orders and checks listed

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above. He also agrees that by entering this plea agreement he is withdrawing his claim to the administrative forfeiture commenced by the U.S. Drug Enforcement Administration of the approximately \$14,418.91 seized from Pilot Bank account number 4127099 on or about April 25, 2012, and is consenting to the administrative forfeiture of those funds.

In addition, the defendant shall be subject to a forfeiture money judgment in the amount of \$10,700,592.00, representing the amount of proceeds, or property derived from proceeds, or property involved in, the offenses to which the defendant is pleading guilty, for which the defendant shall be jointly and severally liable with his co-defendants in this case. The net proceeds from the forfeiture of the assets enumerated above shall be credited toward the satisfaction of this money judgment. The defendant hereby represents that he has no right, title, or interest in any other assets (e.g., cash, personal property, or real property) listed in the Indictment (Doc. 1) or Bill of Particulars (Doc. 67) in *United States v. Fernandez, et al.*, Case No. 8:10-CR-530-T-33AEP.

The defendant agrees and consents to the forfeiture of these assets pursuant to any federal criminal, civil, and/or administrative forfeiture action. The defendant also hereby agrees that the forfeiture described herein is not excessive and, in any event, the defendant waives any constitutional claims that the defendant may have that the forfeiture constitutes an excessive fine.

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The defendant admits and agrees that the conduct described in the Factual Basis below provides a sufficient factual and statutory basis for the forfeiture of the property sought by the government. Pursuant to the provisions of Rule 32.2(b)(1), the United States and the defendant request that at the time of accepting this plea agreement, the court make a determination that the government has established the requisite nexus between the property subject to forfeiture and the offense(s) to which defendant is pleading guilty and enter a preliminary order of forfeiture. Pursuant to Rule 32.2(b)(4), the defendant agrees that the preliminary order of forfeiture shall be final as to the defendant at the time it is entered, notwithstanding the requirement that it be made a part of the sentence and be included in the judgment.

The defendant agrees to forfeit all interests in the properties described above and to take whatever steps are necessary to pass clear title to the United States. These steps include, but are not limited to, the surrender of title, the signing of a consent decree of forfeiture, and signing of any other documents necessary to effectuate such transfers.

Defendant further agrees to take all steps necessary to locate property and to pass title to the United States before the defendant's sentencing. To that end, defendant agrees to fully assist the government in the recovery and return to the United States of any assets, or portions thereof, as described above wherever located. The defendant agrees to make a full and complete disclosure

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of all assets over which defendant exercises control and those which are held or controlled by a nominee. The defendant further agrees to be polygraphed on the issue of assets.

The defendant agrees that the United States is not limited to forfeiture of the property described above. If the United States determines that property of the defendant identified for forfeiture cannot be located upon the exercise of due diligence; has been transferred or sold to, or deposited with, a third party; has been placed beyond the jurisdiction of the Court; has been substantially diminished in value; or has been commingled with other property which cannot be divided without difficulty; then the United States shall, at its option, be entitled to forfeiture of any other property (substitute assets) of the defendant up to the value of any property described above and/or in satisfaction of the forfeiture money judgment. The United States agrees to schedule the defendant's polygraph examination promptly upon the Court's acceptance of the plea agreement, and to complete its financial investigation of the defendant within two years. If the United States concludes that the defendant has not retained any proceeds of the charged drug conspiracy, it will extinguish the forfeiture money judgment.

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This Court shall retain jurisdiction to settle any disputes arising from application of this clause. The defendant agrees that forfeiture of substitute assets as authorized herein shall not be deemed an alteration of the defendant's sentence.

Forfeiture of the defendant's assets shall not be treated as satisfaction of any fine, restitution, cost of imprisonment, or any other penalty this Court may impose upon the defendant in addition to forfeiture.

B. Standard Terms and Conditions

1. Special Assessment and Fine

On each count to which a plea of guilty is entered, the Court shall impose a special assessment, to be payable to the Clerk's Office, United States District Court, and due on date of sentencing. The defendant understands that this agreement imposes no limitation as to fine.

2. Supervised Release

The defendant understands that the offense to which the defendant is pleading provides for imposition of a term of supervised release upon release from imprisonment, and that, if the defendant should violate the conditions of release, the defendant would be subject to a further term of imprisonment.

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3. Sentencing Information

The United States reserves its right and obligation to report to the Court and the United States Probation Office all information concerning the background, character, and conduct of the defendant, to provide relevant factual information, including the totality of the defendant's criminal activities, if any, not limited to the count to which defendant pleads, to respond to comments made by the defendant or defendant's counsel, and to correct any misstatements or inaccuracies. The United States further reserves its right to make any recommendations it deems appropriate regarding the disposition of this case, subject to any limitations set forth herein, if any.

Pursuant to 18 U.S.C. § 3664(d)(3) and Fed. R. Crim. P.

32(d)(2)(A)(ii), the defendant agrees to complete and submit, upon execution of this plea agreement, an affidavit reflecting the defendant's financial condition.

The defendant further agrees, and by the execution of this plea agreement, authorizes the United States Attorney's Office to provide to, and obtain from, the United States Probation Office or any victim named in an order of restitution, or any other source, the financial affidavit, any of the defendant's federal, state, and local tax returns, bank records and any other financial information concerning the defendant, for the purpose of making any recommendations to the Court and for collecting any assessments, fines, restitution, or forfeiture ordered by the Court.

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4. Sentencing Recommendations

It is understood by the parties that the Court is neither a party to nor bound by this agreement. The Court may accept or reject the agreement, or defer a decision until it has had an opportunity to consider the presentence report prepared by the United States Probation Office. The defendant understands and acknowledges that, although the parties are permitted to make recommendations and present arguments to the Court, the sentence will be determined solely by the Court, with the assistance of the United States Probation Office. Defendant further understands and acknowledges that any discussions between defendant or defendant's attorney and the attorney or other agents for the government regarding any recommendations by the government are not binding on the Court and that, should any recommendations be rejected, defendant will not be permitted to withdraw defendant's plea pursuant to this plea agreement. The government expressly reserves the right to support and defend any decision that the Court may make with regard to the defendant's sentence, whether or not such decision is consistent with the government's recommendations contained herein.

5. Appeal of Sentence-Waiver

The defendant agrees that this Court has jurisdiction and authority to impose any sentence up to the statutory maximum and expressly waives the right to appeal defendant's sentence on any ground, including the ground that

the Court erred in determining the applicable guidelines range pursuant to the United States Sentencing Guidelines, except (a) the ground that the sentence exceeds the defendant's applicable guidelines range as determined by the Court pursuant to the United States Sentencing Guidelines; (b) the ground that the sentence exceeds the statutory maximum penalty; or (c) the ground that the sentence violates the Eighth Amendment to the Constitution; provided, however, that if the government exercises its right to appeal the sentence imposed, as authorized by Title 18, United States Code, Section 3742(b), then the defendant is released from his waiver and may appeal the sentence as authorized by Title 18, United States Code, Section 3742(a).

6. Middle District of Florida Agreement

It is further understood that this agreement is limited to the Office of the United States Attorney for the Middle District of Florida and cannot bind other federal, state, or local prosecuting authorities, although this office will bring defendant's cooperation, if any, to the attention of other prosecuting officers or others, if requested.

7. Filing of Agreement

This agreement shall be presented to the Court, in open court and filed in this cause, at the time of defendant's entry of a plea of guilty pursuant hereto.

Defendant's Initials _____

8. Voluntariness

The defendant acknowledges that defendant is entering into this agreement and is pleading guilty freely and voluntarily without reliance upon any discussions between the attorney for the government and the defendant and defendant's attorney and without promise of benefit of any kind other than the concessions contained herein, and without threats, force, intimidation, or coercion of any kind. The defendant further acknowledges defendant's understanding of the nature of the offense to which defendant is pleading guilty and the elements thereof, including the penalties provided by law, and defendant's complete satisfaction with the representation and advice received from defendant's undersigned counsel. The defendant also understands that defendant has the right to plead not guilty or to persist in that plea if it has already been made, and that defendant has the right to be tried by a jury with the assistance of counsel, the right to confront and cross-examine the witnesses against defendant, the right against compulsory self-incrimination, and the right to compulsory process for the attendance of witnesses to testify in defendant's defense; but, by pleading guilty, defendant waives or gives up those rights and there will be no trial. Defendant knowingly and voluntarily waives any rights defendant has under federal law to a jury determination of any fact affecting defendant's sentence. The defendant further understands that if defendant pleads guilty, the Court may ask defendant questions about the offense to which

Defendant's Initials _____

defendant pleaded, and if defendant answers those questions under oath, on the record, and in the presence of counsel, defendant's answers may later be used against defendant in a prosecution for perjury or false statement. The defendant also understands that defendant will be adjudicated guilty of the offense to which defendant has pleaded and, if such offense is a felony, may thereby be deprived of certain rights, such as the right to vote, to hold public office, to serve on a jury, or to have possession of firearms.

9. Factual Basis

Defendant is pleading guilty because defendant is in fact guilty.

The defendant certifies that defendant does hereby admit that the facts set forth below are true, and were this case to go to trial, the United States would be able to prove those facts beyond a reasonable doubt:

FACTS

From at least beginning in 2008 through November 3, 2010, Luis FERNANDEZ, JR., Luis FERNANDEZ, III, Marco BELTRAN, and Kimberly CURTISS conspired together and with others to operate and maintain pain management clinics, including TAMPA BAY WELLNESS CENTRE at 2137 W. Martin Luther King Blvd, and SUPERIOR INJURY CENTER, located at 1779 West Hillsborough Avenue, Tampa, FL 33603; and from at least beginning in 2009 through November 2010, Christopher SWITLYK (a pharmacist), CURTISS, and BELTRAN conspired together and with others to operate and maintain a

Defendant's Initials _____

pharmacy, the VIP Pharmacy at 1947 W. Martin Luther King Blvd, (formerly the TNC Pharmacy, previously located at 7902 West Waters Avenue, Tampa, Florida), all for the purpose of causing the unlawful possession, distribution and dispensing controlled substances, primarily oxycodone.

During the time frame of the charged conspiracy, defendant CHRISTOPHER SWITLYK, was a pharmacist with an active license to practice issued by the State of Florida. Defendant SWITLYK owned and operated the TNC Pharmacy, doing business as VIP Pharmacy, at 1947 West Martin Luther King Boulevard, Tampa, Florida, and previously located at 7902 West Waters Avenue, Tampa, Florida. Defendant SWITLYK applied for and obtained the DEA registration for the TNC Pharmacy doing business as VIP Pharmacy, to dispense, administer and prescribe controlled substances in Schedules II through V.

Defendants LOUIS FERNANDEZ, JR., LOUIS FERNANDEZ, III, and MARCO BELTRAN were owners, operators, managers and employees of medical businesses, including but not limited to the Tampa Bay Wellness Centre at 2137 West Martin Luther King Boulevard, Tampa, Florida; and the Superior Injury Center, at 1779 West Hillsborough Avenue, Tampa, Florida, and previously located at 1943 West Martin Luther King Boulevard, Tampa, Florida. Defendants LOUIS FERNANDEZ, JR., LOUIS FERNANDEZ, III, were not medical professionals licensed in any capacity in the State of Florida. Defendant

Defendant's Initials _____

BELTRAN also was an employee and licensed pharmacy technician of the TNC Pharmacy, doing business as VIP Pharmacy, at 1947 West Martin Luther King Boulevard, Tampa, Florida, and previously located at 7902 West Waters Avenue, Tampa, Florida.

Defendant KIMBERLY CURTISS, was an employee of the TNC Pharmacy, doing business as VIP Pharmacy, at 1947 West Martin Luther King Boulevard, Tampa, Florida, and previously located at 7902 West Waters Avenue, Tampa, Florida, and was not a medical professional licensed in any capacity in the State of Florida.

The defendants illegally operated the clinics and pharmacy by causing the issuance of prescriptions for, and the dispensing of, controlled substances, primarily oxycodone, based on prescriptions that had not been issued for a legitimate medical purpose and not in the usual course of professional practice.

Defendants BELTRAN, FERNANDEZ, III, AND FERNANDEZ, JR., in operating the clinics, also allowed or caused many blank prescription pads from the clinics to be sold and/or used and forged with physician's names, signatures, and DEA registration numbers in order to illegally fill and dispense controlled substances out of pharmacies, including the TNC and VIP pharmacies.

Defendants BELTRAN, FERNANDEZ, III, AND FERNANDEZ, JR., in operating the clinics, also assisted patients in obtaining and using false and fraudulent documentation in order to justify the issuance of prescriptions for

controlled substances by physicians and non-physicians from the clinics that had not been issued for a legitimate medical purpose and not in the usual course of professional practice. The total amount of prescriptions for oxycodone issued from the clinics that were forged or otherwise issued illegally were for far in excess of 150,000 pills, in 15, 30, 60 and 80 milligram doses, primarily 30 milligram doses.

Defendants BELTRAN, CURTISS, and others, while employed at the TNC and/or VIP Pharmacies, with the knowledge and concurrence of defendant SWITLYK, illegally filled prescriptions for controlled substances, including oxycodone, at the VIP Pharmacy without the supervision or presence of a licensed pharmacist, knowing that said prescriptions were forged or otherwise not issued for a legitimate medical purpose and not in the usual course of professional practice.

Defendants BELTRAN and SWITLYK also caused and allowed many bottles of Oxycodone to be distributed and sold out of the TNC and VIP Pharmacies to individuals without any prescriptions whatsoever. They would then produce or cause to be produced forged prescriptions and false pharmacy profiles in order to appear that they had legitimately dispensed all the oxycodone that was illegally distributed.

According to data compiled by the Drug Enforcement Administration, and supported by records seized at the VIP Pharmacy during the execution of the

search warrant on May 20, 2010, from January to December 2009, the TNC Pharmacy (Registrant for VIP and former TNC Pharmacy) purchased from various wholesalers a total of 1,541,640 dosage units of oxycodone. Unknown to defendant SWITLYK, this compares to an average of 111,874 dosage units by Florida pharmacies and an average of 62,931 dosage units by pharmacies across the United States during the same time period.

From January 2010 through May 20, 2010, the TNC Pharmacy, d/b/a VIP Pharmacy, purchased a total of 1,241,400 dosage units of oxycodone. Unknown to defendant SWITLYK, this compares to an average of 48,322 dosage units by Florida pharmacies and an average of 15,663 dosage units by pharmacies across the United States during this same time period.

At the time the search warrant was executed at the VIP Pharmacy on May 20, 2010, there were 107,892 oxycodone tablets left in inventory.

Further, the defendants operated the TNC and VIP Pharmacies as a cash business. The oxycodone that the defendants distributed and sold out of the TNC and VIP Pharmacies to individuals without any prescriptions was paid for in cash. The defendants would then conduct financial transactions with the cash proceeds of their drug trafficking activities with the intent to conceal the source of the funds and evade the currency transaction reporting requirements. They would also engage in monetary transactions in excess of \$10,000 with the drug proceeds. Specifically, on or about April 21, 2010, the defendant SWITLYK

purchased, with cash proceeds of his unlawful drug trafficking activity and knowing such cash to be proceeds of his drug trafficking activity, Regions Bank Cashier's Check #5003723063 in the amount of \$36,000, payable to Infinity Abstract and Title, for the purchase of 4102 W. Swann Avenue, Tampa, Florida. This monetary transaction was in and affecting interstate and foreign commerce, as Regions Bank is a federally insured financial institution whose transactions affect interstate and foreign commerce. On or about April 21, 2010, the defendant BELTRAN purchased, with cash proceeds of his unlawful drug trafficking activity and knowing such cash to be proceeds of his drug trafficking activity, SunTrust Bank Official Check #5630799771 in the amount of \$38,000, payable to Infinity Abstract and Title for the purchase of 4102 W. Swann Avenue, Tampa, Florida. This monetary transaction was in and affecting interstate and foreign commerce, as SunTrust Bank is a federally insured financial institution whose transactions affect interstate and foreign commerce.

Further, on or about April 26, 2010, the defendants SWITLYK and BELTRAN knowingly used cash proceeds of his drug trafficking activity to purchase a 2007 Lincoln MKX, VIN #2LMDU68C77BJ08440, from the Cyber Car Store in Tampa, Florida. Specifically, the defendants SWITLYK and BELTRAN structured in an attempt to evade the currency reporting requirements (that is, split cash deposits into amounts under \$10,000). The defendants SWITLYK and BELTRAN then caused the transferred \$20,650, via SunTrust Cashier's

Check #5630846562 from the Macron Technologies account, to the Cyber Car Store for the purchase of the Lincoln vehicle. This monetary transaction was in and affecting interstate and foreign commerce, as SunTrust Bank is a federally insured financial institution whose transactions affect interstate and foreign commerce.

Further, the defendant and the United States agree that the proceeds, or property derived from proceeds obtained directly or indirectly from, or property involved in, the offenses to which the defendant is pleading guilty, including but not limited to the items listed for forfeiture above (Section A.11) is at least \$10,700,592.00. Additionally, because the TNC and VIP Pharmacies were used to commit and facilitate the commission of such offenses, any property of the business, including at least \$10,700,592.00 obtained from the sale of oxycodone, is subject to forfeiture. Accordingly, the parties agree that for forfeiture purposes, the defendant shall be jointly and severally liable with his co-defendants in this case for a forfeiture money judgment in the amount of \$10,700,592.00.

10. Entire Agreement

This plea agreement constitutes the entire agreement between the government and the defendant with respect to the aforementioned guilty plea and no other promises, agreements, or representations exist or have been made to the defendant or defendant's attorney with regard to such guilty plea.

Defendant's Initials _____

11. Certification

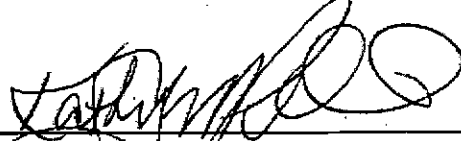
The defendant and defendant's counsel certify that this plea agreement has been read in its entirety by or has been read to the defendant and that defendant fully understands its terms.

DATED this 3rd day of September, 2012.

ROBERT E. O'NEILL
United States Attorney



CHRISTOPHER SWITLYK
Defendant

By:


KATHY J.M. PELUSO
Assistant United States Attorney


JEFFREY BROWN, ESQ.
Attorney for Defendant


JOSEPHINE W. THOMAS
Assistant United States Attorney


JOSEPH K. RUDDY
Assistant United States Attorney
Chief, Narcotics

FROM: 53913018

TO: Candlewood, Peter; Delaughter, Chris; Eretto - Schoen, Patricia; Marshall, Erin; Siskind, Jeff; Switlyk, Stephen

SUBJECT: Attorney# 5: Jeff Brown 2255 info (email 10 of 20)

DATE: 01/15/2014 06:58:52 PM

21) late-August 2012 to September 3, 2012: After finding out that Judge Covington refused to extend my trial date for him again, Brown immediately switched from "trial mode" to "plea mode", and he did not even want to entertain the option of going to trial anymore. Brown told me that there was no way he could be ready in a week to adequately defend me at my trial so that I had to figure out what I felt absolutely needed to be changed in the government's plea offer for me to consider signing it. Brown told me that he already had Peluso insert the safety valve provision in my plea bargain but that I was always going to get it, even if it wasn't in there, especially since I had no prior criminal convictions. Brown told me that he would be able to get Peluso to compromise on certain matters in my plea bargain, especially since she did not want to have to cancel her entire vacation plans to try my case, which she was also unprepared to do. Brown told me that we definitely had huge leverage to convince Peluso to make some concessions for my plea bargain and drastically improve the terms in it. Thus, we thoroughly went over what I felt absolutely needed to be changed in order for me to be willing to sign it, including reducing the pill count in it, taking out the money laundering counts, taking out any forfeiture lien against me, and guaranteeing no enhancements be applied to me at my sentencing.

22) late-August 2012 to September 3, 2012: Brown told me that since my trial date was fast approaching that my best option would be to plead guilty, especially since he had already opened the door back up to cooperation with the government by helping me initiate the case against Joanne Estephan. Brown told me that he was very confident that he would be able to secure a lot of credit for substantial assistance from the government by the time I would be sentenced. Brown told me that he would make sure that I would get as much cooperation credit as possible for what I did so far, as well as whatever I did up till my sentencing, which he estimated could give me anywhere between 4 to 8 levels off my offense level as a 5K-1 motion by the time I was sentenced, if not more. Brown also told me that I would also definitely be getting a 5K-2 motion which would take another 6 to 12 levels off for voluntarily turning everything I had over to the government 7 months before even being indicted, showing an extraordinary level of acceptance of responsibility.

23) late-August 2012 to late-February 2013: Brown also told me that if I was still cooperating on any ongoing cases when I was sentenced that I would be getting 3 to 6 levels off each time one of them was resolved in a Rule-35 motion. When Brown was convincing me to sign the government's plea offer in early September of 2012, he assured me that he would handle any future Rule-35 motions that I may need, and agreed that the money I already paid him covered his representation for them.

24) late-August 2012 to September 3, 2012: While Brown was convincing me that I needed to plead guilty, he told me that he would make sure I received cooperation credit for my significant contribution to at least 4 different cases by the time I was sentenced, or soon after my sentencing. These included the cases against Heromin, Weiler, Patel and Estephan. Brown told me based on what I could provide to each case that it would undoubtedly qualify as substantial assistance for me for each one of them. Brown estimated that for each concluded case that I would receive anywhere from 3 to 6 levels off my offense level either as a 5K-1 before my sentencing or as a Rule-35 after my sentencing. Brown told me that this was on top of the cooperation credit he expected me to receive for all of the other cooperation matters I have already done, as well as for all of the relevant information I provided against numerous individuals, while I was out on bond, which he told me I should receive at least 4 levels off for those efforts. That was also on top of the 6 to 12 levels off Brown guaranteed me that I would receive for voluntarily turning everything over. I asked Brown to please have something put into writing assuring that I would be getting at least 4 levels off for everything I had done up to that point, and would be eligible for additional levels off for at least those 4 pending cases. However, Brown told me that the government never puts that type of thing in a plea bargain or in writing. Brown told me that the government never guarantees levels off for a person's cooperation before they sign their plea bargain. Also, Brown told me that he had a strategy that he was implementing in order to maximize the amount of levels that I would be getting off my offense level as a 5K-1 for cooperation at my sentencing. Brown told me that he wanted me to sign a plea bargain and was then going to help initiate as much cooperation for me as possible, which I would work on as much as I could before I was sentenced. That way Brown said he would be able to push the government to agree to give more levels off than he could before I signed a plea bargain because I would have been actively cooperating with them everyday for several months by the time I was sentenced, thus earning much more levels off at that point.

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25) early-June 2012 to September 3, 2012: One of the main things I told Brown was a definite deal breaker which had prevented me from signing the plea bargain the past 18 months was the the excessive pill count in it. I told Brown that if a dosage of 30mg were used to calculate my base offense level, with the pill count of 150,000 listed in the plea offer, that it would equate to a base offense level of 38, which was the highest base offense level possible for the drug conspiracy charge. Brown agreed with me that the pill count of 150,000 pills in the plea offer was extremely excessive and inflated by the government, and that it would be impossible for them to prove that I was responsible for even a fraction of that amount of pills being illegally distributed from my pharmacy during the alleged conspiracy. Brown even told me that it made no sense for me to sign a plea bargain with such a high pill count in it because I could not receive any worse of a base offense level even if I went to trial and lost. I went over the same calculations with Brown that I had with Crawford and Foster, that showed him the range of how many oxycodone 30mg pills would equate to base offense levels of 32, 34, and 36. Brown told me that he was going to try and get Peluso to reduce the pill count in my plea offer to 14,900 units or less, which would equate to a level 32, but would settle on a pill count of 47,750 or less, which would equate to a base offense level of 34 at worst. During this timeframe Brown assured me numerous times that he would definitely be able to get Peluso to substantially reduce the pill count in my plea offer before he would recommend me to sign it. After Brown met with me several times about my plea bargain and we discussed the the pill count, he told me that I should consider signing it even if he was able to reduce the pill count by only 750 pills for me to 149,250 pills or less, because even a reduction of 750 pills would equate to a base offense level of 36 using 30mg pills. Brown told me that he would never consider recommending me to even sign a plea bargain if he thought for a moment that it would start me off at anything higher than a level 36.

26) early-September to September 3, 2012: At one of the later meetings that I had with Brown about my plea bargain, he told me that he had good news and bad news about the pill count situation. Brown told me that the bad news was that he tried, but could not get Peluso to reduce the 150,000 pill count in my plea offer. Brown told me that Peluso refused to budge on this amount because everyone else in my conspiracy who already plead guilty already signed their plea bargains with this amount in them and that "it would not be fair to everyone else" if she agreed to a lower number of pills in my plea bargain. Peluso told Brown that she wanted everyone in the conspiracy to have the same pill count and start off at the same base offense level. Then Brown told me that the good news was that he had talked to the attorneys who were representing my co-defendants, as well as Diane Tremmel, the probation officer who was in charge of determining the offense level for each of us. Brown told me that based on his conversations with them that he confirmed that the 15mg dosage unit would be used to calculate the base offense levels for each person, not 30mg pills. Brown told me that Tremmel planned to use the 15mg pill strength to "keep things conservative" as a consolation for us all agreeing to plead guilty to the conspiracy. Brown already had a copy of Beltran's Pre-Sentence Report in which Tremmel used the 15mg dosage to calculate the offense level for him so he told me that based on that and his conversations that is what would be used for everyone. Thus, Brown told me that even though he was not able to reduce the pill count, at 150,000 pills my base offense level would be a level 36. Brown pointed out to me that this was what he had guaranteed me all along, that I would not start higher than a level 36 for my sentencing offense level if I signed a plea bargain while he represented me.

27) early-June 2012 to September 3, 2012: I had many conversations with Brown during this timeframe about the ridiculous money laundering charges which Peluso included in my plea bargain. I told Brown that there was no way I was going to agree to plead guilty to 2 counts of money laundering when I had never laundered a single cent of money in my life, especially since they never sought the same charges against Louis Jr, Louis III, and Curtiss. If anyone should have been charged with laundering money it should have been those 3 people since they were the ones who had actually illegally made millions of dollars in cash and successfully hidden it all from the government so that they could not get it taken from them. I, on the other hand, had records showing that I had legally earned all of the money which I voluntarily turned over to the government. Yet I was being charged with money laundering counts for withdrawing my own money, from my own bank account, as cashier checks to be used towards a house I never even bought. I explained to Brown that I was completely against pleading guilty to any type of money laundering charges, not only because I was innocent of them, but also because then that would prevent me from being able to pursue any type of career in the financial field in my future. Considering that my career options in the medical field would likely be severely limited after pleading guilty to a felony drug charge, I definitely did not want a felony money laundering charge to also severely limit my future job opportunities as well.

FROM: 53913018

TO: Candlewood, Peter; Delaughter, Chris; Eretto - Schoen, Patricia; Marshall, Erin; Siskind, Jeff; Switlyk, Stephen

SUBJECT: Attorney #5: Jeff Brown 2255 info (email 11 of 30)

DATE: 01/15/2014 07:01:06 PM

28) September 3, 2012: Brown told me that he tried but could not get Peluso to take out the money laundering counts in my plea bargain. He said Peluso told him she needed them in there so the government could justify keeping all of my money I legally earned, which I voluntarily turned over to them, which I was agreeing to let them keep as part of my plea bargain, in exchange for a significant sentence reduction. Brown explained to me that in a weird way it actually benefited me to have those money laundering counts in my plea bargain because it guaranteed me to a significant reduction off my eventual sentence for everything I turned over to the government. Brown told me that Peluso would only give me the 6 to 12 levels off as a 5K-2 motion for voluntarily turning over all of my money to the government if I plead guilty to the money laundering charges for her. Brown told me that Peluso promised him that she would file a 5K-2 motion for me, which would take a minimum of 6 levels off my offense level at my sentencing, if he convinced me to plead guilty to the 2 money laundering counts. I told Brown that agreeing to 2 money laundering charges when I have never laundered any money in my life was out of the question, especially since Louis Jr, Louis III, and Curtiss did not have to admit to even one count of money laundering. I told Brown that even Foster told me over a year earlier that Peluso told him she was willing to allow me to plead guilty to just one of the four money laundering counts that were in the indictment. However, Brown told me that since Beltran already plead guilty to 2 money laundering counts as part of his plea bargain, that Peluso wanted me to plead guilty to 2 counts as well. Brown also told me that pleading guilty to 1, 10, or a 100 money laundering counts would not affect my potential sentence or the outcome of my case one bit. Brown assured me that pleading guilty to money laundering would not add even one day to my drug conspiracy sentence, and that it would guarantee me to receive a 5K-2 motion from Peluso, which would take a lot of time off that sentence. I told Brown that it made no sense that I would have to plead guilty to money laundering counts just so the government could keep my legitimately earned money. I also said that I did not understand why Peluso was making me plead guilty to money laundering in order to receive a 5K-2 motion for everything I turned over. I told Brown that as long as I was getting a 5K-2 that the government could keep everything, with or without the money laundering counts in my plea bargain. I told Brown that I did not care if those money laundering counts did not add any additional time to my sentence or not, but that I was still not pleading guilty to any of them. Brown told me that he was going to continue to work on this and would do everything he could to get them removed from the final version of my plea bargain.

29) late-August 2012 to September 3, 2012: I told Brown that the only way I would sign Peluso's plea offer with the 2 money laundering counts in it is if she put something into writing guaranteeing that I would receive at least 8 to 10 levels off my sentencing offense level as a 5K-2 for everything I turned over. Brown told me that he would either get the money laundering counts removed or get what I asked for put into writing by Peluso by the time I had my change of plea hearing and would be back to go over it with me. However, Brown told me that Peluso had still not made up her mind about how many levels she would authorize to be deducted for me as a 5K-2, but promised that it would be at least 6 levels. Brown told me that if he pressured Peluso to put something into writing at that time, guaranteeing that I receive a certain number of levels off for turning everything over as a 5K-2 to be applied at my sentencing, that she would likely only concede to give me 6 levels off at that point. Thus, Brown told me that it was a bad idea to force Peluso to decide on, and lock in a certain number of levels off for turning everything over as a 5K-2 to be applied at my sentencing because he was very confident that, in between the timeframe of my change of plea hearing and the time of my sentencing hearing, that he would be able to convince Peluso to agree to authorize much more than 6 levels off for my 5K-2, and possibly up to 12 levels off my offense level for it by the time I would be sentenced. Brown told me that since I may not even be sentenced for a year or more that it would not be in my best interest to make it a requirement that Peluso include something in my plea bargain at that point in regards to my 5K-2 because if I forced the issue then I would be stuck with only getting 6 levels off for everything I turned over when I deserved much more than that. Brown said that once I agreed to receiving only 6 levels off for everything I turned over as a condition of my plea bargain then it would be pretty much "set in stone" and it would prevent him from being able to argue for me to get up to "twice that many levels off" for my 5K-2. Thus, Brown told me that I would be "shooting myself in the foot" if I demanded that Peluso put in writing that I was guaranteed a certain number of levels off as a 5K-2 at that point because I would probably end up leaving a lot of time off my potential sentence on the table. Brown also told me that since the DEA agents told me and Weed on the first day of the raid that I would only be facing 2 to 3 years in prison at most if I turned everything over to them then, that he would be able to continue arguing that angle on this matter "up until the moment I am sentenced" to be given up to 12 levels off for my 5K-2, especially since that is how many levels I would probably need off in order to get down to that type of sentence if I did not get more than 4 levels off for cooperation matters as a 5K-1. Thus, Brown told me that he was going to try to get Peluso to do both, remove the money laundering counts and get something put something into writing securing a 5K-2 motion to be applied at my sentencing. However, Brown told me that he had a better chance getting Peluso to secure a 5K-2 motion for me than removing the money laundering counts.

30) September 3, 2012: Brown was against pressuring Peluso to write something up concerning my future 5K-2 motion if she was not going to agree to give me at least 8 levels off for everything I turned over because he was positive he'd be able to convince her to authorize at least that many off by the time I was sentenced. Brown also told me that he has worked with Peluso on many cases and that she has always followed through with her promises and been true to her word with him, so that I would always be able to get at least the 6 levels off for my 5K-2 motion without it being in writing, as well as any other promises she made him about my eventual sentence, such as no enhancements being applied to it. Brown said Peluso had no reason to lie to him about something that had been promised to be from day 1 of the government's investigation. Brown told me that Peluso, and other AUSA's he works with, have always kept their promises about these types of things because they have to work with him on many cases in the future. I told Brown that I did not care how great his relationship was with Peluso and other AUSA's and that in order for me to agree to a plea bargain that I still needed to have something in writing, even if it only guaranteed 6 levels off for my 5K-2 motion.

31) late-August 2012 to September 3, 2012: Brown told me that I should turn over the \$14,418.91 that the government froze in my personal bank account on April 24, 2012, which was nearly 2 years after I turned everything over and closed my pharmacy for them. I explained to Brown that it can be easily proven that every penny of that money was legally earned and had nothing to do with VIP Pharmacy. I thought it was absurd that the DEA was even able to freeze my only bank account 2 years after I turned everything over to them. I told Brown that any attorney should be able to get this money returned to me if they actually bothered to bring this matter in front of a judge. I told Brown that I really needed that money to live off while I was in jail and/or prison. Brown told me that Caroll was still holding onto plenty of my money and gold coins and that I should not worry about a lousy \$14,418.91, especially when he could get me an extra level off my offense level for my 5K-2 if I let the government keep it. Brown told me if I allowed the government to keep that money, which they had no legal right to, it would show a huge gesture of good faith on my part. Thus, Brown told me that he would easily be able to get 1 extra level for my 5K-2 if I let the government keep this money on top of everything else that was in my plea bargain. Thus, Brown told me that the minimum amount of levels I could get as a 5K-2 at that point is 7 if I let them keep my \$14,418.91 in my personal account at Pilot Bank. Brown told me that if he argued with the government to release this money, that it would piss off Peluso and make it harder for him to get all of the levels I deserved for my 5K-1 and 5K-2 motions, which she had already promised to give me. Thus, even though I vehemently protested, Brown convinced me to let the government keep the last of my money in a bank account by guaranteeing I would receive at least 1 extra level off my offense level at my sentencing for doing so, as well as because of his other statements about doing what Peluso wanted.

32) June 2012 to September 3, 2012: I discussed the forfeiture lien the government wanted included in my plea bargain with Brown many times during this timeframe and he agreed with me that it being in there should be an absolute deal breaker. I told Brown that there was absolutely no way that I would sign a plea bargain that had anything in it saying that the government could potentially take any additional money or belongings from me than they already had. I told Brown that if there was anything in the plea bargain like that then it was an absolute deal-breaker and that I rather go to trial on everything then sign something stating that I somehow owe the government even one penny. I told Brown that I voluntarily turned over absolutely everything I had ever made, since I began working at the age of 16, to the government on May 20th and May 21st of 2010, and had worked very hard for everything I ever earned. I legally earned all of the money I had turned over to the government and had records to prove it which I showed to Brown. Brown agreed with me that I should not even have to sign over everything that I legally earned to them, but that the only reason he recommended not fighting to have any of it returned at that point was because I was definitely going to be getting a tremendous 5K-2 for letting the government keep it, which was going to give me a significant reduction of my sentence.

33) late-August 2012 to September 3, 2012: During the timeframe Brown was convincing me to sign a plea bargain, he went over my forfeiture notices with me and pointed out that everything I turned over to the government was not listed in the assets sections of it. Brown told me that he would be able to get back whatever was not listed in my plea bargain after I was sentenced. Brown specifically pointed out that the nearly 2.5 million (\$2,491,850.00) in cash which I turned over at Regions Bank, the \$917,407.98 Cashier's Check I turned over at Wachovia Bank, and the \$9,740 cash from my house were all not listed in the "Forfeiture of Assets" section of my plea bargain. Brown told me that as a consolation for agreeing to sign over my rights for everything on the assets that "were listed" in my plea bargain, that "the government was leaving the door open for him to recover the items which were not listed", which totaled nearly 3.5 million dollars of my money. Brown told me that the strong possibility of being able to get that money back gave me even a bigger reason not to want any type of forfeiture lien against me so he promised me that he would definitely have it removed from my plea bargain before he would allow me to sign it. Brown also told me that unlike Foster, who wanted 40% of my money he recovered, that he only wanted 30%, and that he would start working on this after I was sentenced. Brown agreed with me that if Peluso was not going to budge on the forfeiture lien matter that he rather take my whole case to trial because if he was able to win an acquittal, which he thought was a decent possibility, then the government would be forced to return absolutely everything that I turned over to them that was actually accounted for, which was over 7 million dollars counting the cost of my medications.

FROM: 53913018

TO: Candlewood, Peter; Delaughter, Chris; Eretto - Schoen, Patricia; Marshall, Erin; Siskind, Jeff; Switlyk, Stephen

SUBJECT: Attorney #5: Jeff Brown 2255 info (email 12 of 30)

DATE: 01/15/2014 07:08:18 PM

34) June 2012 to September 3, 2012: When discussing the forfeiture lien the government had in their plea offer with Brown, I explained to him multiple times that the way they came up with their figure was complete nonsense. Brown agreed with me that they seemed to be just making up figures in order to come up with the ridiculous amount of \$10,700,592.00 for the forfeiture lien. I showed Brown a breakdown of my VIP Pharmacy records for the entire time it was open, which clearly proved that the average price that oxycodone 30mg pills were sold for was about \$1.50 per pill. In fact, the first 9 months I had my pharmacy open, I sold the majority of oxycodone for less than \$1, even as low as \$0.70 to many patients. It was not until after I moved the pharmacy in October of 2009 next to Louis III's clinic, Superior Injury Center, that the oxycodone prices approached \$1 per pill, and slowly increased to about \$2.25 per pill over the next 6 months. I have documented records that the amount charged for oxycodone at VIP Pharmacy when it was open was nowhere near the figures the government stated in their plea offer. In the plea bargain the government stated that, "According to witnesses interviewed and records seized during this investigation, the price for oxycodone sold by the VIP Pharmacy for prescriptions was between \$2.00 and \$4.00.", which is completely baseless, as well as their "\$6.00 to \$7.00 per pill range" without a prescription, which as far as I knew was \$4.25 to \$4.50 for a miniscule amount of pills compared to the amount sold to patients with valid prescriptions. I even talked to Fernandez Jr, Fernandez III, Beltran and Curtiss about this matter after we received the plea offers and they all said they had no idea where the government came up with those figures and agreed that they were extremely excessive and completely inaccurate. However, they all told me that they did not care about signing the plea bargain with the inaccurate lien amount in their since they all had millions saved away that the government would never be able to find so they did not bother arguing about the false information pertaining to the lien. Brown agreed with me that on top of having that lien removed from my plea bargain that he would also have the false statements related to the alleged sale prices of oxycodone at VIP Pharmacy when it was open removed as well.

35) early-September to September 3, 2012: Brown had Carroll tell me to go through my copy of the plea offer and mark any sections that would absolutely need to be changed in order for me to agree to sign it so I did. Brown said he was going to come see me to go over the current plea offer so I went through my only copy of it and made circles and notes indicating the things I wanted to be removed and/or changed in it. I also wrote that I wanted there be to be something included guaranteeing that I would not be subject to any enhancements at my sentencing, like Beltran would be according to his PSR. Also, during this timeframe Brown had told me that Beltran's new attorney, Lourderback, and Peluso, both objected to Tremmel's sentencing enhancements, and had them all successfully removed. A few weeks earlier I had been moved to another unit in the jail and was unable to communicate with Beltran. The last time I had talked to Beltran he planned to revoke his plea because of the potential sentencing enhancements and Lourderback was just assigned to his case. However, Brown told me that since the government was no longer applying sentencing enhancements to Beltran, he decided not to revoke his guilty plea.

36) September 3, 2012: Brown came to see me at the jail and spent 2 hours convincing me that I needed to sign a plea bargain as soon as possible because my trial was set to start the following week. We went through every page of the plea offer that I had made notes and Brown agreed with me that everything I wanted changed in it should be changed before I agreed to sign it. The main things we focused on were the removal of the forfeiture lien, the false "facts" that were in it, and a guarantee that I would receive no enhancements at my sentencing. Brown told me that he would be able to have all three of these changes made to the final version of my plea bargain, especially since I was willing to even agree to money laundering counts that he even agreed Peluso would never be able to prove, as long as he secured my 5K-2 motion with something in writing.

37) September 3, 2012: Brown also brought a clean copy of the current plea bargain and told me to initial the pages of it which were acceptable to me without changes being made to them. Brown also had me initial the front page and sign and date the last page of the plea bargain because he told me that he was going to use this to show Peluso that I was serious about signing a plea bargain for her. Brown told me that by showing Peluso this it would help him convince her to make the changes to the pages in the middle of the plea bargain that we wanted to be made. Brown told me that he was very confident that he would be able to get Peluso to agree to the requested changes which were very reasonable, especially since she was scheduled to leave on vacation for 2 weeks later that week. Brown told me that he was scheduling a change of plea hearing for me in 2 days, on September 5, 2012, because Peluso was leaving for vacation the following day. Brown told me that he would definitely come back to see me with the final version of the plea bargain the next day so I had a chance to go over it and make sure that all of the changes were acceptable. Brown assured me that I would have plenty of time to thoroughly go over it before I had to initial each page and sign the revised plea bargain. Brown took my only copy of the plea offer that I marked up and the clean copy he brought with him which I signed the back page of. I asked Brown to please bring back the plea bargain I marked up for him so I could compare it to the revised one he brings me the next day and he said he would.

38) September 4, 2012: Brown never came back to the jail to see me about the changes he was supposed to have made to my plea bargain before my "change of plea" hearing scheduled for the following day. I called his office and his paralegal Jennifer told me that he was going to be out to see me that day. Then after waiting around all day for Brown to come, I tried to call him on his cell phone several times but he did not answer. When I talked to Carol later that day she told me that Brown texted her and said he was going to come see me that night. However, Brown never came to see me that day or night before my "change of plea" hearing. When I talked to Carol again that night before lockdown she told me she talked to Brown on the phone. Carol said Brown told her that he had spent the whole day working really hard on getting all of the changes I wanted made in my plea bargain which is why he was not able to come see me. Brown told her that he was able to get everything I wanted changed in my plea bargain and that "I would be really happy with it" when I saw it the next day. Brown told her that he would come see me in the holding cell before I was brought out to the court hearing to show me the revised plea bargain with all of the changes he was able to get made in it so I had time to thoroughly review it before I initialed the rest of the pages and signed it. I asked Carol to text Brown and ask him to bring the original plea bargain that I marked up so I could compare it to the revised plea bargain to make sure that everything I wanted changed was done so. Carol texted him and he replied back for me "not to worry so much" and that he "would bring both of them back to the holding cell area at least 30 minutes before my hearing so that I had plenty of time to review them and the changes".

39) September 5, 2012: I never feel asleep the previous night due to stressing out about Brown not coming to see me the previous day to go over the revised plea bargain before my court date for my "change of plea hearing". That morning I was taken from my jail unit around 3:30AM, placed in various holding cells, and then transported to the Federal Court House in Tampa, arriving there around 7:00AM. I sat in the main holding cell for several hours waiting for Brown to come see me before my change of plea hearing. Then I was moved to the holding cell just outside the courtroom my hearing would be conducted in, where I sat for about an hour, fully expecting that Brown would come see me back there. I could barely think straight that day because I was so tired, on top of being extremely mentally and physically exhausted over the whole situation. I was stressing out the entire time I sat in those holding cells waiting for Brown to come see me because all I wanted was some time to review the revised plea bargain before I agreed to sign it. I fully expected Brown to come see me at least 30 minutes before my hearing began so I could go over the final version of the plea bargain with him. I also expected Brown to bring my copy of the old plea bargain that I marked up indicating what I wanted changed on it and the revised plea bargain with the changes made to it so I could compare them to each other. Brown never bothered to come to either holding cell I was held in to show me copies of the original plea bargain and the revised plea bargain. When it was time for my change of plea hearing I was brought out to the courtroom in chains and shackles and Brown and Peluso were at the attorney tables, which were literally less than a 100 feet from the holding cell I was kept in the past hour. Carol Delo, Jane Delo, and Jeanne Bush were seated in the courtroom as well.

40) September 5, 2012: I asked Brown why he did not come see me at the jail the previous day or even come see in the holding cell before my court hearing. I said that Carol told me that he was definitely going to come see me in the holding cell so that I could go over the revised plea bargain, especially since I did not even want to sign it unless all of the changes I requested were made to it. I was so upset with Brown that he put me in that situation and it was really awkward to even try to talk to him about it with Peluso less than 15 feet away from us. Brown told me "to relax" and that he had "gotten everything changed which I asked to be changed" in the plea bargain. I asked him for the copy of the plea I had marked up indicating the changes I wanted made so I could compare them and he told me that he "forgot to bring it" for me. I told Brown that Carol even reminded him to bring it last night, and he just said, "Sorry, I forgot, there's nothing I can do about it now, the judge is going to be coming out in a minute". Just look it over real quick. It's good." I began looking over the revised plea bargain and I told Brown that it looked pretty much the same as the one I refused to sign. Brown told me that he "did the best he could with it" and to "go ahead and initial each page and sign it" for him so we could "start the hearing". I spent the next 7 to 10 minutes rushing through the amended plea bargain, trying to remember off the top of my head the best I could all of the things I wanted changed, removed, and added to it before I would agree to sign it. It did not take me very long to realize that pretty much everything Brown assured me would be changed, removed, and added to my amended plea bargain was not done as he had promised me the last time I saw him.

FROM: 53913018

TO: Candlewood, Peter; Delaughter, Chris; Eretto - Schoen, Patricia; Marshall, Erin; Siskind, Jeff; Switlyk, Stephen

SUBJECT: Attorney #5: Jeff Brown 2255 info (email 13 of 30)

DATE: 01/15/2014 08:07:04 PM

41) September 5, 2012: During the few minutes I had before Judge Porcelli came out, the first thing I asked Brown about is if he had everything about the forfeiture lien removed from my plea bargain. Brown told me that he had the whole section explaining how the government came up with their absurd figure for the forfeiture amount removed because he was able to convince Peluso that the government's estimated prices for oxycodone sold at my pharmacy were not accurate and extremely inflated. Brown also told me that he was able to get Peluso to agree to remove the entire forfeiture lien after I passed a polygraph examination showing them that I did not retain any proceeds from VIP Pharmacy. I asked Brown how long that process would take to complete and he told me that he would get it all taken care of "within 2 to 3 months, tops". I told Brown that is not what I agreed to and that I did not want to sign the plea bargain if there was any type of lien in it. Brown told me that the revision he had inserted in the plea bargain was the exact same thing as getting the forfeiture lien completely extinguished. Brown told me that the lien would only be in place temporarily and that it would be "long gone" by the time I was sentenced. Brown also told me not to make a big deal about these conditions concerning the lien because he was able to get Peluso to leave out nearly 3.5 million dollars of my money in the "list of assets" which he said he would try to get back for me as soon as he had the lien extinguished. Brown told me that was the best he could do and that if I refused to initial the pages of the plea bargain with the stipulations for getting the lien removed then Peluso would add that money to the list of my assets to be forfeited into my plea and then he would not be able to get any of it back for me. I was never even given the opportunity to carefully read through the actual stipulations Brown had added to my plea bargain concerning the forfeiture lien, but I reluctantly initialed the pages based on what he told me and promised me. The only reason I even agreed to that plea bargain with something about a forfeiture lien in it was because Brown promised me that he was going to have it completely extinguished within 2 to 3 months and would then recover nearly 3.5 million dollars of my money which was not included in it. Discussing the forfeiture lien situation with Brown ate up most of the little bit of time I had to review and discuss the amended plea bargain with Brown before Judge Porcelli came out to conduct my change of plea hearing.

42) September 5, 2012: I also saw that there were money laundering counts still in my amended plea bargain which I complained profoundly about to Brown. I asked him why he told Carol the previous night that he had everything changed in my plea bargain that I wanted changed if there was still something about a forfeiture lien and money laundering counts in it. I told Brown, "Now I know why you did not come see me yesterday or before this hearing, because you knew I was not going to be happy with it. I can't believe you actually told Carol that I would be really happy with this plea bargain because I don't think I could be more unhappy about it than I am. I told you a hundred times that I was not going to sign any plea bargain with a forfeiture lien or money laundering counts in it." I was very upset that Brown lied and told Carol that he was able to get everything I asked about changed for me. Brown told me to calm down and not to make a scene, especially when Peluso was less than 15 feet away from us. Brown told me that he tried his best to get Peluso to remove both of the money laundering counts, or even one of them, but he said she wouldn't budge on this matter because she felt she needed to have them in there in order to justify the government being able to keep all of my money I was turning over to them for a 5K-2 motion, especially since she knew that I had records proving that I legally earned it all. Brown told me that getting a significant 5K-2 motion is well worth pleading guilty to 2 money laundering counts that are not going to add any time to my sentence, and he again promised me that he would have the forfeiture lien completely extinguished within 3 months.

43) September 5, 2012: Since there were still money laundering counts in my amended plea bargain I asked Brown to show me where my guarantee was that I would receive a 5K-2 motion in it. I told Brown that he promised to get me something in writing about my 5K-2 motion if he expected me to plead guilty to any money laundering counts. Brown told me that Peluso could not put something into writing for me on such a short notice because she had to check with her boss before she could authorize something like that but that she promised Brown that she was going to give me at least 6 or 7 levels off for my 5K-2. I told Brown that was bullshit and that I needed something in writing stating this, and something about the extra level off for also giving the government the \$14,418.91 in my personal bank account as well. Brown told me that it "is almost impossible" to get those sort of things in writing, "especially on such short notice". I told Brown that he was the one pushing me into agreeing to a plea bargain in less than a week after telling me for 2 months that we had plenty of time for further negotiations and/or time to prepare for trial. Brown told me that Peluso is not going to lie about something that I had been promised since the first day of the investigation, and that it would "be impossible for me not to get a huge deduction for everything I voluntarily turned over". Brown told me that he has never seen a prosecutor or judge not give a significant deduction to a defendant who voluntarily turned over money to the government, and considering that I turned over an enormous amount of money which I legally earned, that "I was worrying about this for nothing". Brown told me that he would have Peluso come talk to me about it herself but before he went over to talk to her I realized more more stuff was missing from my amended plea bargain that Brown promised me would be in there.

44) September 5, 2012: While trying to skim through my amended plea bargain as fast as I could, I could not find anything in it guaranteeing me that I would not be subject to any sentencing enhancements and I asked Brown where Peluso had added it. Brown told me that he talked to Peluso about it for me and that she told him that she was not going to "enhance any of us" but that she never puts something like that into a plea bargain. Brown said Peluso told him that she already agreed to remove all of the enhancements Tremmel tried to apply for Beltran, and that she would contest any enhancement for me as well. I told Brown that was not good enough, and that he promised me that I would have something in writing stating that I would not be subject to any enhancements at my sentencing. I told Brown that he knew that having this added to my plea bargain was my top requirement before I would agree to sign it. Brown told me that sort of stuff is not put into writing and it is worked out and agreed upon between the attorneys and that he orally secured an agreement with Peluso concerning this matter on my behalf. Brown said he tried to have Peluso put something into writing about this as well for me but that she also told him that she had no control over what the probation officer decided to do as far as applying enhancements for anyone. However, Peluso told him that she agreed to contest any enhancements that Tremmel would possibly try to apply to me, but that she did not think that Tremmel would even try, especially since Peluso had the ones she applied to Beltran removed. Brown told me that he definitely did not expect any enhancements to be applied to me after discussing it with Peluso, and that I was worrying myself about it for no reason. I told Brown that he must be able to get something in writing for this matter, and something guaranteeing my 5K-2, even if they were separate documents not part of my plea bargain, and if he didn't, then I was not going to initial and sign the amended plea bargain.

45) September 5, 2012: Brown told me he was going to talk to Peluso about both, the enhancement situation and about credit for everything I turned over, because I was making such a deal about those things. Brown left the table and talked to Peluso for a few minutes and then her and Brown came over to the table where I was sitting in my chains and shackles. Peluso told me, in front of Brown, that she was never looking to "enhance anyone in the conspiracy" and that she "did not know why Tremmel placed those enhancements on Beltran" but that "she agreed to have them removed". Peluso said "no one was getting any leadership enhancements or any other enhancements" and that if "Tremmel tried to place any type of enhancement on me that Brown and her would both contest it". I asked why something like this could not be put in my plea bargain and she said that it is always up to the probation officer preparing my PSR to determine if any enhancements should apply to me, and that it would not matter what was in my plea bargain, because Tremmel could just ignore it if something like that was put in there. Brown then said, "It is better not to have anything about enhancements in your plea bargain because we do not even want to put the idea into Tremmel's head of trying to apply any enhancements to you when she prepares your Pre-Sentence Report." Brown told me, in front of Peluso, that since Beltran's attorney and Peluso both contested the enhancements Tremmel tried to apply to him, that they did not think she would try to apply any to me. However, if she did, Brown said that he and Peluso would both contest them and Tremmel would remove them from my PSR. Brown told me that if Tremmel still refused to remove a possible enhancement from my PSR that the issue would go in front of my judge who would then remove it since both he and my prosecutor were both contesting it's application. Peluso also told me that I was definitely going to get "a significant reduction" for everything I voluntarily turned over to the government and for letting them keep it as part of my plea bargain. I asked her how many levels I would be getting off, if it would be "at least 6 to 8", and she told me it would be "around that". Peluso told me that I was "always going to be getting credit for everything I turned over" and that after I agreed to this plea bargain that "I would have a lot more opportunities to earn much more credit". Peluso said "now that I had an attorney without so many conflicts" that I would "be able to earn substantial assistance that I couldn't before because of Foster". After this conversation Peluso went back to her table, and Brown turned to me and said, "Is that good enough for you? You just had a Federal Assistant United States Attorney tell you herself that she was not going to enhance you and would contest any enhancement Tremmel may try to to put on you, and guarantee you credit for everything you turned over. And she told you that you will be able to earn more credit through cooperation. That is even better than having what you asked for put in writing." I really was still not satisfied with this scenario and not having anything secured in writing for me pertaining to these matters, especially having nothing written stating I would receive at least 6 to 8 levels off for everything I turned over for my 5K-2 motion. However, Brown made me feel stupid and Peluso was literally 10 to 15 feet away from me while I tried to discuss these issues with him. Plus, I was looking forward to actually being able to proffer about the people that Foster had conflicts with and Brown told me based on what I could offer on Heromin, Weiler, and Patel that I would definitely be able to earn substantial assistance for all 3 cases. Thus, I figured that I should just accept that things would work out the way Brown and Peluso assured me they would and that I would not be subject to any sentencing enhancements and would get a huge deduction for everything I voluntarily turned over.

FROM: 53913018

TO: Candlewood, Peter; Delaughter, Chris; Eretto - Schoen, Patricia; Marshall, Erin; Siskind, Jeff; Switlyk, Stephen

SUBJECT: Attorney #5: Jeff Brown 2255 info (email 14 of 30)

DATE: 01/15/2014 08:19:42 PM

46) September 5, 2012: Brown told me to stop focusing on the wrong things and told me that he was able to have most of the governments false "facts" that were in my plea bargain removed and the ridiculous way the government came up with the excessive forfeiture lien amount. I was still obsessing over a lot of things not being changed in the plea bargain that Brown told me would be, so I quietly asked him if he thought that he could get me a better outcome if he just took my case to trial the following week, especially since Peluso was clearly not prepared to try my case so soon. Brown told me that he was also not ready to try my case that soon, but that there was still a chance I could win, but that if I lost I would be facing 9 to 10 years in prison. Brown told me that if I just "played nice" with the government, and agreed to this amended plea bargain, that I would get no more than a 3 to 5 year sentence.

47) September 5, 2012: Judge Porcelli came out to start my change of plea hearing and Brown told me to just "go ahead and initial the pages" and to "stop over thinking everything". Brown told me that it was "the best he could do for me" and that it was "the best plea bargain that I was going to get" so that "I better just sign it while I still have the chance to". Brown even acted insulted that I was not happy about the few changes that he actually had made in it, and said that I should be "grateful that he was even able to get those changes made for me". I was so tired, upset, and stressed out and Brown put me in such an awkward position at that point. Everyone was staring at me in my jail uniform and chains and shackles, and I just wanted it to be over with so I could get back to the jail and sleep. I believe when Judge Porcelli came out that I still did not initial the pages because I was still trying to read them over and understand them. However, due to Brown's advice and the assurances from Peluso, I succumbed to the pressure and initialed the pages of the unreasonable amended plea bargain, even though I never had the chance to thoroughly review it. When I got to the last page I told Brown that I refused to sign it because the plea was "such garbage". Brown was getting angry with me and told me, "fine", and that he "didn't need me to sign it since I already signed the back page of the old plea bargain" for him, and that he could "just use that one" for it. I told Brown to go ahead and use that one then so in case I decided to revoke my plea bargain it would be easier for me to do since I could bring up the fact that I never actually signed the final version of it. Brown told me that he would "pretend he didn't hear that" and started the hearing. The only reason I even signed and dated the back page of the original plea bargain for Brown on September 3, 2012, was because he told me that he was going to use it to show Peluso as a good faith gesture from me while he was negotiating with her concerning the terms of my amended plea bargain, as well as trying to secure certain things for me in writing. Looking back at it all now, I think Brown tricked me into signing the back page of the original plea bargain on September 3rd because he knew that he would not be able to get me to sign the revised plea bargain on September 5th if he did not get the changes I wanted made to it. That way Brown had the page I already signed two days ago for insurance in case I tried to back out of signing the amended plea bargain, which I did, because he did not get the proper changes made to it. It probably really does not matter all that much that I never actually signed the amended plea bargain since I reluctantly and foolishly orally agreed to the terms of it at the change of plea hearing, but I only did this because I thought I would be able to revoke it at anytime before being sentenced.

48) September 5, 2012: After my change of plea hearing I was very upset that Brown was able to pressure me into agreeing to such an awful plea bargain. I was literally sick over it because the plea bargain was still full of so many lies and terms that I repeatedly told Brown that I would never agree to and I felt like he tricked me into accepting it. I talked to Caroll Delo that night on the jail phone and told her how Brown had lied to me about a lot of things regarding the plea bargain, after lying to her about them the previous night. Caroll also came to see me on a video visit the following night and we talked the whole time about how Brown had tricked me into agreeing to such an awful plea bargain that I did not want to. Caroll told me again that Brown told her that he had everything changed that I wanted to be changed in it and made her believe that I was "going to be happy with it". We were both really upset about the whole situation, especially how Brown lied to both of us about coming to see me before the hearing so I could thoroughly review the amended plea bargain and had a chance to think about it before he pressured me into agreeing to it. We even discussed getting another attorney at that point because Brown had blatantly lied to both of us about the plea bargain, never gave me an opportunity to review it, and then pressured me into initialing pages of it containing lies when I clearly did not want to. I told Caroll how Brown lied to me about how he was going to fully prepare to take my case to trial just in case the terms of my plea bargain were not changed to something acceptable to me. I let Caroll know how Brown told me that he was not prepared to take my case to trial and that I finally realized that he never had any intention of spending a ton of his time on my case so he could adequately represent me at trial, especially since I was in jail. I told Caroll that all Brown wanted to do was get me to plead guilty as fast as he could, so he gets a huge pay day for doing as little as possible, which is exactly what he did. I was a complete wreck and truly devastated for several days because Brown had been able to bullshit me into agreeing to what was essentially the same horrible plea bargain that had been offered to me for the past 15 months.

49) September 5 & 6, 2012: I was so upset that Brown was able to pressure me into accepting the amended plea bargain that one of the first things I did when I got back to the jail was start to write a letter to Judge Covington asking her to please revoke it. I read this letter to Carol Delo during our video visit on September 6, 2012 and she understood why I wrote it and wanted to send it but said that sending it would really upset Brown. The letter described all of the things I thought Brown did wrong in handling the whole situation. I wrote how Brown tricked me into signing the last page of the plea bargain on September 3rd, and pressured me into agreeing to the amended plea bargain on September 5th, even though I did not want to. I explained how Brown had lied to me about the changes he told me he would have made to my plea bargain, how he had lied to me about coming to see me before my change of plea hearing to go over those changes, and then how he pressured me into initialing the pages of the amended plea bargain during my hearing without ever giving me a chance to thoroughly review it. Carol told me that I should wait before I send my letter because it makes Brown sound really bad and that she wanted to talk to him about the situation. I told Carol that I rather have my letter typed up anyways so I mailed her a copy of it I wrote up and she said she would type it and send it to Judge Covington for me if that is what I really wanted to do. I told Carol that Brown was a liar and that I did not trust him anymore and that she should try to get back all of my silver bars and gold coins that she gave him because he did nothing to earn them or even the money paid to him by check. Carol said that she was going to tell Brown how unhappy I was with how he pressured me into agreeing to a plea bargain that he knew was completely unacceptable to me and that I wanted to revoke my plea bargain. Carol also told me that her and Jane would talk to another attorney about it, Norman Canella Sr, and see what he recommended I should do, and that they could possibly hire him to take over my case since I was no longer confident that Brown was going to do what was right for me anymore.

*(if possible please obtain print outs or recordings of my jail phone calls and video visits between 09/05/12 & 09/12/12)

*(if possible please obtain copy of the letter I wrote to Judge Covington on 09/05/2012 from Carol Delo)

*(my copy of this letter was in my legal paperwork that the U.S. Marshals never returned to me after I was transferred here)

50) early-September 2012: Within a few days of reading Carol the letter I wrote about how Brown had mishandled the situation with my amended plea bargain, which I planned to send to Judge Covington, and sending her a copy of it, Brown came to see me in jail. Brown told me that Carol let him know how unhappy I was with the amended plea bargain and how upset I was about how he pressured me into signing it without letting me review it. Carol told him that I was about to send a letter to Judge Covington explaining all of this. Brown told me that he tried his best and asked me not to do send any letters to anyone and that if I really wanted to revoke my plea bargain that he would file the motion for me to do that. Brown told me that considering the circumstances in which I was rushed into agreeing to it right before Peluso went on vacation, and was not given a chance to thoroughly review it, he believed that the judge would grant a motion to revoke my guilty plea, if that is really what I wanted to do. However, Brown told me that if that is what I decided to do then he would definitely have to start preparing to take my case to trial because then I would not even be given the option to plead guilty anymore, and that I would have pretty much no chance of getting offered another plea bargain, especially one that is any better than the one I am having revoked. Brown told me that he understood that I was very unhappy with the amended plea bargain, especially since it still had many untrue statements in it, and the things I wanted taken out and added were not all done, but Brown told me that is how it is with all plea bargains. Brown said that every plea bargain is going to have things in it that are completely false, and will have charges in them that cannot be proven, but that sometimes it is not worth fighting things like that, because no matter how much you argue, the government will still refuse to make changes that should be made. Brown told me that it is better to focus on the things we can change, such as how many levels off I will get for cooperation, how many levels I will get off for turning all of my money and medications over, making sure the forfeiture lien gets extinguished as soon as possible, and trying to get back my money not listed in the plea bargain. Brown assured me that he was going to help me with all of these things "starting now if I agreed to not revoke my plea bargain".

FROM: 53913018

TO: Candlewood, Peter; Delaughter, Chris; Eretto - Schoen, Patricia; Marshall, Erin; Siskind, Jeff; Switlyk, Stephen

SUBJECT: Attorney #5: Jeff Brown 2255 info (email 15 of 30)

DATE: 01/16/2014 07:55:27 AM

51) early-September 2012: Brown also told me that he talked to Caroll Delo about the whole situation and that he convinced her that I should give him "a chance to do whatever he can between now and my sentencing" so that I get the least amount of time as possible. Brown also said that he already returned the portion of the money that Caroll paid him as he had originally agreed to do if I plead guilty. I know that Brown wanted \$100,000 in checks in case he took both of my cases to trial, and \$30,000 if they were both resolved with a plea bargain (on top of all my silver and gold he received). I am pretty sure that Caroll was never able to pay Brown a total of \$100,000 in checks since it was difficult for her to convert my cash and gold to money in the bank, but it was pretty close. Either way, Brown had told me and Caroll that he was going to return the money he was paid over \$30,00 with checks to her if I plead guilty, which is what he did shortly after my change of plea hearing. Caroll obviously wanted to keep as much of my money as she could and since Brown had just given her a check between 40k to 50k back of my money I'm sure it wasn't very hard for him to convince her that I should not revoke my plea bargain. Since it would have been extremely difficult for me to convince Caroll to give Brown back that money so I could take my case to trial, this created a big obstacle for me if I wanted to revoke my guilty plea. I think Brown intentionally gave back my extra money for trial to Caroll so quick because he had no intention of ever taking my case to trial.

52) early-September 2012: Brown told me another reason that I should not revoke my guilty plea was because he already had scheduled proffer meetings for me that will likely lead to significant 5K-1 and/or Rule-35 motions. Brown told me that he setup a meeting with Agent Shearer that week so I could finally fully proffer about everything I have wanted to tell the government about Dr Heromin for the past 2 years. Brown told me that he was then going to schedule proffer meetings to discuss Brown Weiler and Nirav Patel, among other cases, and he thought that from the information I could offer on all 3 of those cases that I would definitely get substantial assistance for all of them. Brown thought that it was not too late for me to get credit for proffering against all 3 of those people who Foster had prevented me from doing during the 18 months he represented me. Brown told me that if I revoked my plea bargain that I would be throwing away all of that potential cooperation credit that I should easily be able to get, on top of all of the credit I was definitely going to get for everything I turned over. Brown told me that based just on those 2 factors alone that he would be able to get me out of jail or prison within the next year if I did not revoke my plea bargain, on top of hopefully getting back nearly 3.5 million dollars of my money. Thus, I foolishly fell for Brown's promises and agreed to give him a chance to do whatever he could to get me out within the next year.

*(Brown had setup proffer meeting regarding Dr Ronald Heromin on 09/09/2012)

*(Brown had setup proffer meeting regarding Pharmacist Brian Weiler on 09/12/2012)

*(Brown had setup proffer meeting regarding 1st Medical Clinic Case on 10/03/2012)

*(Brown had setup proffer meeting regarding Pharmacist and Pharmacy Owner Nirav Patel on 11/02/2012)

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

UNITED STATES OF AMERICA

vs.

Case No. 8:10-Cr-530-T-33AEP

CHRISTOPHER SWITLYK
_____ /

DEFENDANT CHRISTOPHER SWITLYK'S SENTENCING MEMORANDUM

COMES NOW, Defendant, CHRISTOPHER SWITLYK, by and through his attorney of record, Jeffrey G. Brown, Esq., and files this Sentencing Memorandum to the Presentence Report ("PSR") to assist the Court with the imposition of a reasonable sentence.

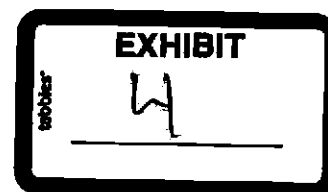
FACTORS THAT MAY WARRANT DEPARTURE

USSG §5K2.13 Diminished Capacity

The Defendant has struggled with recognized mental illness since he was referred for his first psychological evaluation as a child in middle school, but was never treated or medicated. Once evaluated, three (3) doctors found that psychotropic medication was medically necessary.

a. bruising on body and depression

According to Chris, he was referred to a "guidance counselor" at school in third grade after his teacher noticed bruising on his body. He believes that he participated in a psychological evaluation while attending Farnsworth Middle School; however, a check with the school revealed that his records were sent to Albany Academy when he transferred. Albany Academy only maintained his attendance records. Chris noted that he felt depressed during high school and saw a counselor on numerous occasions. He suffered from severe acne and his father, who is a dermatologist, advised him to take Accutane, which he took for years. He later learned



that Accutane can cause depression. He did not feel socially connected in high school and was particularly shy around girls. Took 5 (6 month courses of Accutane) at 14, 15, 16, 18, 20

b. suicidal thoughts

In 2006, Chris became depressed and first began having suicidal thoughts. He lost about 40 pounds that year. According to later psychological reports, Chris was evaluated by Dr. Marguerite Pinard on August 16, 2007, and her diagnostic impression was anxiety versus hypomania. He was prescribed Seroquel but felt very dizzy from this medication and ceased its use. Chris was later evaluated by Dr. Michael P. Gamache on September 16, 2008, and he recommended that Chris participate in outpatient psychotherapy. Chris attended ten (10) counseling sessions with Dr. Richard Brown.

c. Dr. Taylor; Bipolar II Disorder; Hypomaniac

Chris was evaluated by Dr. Ronald Taylor on December 14, 2011. Dr. Taylor diagnosed Chris with Bipolar II Disorder, Most Recent Episode Hypomaniac, and possible alcohol abuse. According to his evaluation, "The defendant's history is consistent with that of a mood disorder characterized by hypermanic episodes and at least one major depressive episode. Individuals experiencing hypomanic episodes tend to be impulsive and display poor judgment. This often results in interpersonal conflicts, occupational problems, and/or violations of the law unless there is adequate mental health intervention. It is probable that his history of interpersonal conflicts, occupational problems and legal problems have been at least partially caused by his mental condition." He was advised to begin mental health treatment with a psychiatrist and was provided with names of psychiatrists with offices near his residence. Dr. Taylor felt that he would benefit from taking psychotropic medication and was advised to decrease or discontinue his alcohol consumption and caffeine intake as those substances can have adverse effects on mood. Dr. Taylor felt that if he complied with these recommendations, his risk of future violations of the law would probably be reduced. Can we take out probably here?

d. Dr. Edgar; Psychiatric Wing PCJ

Chris began psychotherapy with Dr. James Edgar in January 2012 and saw him several times per week for four (4) months. Dr. Edgar verified that he was treating him for Bipolar Disorder and Severe Anxiety until he was incarcerated for this offense in May. Dr. Edgar prescribed Trazodone 50 mg to be taken at bedtime and Xanax 0.5mg to be taken once every six hours as needed. The dosage was later increased to Trazodone 100mg to be taken at bedtime and

Xanax 1mg every 6 hours as needed. Dr. Edgar noted, "These medications are medically necessary."

On June 13, 2012, he evaluated Chris while he was in the medical psychiatric wing in a solitary room at the Pinellas County Jail. Chris had been there for 14 days and was taking Zoloft 100mg. Chris told Dr. Edgar that he wrote a 14 page letter to his father, expressing his emotional thoughts and feelings, although he was trying to motivate his father to help him. He felt that his letter was misinterpreted by jail personnel and that he was not actively suicidal, but rather trying to convince and motivate his father to help him. When Dr. Edgar evaluated him for this situation, he appeared to have lost weight, but was alert and oriented to all spheres. He was cooperative and no indications of psychotic thought processes were noted. Dr. Edgar did not feel he was a suicide risk and there was no clinical indication for solitary confinement. Dr. Edgar did feel that the solitary confinement in the psychiatric wing would actually make his psychological state worse and opined that he should be returned to his previous jail situation (in Central Division).

e. Dr. Levine; Bipolar II Disorder; Depression; PTSD

Chris was evaluated by Dr. Jennifer Barror-Levine, licensed clinical psychologist, on August 24, 2012. She diagnosed him with Bipolar II Disorder with a recent episode of depression, Post-traumatic Stress Disorder (PTSD) and history of alcohol abuse. Dr. Levine administered two (2) tests which measured his personality functioning, the Eysenck Personality Inventory and MMPI-2. According to Dr. Levine, "On the Eysenck PI, Mr. Switlyk is excessively neurotic in his responses to social situations and external events. He is likely to make decisions in a black-and-white way that does not take in to account dissonant information, either positive or negative. This makes it extremely difficult for him to consider alternative decisions or perspectives, even when it appears clear to others that his thinking is faulty or clouded. Individuals with his level of inflexible thinking and ruminative cognitive style also often experience events more intensely than others, which may explain his tendency to seemingly over-report on these and other measures."

With respect to the MMPI-2, Dr. Levine finds, "Overall his characterological mental condition is both severe and debilitating to normal functioning. This profile indicates a history of insufficiently treated psychological difficulties that significantly characterizes Mr. Switlyk's emotional, cognitive and social functioning. In response to internal emotional events, Mr.

Switlyk is likely to be characteristically neurotic, expressing a great deal of anxiety and depressive symptomatology. He is likely to be chronically plagued with physical health problems that obfuscate emotional difficulties. Emotional safety is both extremely important to his well-being and also infuriatingly unattainable in the typical situations and relationships in which he finds himself. For all his apparent self-reliance, he is in reality overly dependent on others to make decisions for him, out of fear that he appears as stupid or incompetent as he believes he is when things go badly. Underneath his anxiety is an extremely diffuse sense of self and low self-efficacy. Because of his helplessness, he is likely to either make impulsive/compulsive decisions without considering all the facts, or appear apathetic to the consequences."

Dr. Levine reported, "In social situations, Mr. Switlyk vacillates between blind faith and paranoid avoidance. Most likely this ambivalence originates in early parenting inconsistencies, such as in the case of intermittent child abuse. His character profile indicates an early disruption of attachment development, which appears to impact his ability to form healthy relationships. Such early trauma is likely to explain present difficulties with social intelligence, and why he often becomes a victim of detrimental relationships. As an adult, Mr. Switlyk is likely to have a history of very poor relationships, in part because he overlooks the flaws of others and tends to idealize them. Because he deeply wants the approval and acceptance of others, he is likely to be easily convinced about their intentions and honestly surprised when their shortcomings inevitably surface. On the other hand, Mr. Switlyk is likely to quickly become distrustful and paranoid than other people, and to cope with perceived slights from others he becomes excessively independent and isolative. However, his psychological immaturity makes it impossible to sufficiently 'cover up' his character weaknesses, and he is likely to be taken advantage of by others, leading to further distrust and paranoia."

According to Dr. Levine, "With respect to social and emotional functioning, Mr. Switlyk is experiencing a severe level of depression, anxiety, hopelessness and suicidality. His responses on the SCL-90-R test also indicate a clinically significant level of distress related to somatic complaints, obsessive-compulsive behaviors, depression, anxiety, paranoia and schizophrenia. His Global Severity Index indicates an acute need for treatment for these issues."

Dr. Levine emphasizes, "Before being appropriately medicated, Mr. Switlyk was experiencing mania, panic attacks, paranoia, insomnia, lack of focus, and was unable to make

eye contact. Currently, he does not experience extreme highs and lows (although for the situational event of currently being incarcerated which causes some depression). During our interview he was extremely calm, made appropriate eye contact, and appears to have better insight and judgment. The environment of the jail and/or prison will only exacerbate his symptoms and he needs a less restrictive environment. Mr. Switlyk would like to find a psychiatrist and psychologist who could meet his needs and help foster a greater sense of control within himself. This should be arranged prior to his release from prison.”

f. Significantly reduced mental capacity

In the last two (2) paragraphs of Dr. Levine’s report, she finds: “According to the Diminished Capacity policy statement/definition (USSG §5K2.13), a defendant committed the offense while suffering from a significantly reduced mental capacity; and the significantly reduced mental capacity contributed substantially to the commission of the offense. “Significantly reduced mental capacity” refers to the defendant having an impaired ability to (A) understand the wrongfulness of the behavior compromising the offense or to exercise the power of reason; or (B) control behavior that the defendant knows is wrongful. Mr. Switlyk clearly meets this definition. Mr. Switlyk has several diagnoses that without appropriate medication and psychotherapy intervention leave him mentally incapacitated. Mr. Switlyk’s reasonable and effective decision making abilities become diminished due to psychological stress, which is a consequential result of the abuse he endured and the resulting diagnoses. The more stress that is placed upon him, the greater the incapacity. **Mr. Switlyk is more than capable of understanding right from wrong but his judgment becomes clouded because of his ineffective decision making abilities due to his diagnoses. Mr. Switlyk does not purposely act in a malicious manner but rather falls into a pattern of acting impulsively without regard to consequences. It is my medical professional opinion that when not properly medicated Mr. Switlyk did have significantly reduced mental capacity during the commission of his offense and did not understand the wrongfulness of his behaviors and was not able to exercise the power of reason.”**

Mr. Switlyk meets the definition of diminished capacity and a downward departure pursuant to this section would be warranted.

§5H1.3. Mental and Emotional Conditions (Policy Statement)

Mental and emotional conditions may be relevant in determining whether a departure is warranted, if such conditions, individually or in combination with other offender characteristics, are present to an unusual degree and distinguish the case from the typical cases covered by the guidelines. *See also* Chapter Five, Part K, Subpart 2 (Other Grounds for Departure).

In certain cases a downward departure may be appropriate to accomplish a specific treatment purpose. *See* §5C1.1, Application Note 6.

Although many defendants who commit drug offenses have endured difficult or abusive childhoods, most do not also suffer from extreme mental illness that meets the definition of diminished capacity. Mr. Switlyk's mental illness is present to an unusual degree and distinguishes his case from the typical cases covered by the guidelines.

There is no excuse for Mr. Switlyk's conduct and he knows he must be punished. The Court is required to consider his personal history and characteristics and how they contributed to his conduct. The guidelines provide a downward departure for his mental illness, for this very type of situation. All of the doctors who have evaluated or treated Mr. Switlyk agree that when not medicated, he is mentally incapacitated. Mr. Switlyk was not taking prescribed medication during this offense. Mr. Switlyk meets the definition of diminished capacity and his mental illness according to the Guidelines should be considered for a departure down.

PART F. FACTORS THAT MAY WARRANT A SENTENCE OUTSIDE THE GUIDELINE ADVISORY SYSTEM

Title 18 U.S.C. § 3553(a) provides the factors the Court must consider when imposing a sentence. Although the Court is keenly aware of these factors, they are easier to address when they are in front of us.

These seven factors include: (1) The nature and circumstances of the offense and the personal history and characteristics of the defendant; (2) The need for the sentence imposed to reflect (A) the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense; (B) to afford adequate deterrence to criminal conduct; (C) to protect the public from further crimes of the defendant; and (D) to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner; (3) The kinds of sentences available (4) and (5) The guidelines and policy

statements; (6) The need to avoid unwanted sentencing disparities; and (7) The need to pay restitution to victims.

(1) Christopher Switlyk's personal history:

Christopher Switlyk was raised in a middle class environment in the suburbs outside Albany, New York. His parents argued constantly. He described his father as "angry all the time with a volatile temper." He added, "We walked on egg shells." His father was physically abusive and hit him daily. When he was seven, he took down his father's coin collection to look at it and he left it on the table. His father came home and beat him so severely, that he fractured Chris's arm. Chris had to go to the hospital as a child several times as a result of such severe beatings by his father. According to Chris, his third grade teacher asked his mother about the bruises on his body and they arranged for Chris to see a guidance counselor. Chris recalled that his father constantly yelled and screamed at his mother.

His father did not want him to play sports, have friends over or go to friend's houses. Chris wanted to play little league but his parents would not allow it since they had no time to take him to practice. His mother was cold, unaffectionate and worked all of the time. When she was at home, she was overwhelmed and often yelled, "Wait until your father gets home, he's going to really beat you." His father's sister moved next door when he was five years old and Chris played with his cousins. Shortly thereafter, his father stopped talking to his sister and they were no longer allowed to play with their cousins. Any presents she brought over were returned. Eventually, the fighting between them escalated and Chris's aunt, uncle and cousins moved out of town.

Chris attended six schools in twelve years. He attended private Catholic school until third grade. He attended public school from third to fifth grade. By the time he was nine years old, his father was beating the kids so often that their mother feared for their safety. She moved with them to Guilderland, a community 20 minutes away from Albany. They resided there for one year and had very minimal contact with their father during that time. A year later, they all moved back to reside with their father as he had convinced their mother that it was the kids' fault that he hit them because they were such bad kids. The children were sent to military school at Albany Academy, where they suffered additional physical abuse. During battalion practice, the captains hit them on the head with large rings, hit them with their guns or threw balls at their

heads. His older brother was expelled for having fought back, physically injuring one of the captains. His parents decided to remove the other children from the school.

At age 11, at the beginning of summer vacation, his father was angry and ran after him and his older brother to hit them, but he tripped and broke his foot. His mother drove him to the hospital and during the ride he repeatedly threatened to kill the boys when he got back home. His mother was so afraid of what would happen to them that after she dropped Chris's father off at the hospital she drove home, threw all of the boys' belongings into bags, and took them to the bus station. Chris's mother sent them to live with their grandparents in Staten Island for that summer. According to Chris, him and his older brother finally felt peace and were able to go to science camp and play tennis. Chris noted that he also started jogging around the block that summer to train so that he would be able to outrun his father.

By age 12, his father had injured his back from heavy weight lifting and he was no longer able to run after them and hit them. According to Chris, he could get away from his father if his father was coming after him; however, on occasion, if he was standing near his father, his father would grab him unexpectedly, start beating him and say, "This is for what you did earlier!"

At age 13, Chris's parents bought the house 2 doors down from his mother's sister, "Aunt Patty." Chris shared a close relationship with her. Chris's older brother was expelled from high school at age 14 after a fight at school. Another student started a fight and his brother beat the student so severely, the student was hospitalized for two months. The school arranged for his brother to be "home schooled" by a private teacher. Chris's older brother joined a gang and often slept in parks. When his brother was 14 or 15 years old, he took a belt and tried to strangle their father while he was sleeping. His brother was hospitalized for two weeks in a psychiatric hospital until his parents no longer wanted to pay for the hospitalization and they moved him into his own apartment to keep him away from Chris's father.

When Chris was 14 years old, his father pushed him down the stairs. A family member called Child Protective Services and his father was required to attend anger management classes. No one had ever intervened on the children's behalf due to fear of damaging family relationships. In addition to daily physical abuse, his father constantly cursed at the children and Chris was often referred to as "a worthless piece of shit."

Despite the chaos at home, Chris excelled academically and completed high school at age 16. He enrolled in the State University of New York at age 16 and was admitted into their

Business School. At age 17, his father insisted that he enroll in the pharmacy program as a pre-med program through the Albany College of Pharmacy at Union University. Chris agreed and moved out of the family home and resided in the school dormitory. He also secured employment at a local pharmacy and moved into his own apartment after one year.

According to family members, Chris was a very bright child and was thriving academically so his other needs fell through the cracks. Chris was described as "incredibly sweet, loving and kind" and always remembered his grandparents' birthdays, visited them when they were sick, and was very thoughtful. It was noted, "We knew he had problems but we couldn't get a diagnosis. Chris is not dangerous; he would never hurt anyone else. His biggest obstacle is himself. He is too trusting of others and doesn't understand protecting himself. If you tell him 'don't take candy from a stranger, he is first in line.' He has always been desperate for friends and acceptance. He always offered to drive and offered to pay."

According to his friend, Ms. Delo,

"There are behaviors we have seen that start to shed light on the million dollar question: How did this gentle, sweet person end up where he is? Clearly, something in his head is not working like it should." She added, "Chris hoarded things, even money, in meticulously organized plastic bins, drove a 12 year old cars, wore the very same clothes he wore in high school (he is 34) and obsessively used coupons for every purchase. When he eats, he meticulously removes each and every seed from a tomato slice or cucumber. He is obsessive about his food and hoards and orders in large amounts. He told me that he was often left very hungry as a kid. He has spent 30 minutes in the dark of night trying to find and feed a stray cat. He loves and cares for animals but lacks the simple ability to show affection to humans. Prior to being incarcerated, he rarely made eye contact with people. Everyone that I've introduced him to says that he is odd-he has trouble looking people in the eye and it's hard for him to make any sort of connection. He has blindly trusted all the wrong people and when he realizes he's in a compromising situation he cannot problem solve. Chris has an inability to speak up or stand up for himself when confronted with a problem or issue (this was apparent prior to reading Dr. Taylor's report, which confirmed this). There is some type of disconnect in his brain. For some reason, he can't speak up, communicate, stand up and problem solve when he is in a terribly compromising situation. For example, he did not know how to confront the employees at the pharmacy, assess the

situation and begin to problem solve. He has had two or three women extort money from him. He has had four attorneys in his case, I think in large part because he has an inability to speak up, can be easily convinced and will blindly trust just about anyone or what he or she has to say. Chris clearly has some serious issues but this is not a case of a career criminal- something in his head is not right; couple that with a sterile upbringing...I truly feel that with love, guidance, along with medical and emotional help, Chris will live a very peaceful life. His heart is pure and kind."

Chris Switlyk's personal history involves a childhood during which he was punched, kicked and thrown down the stairs by his father and rejected and emotionally abandoned by his mother. He was beaten at home and at school. In addition to daily physical abuse, his father constantly cursed at the children and Chris was often referred to as "a worthless piece of shit."

(worthless piece of shit comment is already on page 9)

It is not surprising that he suffers from anxiety, depression, and PTSD. Additionally, he inherited mental illness, specifically, Bipolar II Disorder. Mr. Switlyk has been mentally debilitated his entire lifetime. To not consider that these issues impaired his personality, relationship with others, and his decisions and actions on a daily basis, is ignoring what the Court is required to consider.

With respect to the circumstances of the offense, there is no question Mr. Switlyk sold some oxycodone illegally (Aaron Bennett) and, for the predominant amount of illegally sold oxycodone (Marc and Kim), failed to supervise his employees including the day pharmacist and others. He knows that the offense is serious. However, his odd conduct throughout the offense, his voluntary surrender of all his money (over \$6 million), even money legitimately made from the pharmacy, his DEA license, and the million dollars worth of controlled substances already purchased, sets his conduct aside from the typical offender. Mr. Switlyk owned the business but had no idea how to operate a business. He hired employees including a man he met in jail (Marc Beltran) as well as those he knew previously stole from others, yet knowing this still failed to supervise them. Mr. Switlyk installed a video surveillance camera in lieu of supervision but never reviewed the video surveillance tapes. It wasn't until over a year after Chris voluntarily closed his pharmacy that the DEA Agents gave him his video surveillance system. That is when Chris learned that that his employees were stealing money and were personally selling

oxycodone in large quantities. In reality, Mr. Switlyk was in no mental condition to operate or manage a business.

(2) The need for the sentence imposed to reflect (A) the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense; (B) to afford adequate deterrence to criminal conduct; (C) to protect the public from further crimes of the defendant; and (D) to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner.

While his sentence must include punishment and protection of the public, it must also consider his need for treatment and medication. Dr. Taylor advised him to begin treatment with a psychiatrist, take psychotropic medication, and decrease or eliminate alcohol and caffeine. He found that if he complied with those recommendations, his risk of future law violations would be reduced. Dr. Edgar, his treating psychologist found that his medications are medically necessary. Dr. Levine indicated that before being properly medicated, he was experiencing, mania, panic attacks, paranoia, lack of focus, and was unable to make eye contact. She found that after medicated, he was calm, able to make eye contact and appeared to have better insight and judgment. Dr. Levine pointed out that the environment of prison will only exacerbate his symptoms, and determined that he needs a less restrictive environment. Since the sentence imposed must consider that Mr. Switlyk suffers from diminished capacity and is in need of specific treatment and medication, a lower sentence of incarceration with a longer term of supervision is warranted.

(3) The Kind of Sentences Available, (4) The Guidelines, and (5) Policy Statements

When considering the kinds of sentences available, it is important to note that federal prisons are operating at 137% capacity. The Court is referred to the U.S. Sentencing Commission, Amendments to the Sentencing Guidelines (May 3, 2010) (The amendments, which took effect November 1, 2010, increase the availability of non-custodial sentences for certain non-violent offenders, based on "recognition of increased interest in alternatives to incarceration by all three branches of government and renewed public debate about the size of the federal prison population and the need for greater availability of alternatives to incarceration for certain non-violent first offenders.") See also 28 U.S.C. § 944(j) (The Guidelines "reflect the

general appropriateness of imposing a sentence other than imprisonment in cases in which the defendant is a first [time] offender who has not been convicted of a crime of violence or otherwise serious offense...).

Mr. Switlyk is a non-violent offender with mental illness. While he deserves punishment and incarceration, the Court should consider prison overcrowding and the cost of incarceration while balancing his need for counseling and medication. When considering the guidelines and policy statements, the USSC quarterly data report for the second quarter of 2012 (see Table 3) reflects that aside from government sponsored downward departures in drug trafficking cases (35.7%), judges imposed sentences below the guideline range in 18% of the cases. Therefore, judges are imposing sentences below the guideline range 53.7% of the time in drug cases.

United States District Court Judges have expressed disagreement with the drug guidelines. It is interesting to note that in *United States v. Ysidro Diaz*, (11-CR0-00821-2-JG), United States District Court Judge John Gleeson(ED/NY), issued a "Memorandum Explaining a Disagreement With The Drug Trafficking Offense Guideline" filed on January 28, 2013.

Judge Gleeson notes, "The drug trafficking offense guideline was born broken. Many judges will not respect it because as long as the sentences it produces are linked to the ADAA's mandatory minimums, they will be too severe. Indeed, as discussed further below, for almost two decades the nation's judges have been telling the Commission to de-link the drug trafficking offense guideline from those harsh mandatory minimums and to reduce the sentencing ranges. The Commission should listen and act. It should use its resources, knowledge, and expertise to fashion fair sentencing ranges for drug trafficking offenses. That process will take time. In the meantime, because real people, families, and communities are harmed by the current ranges, it should immediately lower them by a third." He adds, "The Commission should use its resources, knowledge, and expertise to fashion fair sentencing ranges for drug trafficking offenses. If it does, those ranges will be substantially lower than the ranges produced by the current offense guideline. The deep, easily traceable structural flaw in the current drug trafficking offense guideline produces advisory ranges that are greater than necessary to comply with the purposes of sentencing. We must never lose sight of the fact that real people are at the receiving end of these sentences. Incarceration is often necessary, but the unnecessarily punitive extra months and years the drug trafficking offense guideline advises us to dish out matter: children grow up; loved ones drift away; employment opportunities fade, parents die. Until the Commission does the job

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Sentencing Memorandum

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right, which should take considerable time, it should lower the ranges in drug trafficking cases by a third for the reasons set forth above. In the meantime, the current ranges will be given very little weight by this Court."

One of the U.S. Sentencing Commission priorities for the 2012 amendment cycle was to undertake a comprehensive multiyear study of recidivism and recommendations for using information obtained from the study to reduce costs of incarceration and overcapacity of prisons and whether any amendments to the guidelines may be appropriate. Particularly in light of the BOP budgetary problems and overcrowding, one could make the argument that it does not make sense to incarcerate a defendant for a lengthy amount of time (over 5 years) who suffers from mental illness and PTSD. Mr. Switlyk is not a dangerous, violent offender. Three (3) psychologists have noted that medication and treatment will reduce the likelihood of recidivism and under supervised care could function normally. Mr. Switlyk responds well to medication and although his Bipolar condition is somewhat stable, he suffers from PTSD. Drs. Edgar and Levine have found that the prison setting actually exacerbates PTSD symptoms. Consequently, Mr. Switlyk's punishment of a lengthy incarceration is a much harsher consequence because he will suffer far greater than the typical inmate.

(6). The need to avoid unwarranted sentencing disparities among defendants with similar records who have been found guilty of similar conduct.

From the very beginning of this investigation, Chris has displayed an above average level of cooperation. He maintained from the very beginning a willingness to cooperate and begin the long road of trying to right the wrongs he committed or allowed to occur. At the execution of the search warrant, he voluntarily surrendered all of his controlled substance medications at the pharmacy, a value of over a million dollars. This surrender came at a cost of over \$400,000.00, a cost that he still owes and is being sued for. He also, at the time of the search warrant, voluntarily surrendered all of this money at his pharmacy, all of the money in a bank account that the DEA knew about, and all the money in a second bank account the DEA did not know about, all total over \$6 million dollars. (He also voluntarily turned over all of the cash found at the pharmacy, and 5 safe deposit boxes the DEA had no idea of.) While some of this money represented money gained from these underlying charges in the Indictment, a large part of this

money was from the legal operation of the pharmacy; yet, Chris agreed to voluntarily surrender ALL of the money. Chris also quickly agreed to surrender his Pharmacy's DEA license and all of his medications, even though it was not required at the time.

Absent a problem with potential "conflicts of interest" with his lawyer, Todd Foster, Chris was actually attempting to proffer all the information he had on several Doctors, Pharmacists, and Clinic Owners in the Tampa Bay area that DEA was interested in. In fact, if not for Todd Foster and then Steve Crawford, Chris would have been able to proffer, remain out and provide substantial assistance that would have far exceeded his co-defendants. Instead, Chris has had to play "catch-up" on the proffers and substantial assistance ultimately meaning that most of the cooperation will not be completed by the time of his sentencing.

In summation, the undersigned respectfully requests that this Honorable Court consider this sentencing memorandum and grant a downward departure to a term of 60 months.

Why 60?

Respectfully submitted,

Conflicts of interest include but are not limited to:

Doctor Ronald Heromin
Pharmacist Nirav "Nick" Patel
Pharmacist Brian Weiler (cohen also represented him)
Pharmacy and Clinic Owner Rets Griffith

JEFFREY G. BROWN, ESQ.
Attorney for Defendant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original of the foregoing has been furnished by Electronic Filing to Sheryl L. Loesch, Clerk of the Court, U.S. District Court, Middle District of Florida, located at U.S. Courthouse, 801 N. Florida Ave., #223, Tampa, FL 33602-3800, and that e-mail notification of this filing will be sent to all interested persons on this _____ day of February, 2013.

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IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA

FILED
2014 MAR 31 DIVISION
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UNITED STATES OF AMERICA
DIVISION OF
ADMINISTRATIVE
HEARINGS

v. CASE NO: 8:10-CR-530-T-33AEP

CHRISTOPHER SWITLYK

MOTION TO VACATE, SET ASIDE, OR CORRECT SENTENCE

COMES NOW, the Defendant, CHRISTOPHER SWITLYK, proceeding on his own behalf, and pursuant to 28 United States Code 2255, and hereby requests this Honorable Court to issue an Order setting aside the judgement and sentence of conviction and as grounds therefore would state the following:

I. CONTENTS OF MOTION

Pursuant to 18 United States Code 2255 the instant motion includes the following:

- 1) The undersigned is attacking the judgment and sentence rendered on February 21, 2013.
- 2) There has been no appeal taken attacking the legality of the judgment and sentence.
- 3) There have been no previous Motions for Post-Conviction Relief.
- 4) The undersigned is seeking to vacate the judgement and sentence as a result of ineffective assistance of counsel.
- 5) This motion is filed timely.

EXHIBIT

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II. SUMMARY OF THE CASE / FACTS

- 1) The defendant was one of many defendants charged in this alleged conspiracy. Some of these defendants were included in his indictment and others were indicted separately. These include: Louis Fernandez Jr, Louis Fernandez III, Kimberly Curtiss, Marco Beltran, Brian Weiler, Dr Ronald Heromin, Dr John Lanning, Dr James Shelburne, and Retsidistwe Griffith.
- 2) The defendant had been represented by several attorneys throughout the process, including (in order): Dirk Weed, Todd Foster, Gregory Kehoe, Steven Crawford, and Jeffrey Brown.

III. PROCEDURAL HISTORY

- 1) On 05/20/2010, a search warrant was executed on the defendant's pharmacy, VIP Pharmacy, and a pain clinic belonging to his co-defendants, Tampa Wellness Centre, and the defendant was subsequently arrested on a state charge.
- 2) On 05/20/2010 & 05/21/2010, the defendant was represented by attorney Dirk Weed, who convinced him to immediately start cooperating with the government, and do whatever the agents wanted him to do. This included having the defendant voluntarily close his pharmacy, voluntarily turn over all of his prescription medications worth about 1 million dollars, and voluntarily turn over all of his money (several million dollars in cash and in his bank accounts).
- 3) On 05/24/2010, the defendant met with attorney Todd Foster, who began to represent him, and represented the defendant through the following 17 months.

- 4) On 11/03/2010, another pain clinic was raided which belonged to co-defendants of the defendant, Superior Injury Center, and Beltran and Curtiss were arrested on state charges.
- 5) On 12/14/2010, an Indictment was returned charging the defendant, inter alia, Count One, conspiring to possess a controlled substance with the intent to distribute.
- 6) On 12/16/2010, the defendant was notified of his indictment and arrest warrant. The defendant immediately voluntarily surrendered himself to the U.S. Marshals, and was granted release pending trial by Judge Pizzo.
- 7) On 10/21/2011, attorney Greg Kehoe filed a notice of appearance and began representing the defendant.
- 8) On 12/28/2011, attorney Greg Kehoe filed a Motion to Withdraw from the defendant's case due to the government threatening to seize his fees the defendant was paying him.
- 9) On 01/13/2012, the Motion to Withdraw was conducted before Judge Porcelli, who offered to court-appoint Kehoe so he could continue to represent the defendant. Kehoe refused to accept the court's offer and the defendant was forced to hire other legal counsel.
- 10) On 01/19/2012, a Conflict Hearing was held before Judge McCoun to discuss the Conflicts of Interest of the defendant's previous attorney, Todd Foster, who represented him for 17 months. These conflicts included Foster's representation of the defendant, Heromin (see Case No: 8:11-cr-550-T-33TBM), and Griffith (see Case No: 8:11-cr-323-T-17TBM).
- 11) On 02/06/2012, attorney Steve Crawford filed a notice of appearance and began representing the defendant.

- 12) On 05/01/2012, the defendant's bond was revoked while being represented by Crawford.
- 13) On 05/16/2012, a Bond Revocation hearing was conducted before Judge Pizzo, which resulted in detention of the defendant.
- 14) On 06/06/2012, attorney Jeff Brown filed a notice of appearance and began representing the defendant.
- 15) On 06/18/2012, Brown filed an Emergency Motion for Order to Show Cause why the defendant should not be returned to the general population of the jail.
- 16) On 06/28/2012, Judge Porcelli granted the Motion for Order to Show Cause why the defendant should not be returned to the general population of the jail. A Miscellaneous Hearing on this matter was scheduled for 07/06/2012.
- 17) On 07/05/2012, the Miscellaneous Hearing was canceled as the issues were resolved on this date, and the defendant was finally able to communicate with his new attorney (Brown), and was able to actually start having meetings with Brown about his case instead of about his housing conditions.
- 18) On 08/31/2012, Judge Covington denied the Joint Motion to Continue Trial for the defendant.
- 19) On 09/05/2012, the defendant plead guilty to the Indictment while he was represented by Brown.
- 20) On 01/19/2012, Judge Covington sentenced the defendant's codefendants as follows: Fernandez Jr to 24 months, Fernandez III to 63 months, Curtiss to 48 months, and Beltran to 188 months.
- 21) On 02/11/2013, Judge Covington denied the Joint Motion to Continue Sentencing for the defendant.

22) On 02/21/2013, Judge Covington sentenced the defendant to 108 months while being represented by Brown. Immediately after the defendant's sentencing hearing, AUSA Peluso and Brown had an "off the record discussion" with Judge Covington at her bench about the conflicts of the defendant's previous attorney, Todd Foster, having severe negative impacts on the defendant throughout his case.

23) On 09/26/2013, a Motion for Forfeiture of a Preliminary Order for Substitute Assets was filed by the government, regarding 62 1-ounce gold Kruggerand coins which belonged to the defendant, worth approximately \$87,804.40 at the time, which had been seized by the DEA earlier that month.

24) On 11/26/2013, a Motion for Final Judgement of Forfeiture for Substitute Assets regarding the defendants gold coins was filed by the government, and granted by Judge Covington.

IV. NATURE OF RELIEF SOUGHT

The nature of the relief sought is to allow the defendant to withdraw his plea, and to set aside and vacate the judgments in the case at issue herein, based on the fact that the defendant's counsels rendered ineffective assistance of counsel; or in the alternative, to be resentenced while the Court takes into consideration all of the issues raised in this motion, which in combination likely contributed to the defendant receiving a much longer sentence than he would have received had none of these issues transpired.

V. MEMORANDUM OF LAW

In *Strickland v. Washington*, 466 U.S. 688, 104 S.Ct 2052, 80 L.Ed 2d 674 (1984), the United States Supreme Court defined two requirements for a claim of ineffective assistance of counsel. *Id.* at 687, 104 S. Ct at 2064. First, the defendant must show that counsel's performance was deficient. *Id.* This requires showing that counsel made errors so serious that counsel was not functioning as the "counsel" guaranteed to the defendant by the Sixth Amendment. *Id.* Second, the defendant must show the deficient performance prejudiced the defense. *Id.* Therefore, the first prong of this test requires that the defendant show counsel's performance "fell below an objective standard of reasonableness." *Id.* at 688, 104 S.Ct at 2065.

Under the second prong of *Strickland*, the defendant must show that the deficient performance prejudiced by the defense. This requires showing that counsel's errors were so serious as to deprive the defendant of a fair trial, a trial whose result is reliable.

The Sixth Amendment's right to counsel exists to ensure a fair trial, and counsel's function is to make the adversarial process work in that particular case. "The benchmark for judging claims of ineffectiveness ... is whether the conduct of counsel 'so undermined the proper functioning of the adversarial process that the trial cannot be relied on as having produced a just result.'" *Strickland*, 466 U.S. at 686, 104 S.Ct 2052. An attorney's performance must be reasonable under the prevailing professional norms,

considering all of the circumstances, and viewed from the attorney's perspective at the time of trial. Id. A defendant must meet both parts of the test, performance and prejudice, in order to obtain post-conviction relief. To establish prejudice, the defendant must show "that there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different."

Strickland, 466 U.S. at 104 S.Ct. 2052. "The concern of the court evaluating an ineffectiveness claim should be whether the result of a particular proceeding is unreliable because of a breakdown in the adversarial process." Id.

VI. GROUND FOR RELIEF

GROUND 1: AN ACTUAL CONFLICT OF INTEREST DENIED THE DEFENDANT HIS SIXTH AMENDMENT RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL.

SUPPORTING FACTS FOR GROUND 1:

The defendant attests that his counsel Todd Foster labored under an actual conflict of interest which adversely affected his performance during the plea and cooperation process of his case during the entire seventeen (17) months he represented the defendant (05/24/2010 to 10/20/2011). Todd Foster rendered ineffective assistance of counsel throughout his representation by blatantly ignoring multiple conflicts he had with representing Dr Ronald Heromin, Nirav Patel, Brian Weiler, and later Retsidistwe Griffith, while also representing the defendant, which severely prevented him from any opportunities for timely cooperation against those individuals, as well as others.

Despite knowing that the defendant had actually sent three of his firm's other clients to them, namely Heromin, Patel and Weiler, Foster assured the defendant that these conflicts would not have any negative impact on his representation of the defendant. Foster took over the defendant's case in late May of 2010, and despite him immediately expressing his desire to cooperate, Foster did not bring the defendant to proffer until August of 2010. At the start of the defendant's initial proffer, Foster told the government that he did not want the defendant to discuss his

other client, Heromin, because of a conflict of interest, which the government expressed concerns with at that point. More importantly, Heromin was listed as Confidential Witness #7 in the affidavit in support of the defendant's search warrant and arrest. In fact, Heromin, while represented by Foster, proffered incriminating information against the defendant, but Foster subsequently still agreed to represent the defendant after his arrest.

Also, during the defendant's initial proffer, Agent Shearer stated that they "could spend a whole day just talking about Nick (Nirav) Patel, and his pharmacies" since the defendant "worked for Nick longer than anyone else has and was good friends with him." The defendant had a significant amount of incriminating information about Patel (as well as Heromin), which was relevant and current at the time, but was not allowed to share any of it with the government at his initial proffer and throughout Foster's representation. When the defendant was asked to talk about Patel at his initial proffer, Foster interceded and indicated that the defendant would not be allowed to talk about Patel either because he was also a client of his firm, to which Agent Shearer replied, "That's unfortunate for Chris, because that could really hurt him." After his initial proffer, the defendant questioned Foster about the government's concerns over his apparent conflicts, and how they could "hurt him", to which Foster told him to "not worry about it", and that the government was just mad about the defendant now having an attorney that wouldn't let them "push him around anymore" like Weed let them do when he represented him.

On top of Foster's conflicts severely hindering the defendant's ability to cooperate, Foster also prevented the defendant from directly communicating with any government agents, officials, detectives, and prosecutors, which also compounded this problem. Then the fact that, instead of Foster trying to secure as much credit as possible for all of the money the defendant had voluntarily turned over for "extraordinary acceptance of responsibility" (as a 5K2.0), or for "substantial assistance" (as a 5K1.1), which is what the defendant continually asked him to do, Foster spent the vast majority of the time he represented the defendant improperly aggressively fighting the government to return the defendant's money to Foster's firm since he was entitled to keep 40% of it, with the other 60% going towards the unpaid portion of his fee. Thus, Foster created another conflict of interest due to the significant financial incentives he gave himself in the second page of the engagement contract he drew up detailing the terms of his representation of the defendant for his criminal case. These terms pertaining to the recovery of the defendant's money from the government, which Foster insisted on having in the defendant's engagement agreement, motivated Foster to put recovering the defendant's money in front of any of his best interests throughout Foster's representation of the defendant.

The combination of these 3 factors created a barrier between the defendant and the DEA agents, which severely prevented him from being able to earn substantial assistance through cooperation efforts which would have been available to the defendant while he was out on bond. These included, but

were not limited to, the defendant being able to make controlled sales and buys, cooperation against the individuals Foster's conflicts excluded him from, and cooperation against other individuals and businesses which the defendant had current and relevant incriminating information about during this timeframe. Had Foster not had these conflicts, and had not prevented the defendant from communicating directly with the government, and had not aggressively fought the same people who the defendant wanted to cooperate with to return the defendant's money, there is a reasonable probability that the outcome of the defendant's sentencing hearing would have been different.

In Summary, the defendant asserts the following errors were committed by defense counsel Todd Foster during the 17 months he represented him (05/24/10 to 10/20/11), in support of Ground 1:

- 1) blatantly ignoring multiple conflicts he had with representing the defendant, Heromin, Patel, Weiler, and later Griffith, which severely prevented the defendant from benefiting from timely cooperation against those individuals and others
- 2) improperly preventing the defendant from directly communicating with any government agents, officials, detectives, and prosecutors, which prevented the defendant from pursuing numerous cooperation matters
- 3) instead of securing as much credit as possible for all of the money the defendant had voluntarily turned over for "extraordinary acceptance of responsibility" (5K2.0), or for "substantial assistance" (5K1.1), which is what the defendant continually asked him to do, Foster spent the vast majority of the time he represented the defendant improperly fighting the government to return his money due to Foster's own financial interest in it

These 3 factors in combination severely prevented the defendant from earning significant substantial assistance during Foster's representation, as well as the subsequent issues concerning Foster raised in Ground 2.

GROUND 2: THE DEFENDANT WAS DENIED HIS SIXTH AMENDMENT RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL DURING THE PLEA AND COOPERATION PROCESS.

SUPPORTING FACTS FOR GROUND 2:

The defendant attests that his counsel Todd Foster was ineffective for improperly advising him to assist with another pharmacy, as well as for advising him to protect his girlfriend at the time, Tiffany Phan, and misadvising him not to report her criminal activities. As soon as Foster took over the defendant's case, he was very upset that the defendant had just voluntarily turned over absolutely everything he had to the government, and he immediately advised the defendant to reopen his pain management clinic, Tampa Total Health, as well as to assist in the opening and operations of additional independent retail pharmacies. Foster told the defendant that he needed to make as much money as he could, as quickly as he could, in order to pay off his substantial \$750,000.00 fee for representing him, and that this was the only conceivable way that he would be able to do that. Despite the defendant voicing his concerns to Foster about potential risks of still being involved in these types of businesses while being out on bond for charges related to his old pharmacy, Foster assured the defendant, Phan and Norman Clement, that he saw absolutely no way that the defendant could possibly suffer from any negative consequences from remaining in that field of business in order to make money to pay his legal bills and for the living expenses of

him and Phan.

Foster even had extensive discussions with Norman Clement, the owner of Pronto Pharmacy, during which he expressed his legal opinions on this matter, telling him the same things he told the defendant and Phan. Foster also personally called attorney Bruce Lamb, and sent the defendant to his firm, Ruden McClosky, in order for him to get a contract drawn up to secure the defendant's financial interest in Pronto Pharmacy (which he was charged \$5,000.00 for). Foster even told the defendant that it would help his pending case if he remained involved in these types of businesses because "it would open up endless avenues of cooperation for him by staying in the loop." Not only did the defendant not receive a single benefit in his case from continuing to work in this field, but it did the exact opposite, and caused the defendant severe negative consequences, even though he never did anything illegal while he was out on bond, especially related to those businesses. The defendant was only trying to legally earn money to pay for his massive legal fees since he had voluntarily turned over absolutely everything he had to the government, which is what they wanted him to do, and also because the government seized \$400,000.00 the defendant had in an escrow account at a title company which the agents had initially promised him and Dirk Weed that they would let him keep for living expenses and legal fees while his case was in progress.

At the defendant's initial August 2010 proffer, the government was unhappy that his pain management clinic was back open, and they were not willing to consider using it in

any cooperation matters whatsoever. Also related to this matter, from the start of his representation of the defendant, and throughout it, Foster improperly advised him to protect Phan because he knew that she was the one who was running his pain clinic, and then later Pronto Pharmacy. Thus, also during the defendant's initial proffer meeting with the government, when they asked him for incriminating information about Phan, Foster prevented him from discussing any of her criminal activities which were known to him. Foster even strongly recommended that the defendant hire Phan an attorney (Timothy Taylor), in order to protect her to make sure that she would not be indicted for her role in the alleged conspiracy. Foster continually advised the defendant to protect Phan however he could because Foster was protecting the sources of how his fees were being paid, despite that his advice on the matter was against the defendant's best interests.

Following Foster's advice on becoming involved with Pronto Pharmacy, and also on protecting Phan, ultimately caused the defendant severe negative consequences. Phan later became a Confidential Witness against the defendant and the information that she provided to the government concerning Pronto Pharmacy was used to file a new Criminal Complaint against him. Had Foster not insisted that the defendant protect Phan, she would have never had the chance to later cooperate against him. Soon after the government found out that the defendant was involved with another pharmacy, it angered them to the point of permanently revoking his bond on May 1, 2012. The defendant alone, was arrested and charged

with a criminal complaint on that date for assisting with a pharmacy, which his friend owned, which was actually ran by Phan, which he would have never even become involved with, if it was not for Foster's awful advice concerning this matter.

A subsequent attorney of the defendant, Steve Crawford, compounded this problem for the defendant, which was created as a result of him following Foster's awful advice. The defendant made it very clear to Crawford since the very first time he met with him on January 26, 2012, that the top priority in his case was for Crawford to immediately secure a meeting for the defendant with the government so he had the chance to clear up any misconceptions that they had about his involvement with Pronto Pharmacy. Crawford assured the defendant that he would immediately get him a meeting with the government to do this, as well as to finally get the defendant on track to participate in numerous cooperation matters, which he had been prevented from pursuing while Foster represented him.

Instead of immediately focusing on arranging a meeting with the government for the defendant, Crawford first spoke with Norman Clement, the owner of Pronto Pharmacy, and even sent a Private Investigator, Kevin Kawlary, there to ensure that the business was being legally operated. Crawford then improperly advised the defendant that there was nothing wrong with him being involved with Pronto Pharmacy, and with him physically being there to train the new pharmacy technician who took over for Phan, instead of telling the defendant to steer clear of the place, at least until after he and the defendant met with the government. Despite the defendant's

repeated requests for Crawford to please bring him in to meet with the government, he refused to do this, and actually prevented him from ever meeting with them while he represented the defendant.

Then, despite being warned by AUSA Peluso that if he did not bring the defendant in to meet with her "that week" (the last week of April of 2012), that she would be "filing something" against him, Crawford blatantly ignored her warning and never let the defendant know about it. Instead of Crawford doing what the defendant had asked him to do since first meeting with him on January 26, 2012, Crawford actually canceled a pre-set proffer meeting and told the defendant that Peluso was the one who pushed it back again. The entire time Crawford represented the defendant, even after he paid Crawford his requested \$50,000.00 fee in full in early February of 2012, he never did any of the things the defendant actually hired him to do. Crawford promised the defendant that he would immediately help him resolve the government's issues regarding Pronto Pharmacy, become completely familiar with his case, make significant positive progress in the plea and cooperation process of it, and set up multiple cooperation meetings with the government for him. Instead of promptly addressing any of those important matters for the defendant, Crawford chose to focus on rehashing the excessive billing by the defendant's previous 2 attorneys, and even insisted that he write letters to send them demanding refunds from them. The defendant made Crawford well aware that his bond was in jeopardy before he even took over his case, but Crawford did nothing to try to remedy the problem, and instead made it

worse, and actually provoked the government to file a new criminal complaint against him and permanently revoke his bond. Then as soon as the defendant's bond was revoked, Crawford wanted the defendant to pay him an additional \$150,000.00 to represent him for the new criminal complaint, after the defendant had paid him \$50,000.000 to handle his original case which was much more complex.

Once the defendant's bond was revoked it was obviously much harder for him to get back into cooperation mode with the government and his relationship with them was severely damaged by this whole situation. Even after the defendant's subsequent attorney was able to get him to agree to plead guilty, and he was allowed to cooperate with the government again, it was a million times harder for him to be able to effectively and efficiently cooperate with them than if he were out on bond. This included the defendant's ability to make controlled sales and buys, his ability to help the government make numerous cases from further being able to review the 5 months worth of his VIP Pharmacy surveillance footage, his ability to help make cases through numerous contacts and current information he knew at the time, his ability to effectively and efficiently work on numerous projects showing the massive amount of illegal activities which were conducted at Patel's pharmacies, and his ability to work on the project AUSA Peluso assigned to him for the government's case against Heromin (which he was never able to finish), among many other cooperation matters the defendant could have participated in if he was allowed to fully cooperate with the government while he was actually out on

bond. The defendant's cooperation possibilities were severely restricted by his incarceration, which occurred as a result of the defendant following Foster's awful advice, and then Crawford doing nothing to try to remedy the situation when he had the chance to do so. Numerous levels of cooperation credit as a 5K1.1 were lost as a direct result of this issue, ultimately causing the defendant's sentence to be much longer than it should be if it never happened. Thus, there is a reasonable probability that the outcome of the defendant's sentencing hearing would have been different if these issues had not transpired.

In Summary, the defendant asserts the following errors were committed during his representation by defense counsels, Todd Foster and Steve Crawford, in support of Ground 2:

Todd Foster rendered ineffective assistance of counsel during the 17 months (05/24/10 to 10/20/11) he represented the defendant by:

- 1) improperly advising the defendant to reopen his pain management clinic, Tampa Total Health, and to becoming involved with the opening and operations of additional independent pharmacies, namely Pronto Pharmacy, in order to pay for his excessive fee of \$750,000.00; the defendant's involvement with Pronto Pharmacy eventually led to the revocation of his pre-trial release on May 1, 2012
- 2) improperly advising the defendant to protect Tiffany Phan, who the government wanted incriminating information on during his initial proffer, which he knew, but instead Foster told the defendant to protect Phan because she was the key to helping run his clinic, and later Pronto Pharmacy, and even instructed the defendant to pay for an attorney (Timothy Taylor) to represent Phan to make sure that she would not be indicted; (Phan later became a CW against the defendant and was the main contributor to the government's Criminal Complaint they used to revoke his bond on 05/01/2012.)

Steve Crawford rendered ineffective assistance of counsel during the 4 months (02/06/12 to 06/05/12) he represented the defendant by:

1) preventing the defendant from meeting with the government to resolve their outstanding issues and misconceptions about his involvement with Pronto Pharmacy throughout his representation

2) improperly advising the defendant that it was perfectly fine for him to be involved with Pronto Pharmacy and for him to physically be there to train the new employee who replaced Phan

3) blatantly ignoring clear warnings from AUSA Peluso that if he did not bring the defendant in to meet with her in late April of 2012, that she would be filing something, which resulted in the defendant's bond being permanently revoked

GROUND 3: THE DEFENDANT WAS DENIED HIS SIXTH AMENDMENT RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL DURING THE SENTENCING PROCESS.

SUPPORTING FACTS FOR GROUND 3:

The defendant attests that Jeff Brown was ineffective during his sentencing by allowing it to start at least 20 minutes early, before the arrival of 3 government agents, who would have testified on his behalf if Brown had waited to start the hearing on time, and had prepared them to testify. The defendant requested Brown to contact the 3 agents who agreed to come to his sentencing to discuss possible beneficial testimony that they would have offered during the defendant's sentencing hearing, but Brown declined to do so. The defendant also asked Brown to contact other government officials that he had also worked with on other cases for the same purpose, but Brown had also declined to do this as well.

On the afternoon of the defendant's sentencing hearing, he told Brown that he was able to contact 3 government agents on his own (HHS Agent Brian Harris, OIG Agent Peter Martinez & TPD Narcotics Detective Vincent Leto), who agreed to come to it, and at the time were willing to talk to AUSA Peluso, Agent Shearer and Judge Covington on the defendant's behalf. All 3 of these agents would have said positive things about the defendant if they were given the chance to do so, and they even wanted to address the issue of his bond possibly being reinstated. They knew that Judge Covington had allowed 3 co-defendants of the defendant who

were sentenced the previous month to remain out on bond because they were still cooperating with the government on pending cases. Thus, not only did the 3 government agents intend to positively contribute to the defendant's sentencing hearing, but they also wanted to request that his bond be reinstated so that he could further assist them with their respective cases.

The defendant begged Brown to please delay the start of his sentencing hearing until after the 3 government agents had time to arrive and talk to Brown, Peluso and Shearer. However, Brown declined to ask the court for a brief recess and started the defendant's sentencing hearing at least 20 minutes earlier than it was scheduled to start, right after Carroll Delo, Jane, Delo, Jeanne Bush and Dr Jennifer Levine arrived, but none of the government agents who could have been crucial to the defendant's sentencing hearing had arrived yet.

Brown told the defendant that since he did not have the chance to talk to any of the agents about coming to the defendant's sentencing hearing himself, and since they were not there at least 20 minutes before it was scheduled to start at 3:00PM, he told the defendant that he did not think they were coming. Even so, the defendant asked Brown to please just wait to start his sentencing hearing until at least the scheduled start time of 3:00PM to see if they would show up by then, because the defendant did not want them to walk in during the middle or the end of it, without getting a proper chance to positively contribute to it, which is EXACTLY what happened, when they all arrived at 3:00PM. If Judge Covington had the chance to hear testimony from those 3 government

agents (as well as others), related to how much the defendant had been assisting them with their cases, it could have reasonably convinced her to agree to authorize levels off under U.S.S.G. 5K1.1 for all of the cooperation he had done up to that point. Thus, there is a reasonable probability that the outcome of the defendant's sentencing hearing would have been different if this issue had not transpired.

In Summary, the defendant asserts the following errors were committed by defense counsel Jeff Brown during the 9 months he represented him (06/06/12 to 03/15/13), particularly prior to and during his 02/21/2013 sentencing hearing, in support of Ground 3:

- 1) refusing to contact the 3 government agents who planned to come to the defendant's sentencing hearing in order to prepare them to positively contribute to it, as well as refusing to contact several other government agents and prosecutors which the defendant worked with, who could have positively contributed to his sentencing hearing, despite the defendant requesting him to do this
- 2) failing to delay the start of the defendant's sentencing hearing until after the 3 government agents who were coming on his behalf arrived, preventing them from having any chance of being able to speak with Brown and AUSA Peluso before it began
- 3) allowing the defendant's sentencing hearing to start at least 20 minutes early, before the 3 government agents even arrived; and since Brown never spoke with any of them about testifying during it, he never called any of them to testify when they finally did arrive, on time at 3:00PM. By that time, the defendant's sentencing hearing was nearly finished.

GROUND 4: THE DEFENDANT WAS DENIED HIS SIXTH AMENDMENT RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL DURING THE SENTENCING PROCESS.

SUPPORTING FACTS FOR GROUND 4:

The defendant attests that Jeff Brown was ineffective for failing to request the government to move for a sentence reduction under U.S.S.G. 5K1.1 and Fed.R.Crim.P. 35(b) due to his enormous amount of cooperation, as well as failing to request the government to move for a sentence reduction under U.S.S.G. 5K2.0 for everything the defendant had voluntarily turned over. Brown falsely represented to the defendant that he would definitely be getting a 5K1.1 motion for all of the cooperation he had worked on up to the day of his sentencing hearing, and estimated that the amount of levels off for it to be between 4 to 8 levels, on top of an additional 7 to 12 levels off for everything the defendant had voluntarily turned over to the government as a 5K2.0 motion. Brown went over all of the cooperation matters with the defendant which he had worked on while he was out on bond, as well as while he was in custody. Brown had the defendant type up a list and a chart detailing all of his cooperation meetings, cooperation efforts, cooperation projects, as well as cooperation which he was still working with the government on. Brown reviewed the documentation summarizing all of the defendant's cooperation with him and submitted it to AUSA Peluso only a few days before the defendant was scheduled to be sentenced.

Despite Brown waiting so long to secure credit for all

of the cooperation the defendant had done up to that point, all the way up to the day before his sentencing was scheduled to take place, Brown assured the defendant that he would be getting at least 4 levels off for it all, despite that several of the cases he was cooperating on were still pending. A joint motion to delay the defendant's sentencing hearing was filed because the trials for 2 of the cases the defendant was told he would participate in were delayed, but Judge Covington denied this motion to postpone the defendant's sentencing date. Thus, Brown told the defendant that on top of the cooperation credit he would get at his sentencing hearing as a 5K1.1 motion, that he would also get additional cooperation credit as a Rule-35 motion for each case he testifies at after he is sentenced. During the 7 months before the defendant was sentenced, Brown assured the defendant that he would represent him for any Rule-35 motions or other related matters after he was sentenced, "up until the day the defendant was to get out of jail or prison". Brown repeatedly told the defendant that his representation for those post-sentencing matters would be included in the substantial fee the defendant had already paid him in early June of 2012, especially since his sentencing hearing was occurring much earlier than Brown had initially thought it would.

Brown also assured the defendant that he would be getting at least 7 levels off his sentencing offense level as a 5K2.0 motion for "extraordinary acceptance of responsibility" because the defendant had voluntarily turned over absolutely all of his money, his medications, his pharmacy's DEA license, and voluntarily closed his pharmacy,

all at the earliest available opportunity he had in the government's investigation. The defendant went through extensive records with Brown showing that he had legally earned nearly all of the money which he had voluntarily turned over to the government and allowed them to keep as part of his plea bargain. Brown also told the defendant that he had been in contact with Dirk Weed, who was the attorney who represented the defendant on 05/20/10 & 05/21/10, who advised and assisted the defendant with voluntarily turning over absolutely everything he had to the government. Brown told the defendant that Weed had confirmed the promises the DEA agents made to the defendant in his presence in exchange for him agreeing to voluntarily turn everything over to them, and that he planned to have Weed come to the defendant's sentencing hearing to testify to this matter in order to ensure that the defendant received the amount of credit he was promised.

Brown did not come see the defendant the day before his sentencing hearing, or even in the holding cell before it.

Instead, on the day of the defendant's sentencing hearing, Brown brought the defendant out to the courtroom and told him that afternoon, just a few minutes before his hearing began, that the government decided to authorize only 4 levels off as a 5K1.1 (instead of as a 5K2.0), for everything that the defendant had voluntarily turned over and absolutely nothing off for all of the cooperation the defendant had worked on up to that point at that time. Brown told the defendant before he started his sentencing hearing not to worry about it though, because he was confident that he would be able to get

Judge Covington to authorize at least 6 levels off during the hearing for what he turned over, as well as 3 to 4 levels off for all of the defendant's cooperation he had completed so far. The defendant asked Brown if Weed was coming to his sentencing hearing to ensure that he was given the amount of credit he was promised. Brown told the defendant that he had been "really busy" and was not able to arrange for Weed to come. Brown also had not even bothered to try to at least get a signed affidavit from Weed which he could have presented to the court in support of his argument for this matter.

During the sentencing hearing Brown made an argument about why the defendant deserved at least 6 levels off for everything that he had voluntarily turned over, but he left out major facts that would have supported it. The defendant requested that Brown bring up the fact that he legally earned nearly all of the money which he had voluntarily turned over, and that he had a tremendous amount of records to prove that it was made from licensed pharmacists filling thousands of valid prescriptions, which were written by licensed doctors for valid patients. The defendant requested that Brown bring up the fact that none of his co-defendants had voluntarily turned over anything to the government, but yet 3 of them received more lenient sentences than the defendant, despite successfully hiding all of their illegal earnings from the government. The defendant requested that Brown bring up the fact that the DEA agents made promises to the defendant as to how much credit he would get for turning everything over at the earliest available opportunity, which Weed could have supported if Brown had bothered to arrange it. Thus, Brown's

argument was promptly denied by Judge Covington, and the defendant received only 4 levels off for everything he had turned over, even though he had always been promised to get much more credit than that for the previous 33 months. If Brown had made these arguments, especially if he had Weed come to the sentencing hearing as Brown had promised the defendant he would, there is a reasonable probability that the defendant would have received more than 4 levels off for everything he had turned over, and that it would have been properly applied as a 5K2.0 instead of as a 5K1.1 as well.

During the sentencing hearing Brown also mentioned some of the defendant's cooperation that he had done, but declined to ask Judge Covington for any credit for it. Thus, the defendant was not given any credit whatsoever for the thousands of documented hours of work he had put into all of his cooperation efforts throughout the previous 33 months. After the sentencing hearing, Brown told the defendant that it was "not the right time to ask for credit for his cooperation", and that the defendant would definitely be getting multiple Rule-35 motions later that year, which he would handle for him (which Brown never pursued for the defendant due to the defendant not complying with his new absurd financial demands). Brown could have easily made a proficient argument to the court explaining why the defendant deserved to be awarded some credit on the day of his sentencing hearing for all of the cooperation he had done up to that point, especially considering all of the supporting information the defendant had provided to Brown related to this, and especially since the defendant had even arranged

that 3 government agents come to his hearing on his behalf, which Brown had declined to use to the defendant's benefit. If Brown had made these arguments, there is a reasonable probability that the defendant would have received a reduction in his sentence as a 5K1.1 for all of the cooperation he had done since 05/20/2010, up until the day of his sentencing on 02/21/2013. Thus, there is a reasonable probability that the outcome of the defendant's sentencing hearing would have been different if these issues had not transpired.

In Summary, the defendant asserts the following errors were committed by defense counsel Jeff Brown during the 9 months he represented him (06/06/12 to 03/15/13), particularly prior to and during the defendant's 02/21/2013 sentencing hearing, in support of Ground 4:

- 1) falsely representing that the defendant would get credit for "substantial assistance" as a 5K1.1 motion for all of the cooperation he had worked on before his bond was revoked, as well as for all of the cooperation he worked on while in custody, up until he was sentenced
- 2) falsely representing how much credit the defendant would get for voluntarily turning over all of his money, his medications, and his pharmacy's DEA license to the government at the earliest opportunity he had, as well as for voluntarily closing his pharmacy that same day for them
- 3) when trying to secure as much credit for the defendant as possible for all of the money the defendant voluntarily turned over to the government, Brown did not bring up the fact that he legally earned nearly all of it, despite the defendant providing Brown with an enormous amount of records that he could have provided to the government and to Judge Covington to support this fact
- 4) when trying to get as much credit for the defendant as possible for all of the money the defendant voluntarily turned over to the government, Brown did not bring up the fact that the co-defendants each made millions of dollars while they conducted illegal activities during the alleged conspiracy, and that all of them hid all of their money from the

government and voluntarily turned over none of it like the defendant did

5) failing to have Dirk Weed, who was the attorney who advised and assisted the defendant with voluntarily turning over absolutely everything he had at the earliest available opportunity to the government, to come to the sentencing hearing in order to testify about the promises which were made to the defendant in his presence in exchange for agreeing to turn everything over, despite Brown telling the defendant that he was going to arrange this, or at least get an affidavit from Weed supporting this fact

GROUND 5: THE DEFENDANT WAS DENIED HIS SIXTH AMENDMENT RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL DURING THE SENTENCING PROCESS.

SUPPORTING FACTS FOR GROUND 5:

The defendant attests that his counsel Jeff Brown was ineffective in failing to challenge the amount of oxycodone pills attributed to him at sentencing, as well as improperly advising the defendant that his starting base offense level from agreeing to the plea offer would be a level 36. Furthermore, related to this matter, at the defendant's sentencing, Brown declined to discuss the sentences given to his co-defendants the previous month, or that 2 of them received minor role reductions, and at least 1 of them received a reduced pill count. Also related to this matter, Brown promised the defendant that he would not be subject to any sentencing enhancements if he agreed to the plea bargain, and then Brown failed to properly object to the 2-level sentencing enhancement the probation officer applied to the defendant. Brown told the defendant that he also planned to file a motion for a downward departure (5K2.13), based on his diminished capacity during the alleged conspiracy, but he did not even bother to arrange for the main supporting witness, Dr Edgar, to assist with this argument. The defendant asked Brown to please file a request for a downward departure (5K2.0), based on the fact that his former defense counsel, Todd Foster, had actual conflicts of interest which significantly prejudiced him. Brown agreed to include an

argument for this matter in the defendant's sentencing memorandum, but he did not include and/or present the most important evidence to support this motion. The defendant also asked Brown to please also file a motion for a downward departure (5K2.12), based on the fact that the defendant was unable to stop and/or prevent a lot of the illegal activities which occurred at his pharmacy because of serious coercion, blackmail, and/or duress during the alleged conspiracy, but Brown refused to put any effort into doing this, and he told the defendant that 2 downward departure requests were more than enough.

Brown told the defendant before he even agreed to the plea offer that Diane Tremmel, who was the probation officer assigned to conduct his PSI meeting and calculate the defendant's sentencing offense level, would be using the 15mg dosage strength of the oxycodone pills for everyone involved in the conspiracy in order to give us "a conservative estimate", thus, equating to a starting base offense level of 36 for the defendant. At the defendant's change of plea hearing, before it started, the defendant was assured by Brown, that AUSA Peluso would not recommend that any sentencing enhancements be applied to the defendant, and even had Peluso personally tell this to the defendant. Brown assured the defendant that if the probation officer tried to apply any sentencing enhancements to him, that both, he and Peluso, would object to them and have them removed from his PSR before the defendant would be sentenced.

The defendant notified Brown that he hired Tess Lopez, who was a Sentencing Mitigating Specialist, to assist with the

defendant's PSI and sentencing process. The defendant pleaded with Brown in early September of 2012 to please schedule his PSI meeting with Tremmel at a time when Lopez could also attend, but Brown refused to allow Lopez to be at, or be involved with the defendant's PSI meeting. The defendant also asked Brown that they prepare for his PSI meeting, and for Brown to please bring the defendant's laptop to it, so that he could show Tremmel some video clips of everything that was really going on at his pharmacy, including a lot of things which went on behind his back, which would have given Tremmel a better idea of what everyone's true role was in the alleged conspiracy. However, Brown refused to do any type of preparation for the defendant's PSI meeting, and refused to bring any evidence that would have been favorable to him to this meeting. At the PSI meeting with Tremmel, despite the defendant wishing to explain his side of the situation (the alleged conspiracy), Brown refused to allow him to discuss any aspects of the case with Tremmel. As a result of Brown preventing Lopez from participating in the defendant's PSI meeting, and refusing to prepare for it, and also from preventing the defendant from talking to Tremmel about his case, Tremmel wrote up a very unfavorable PSR for the defendant.

The PSR which Tremmel wrote up for the defendant contained a 2-level sentencing enhancement for abusing a position of trust, as well as a starting offense level of 38 for the defendant, instead of a 36 as Brown had estimated it would be. Brown told the defendant that he was wrong about the dosage of pills which Tremmel decided to use to calculate

the defendant's offense level and that he was obviously misinformed about it. However, during the month before the defendant's sentencing hearing, Brown informed the defendant that the government had reduced the pill count from 150,000 to 50,000 pills for at least one of his co-defendants, Kimberly Curtiss, as well as given minor role reductions to her and Louis Fernandez Jr. Brown told the defendant that he would be able to use this information to argue for, at the very least, a reduction of his pill count from 150,000 to 50,000 pills as well, so that he would start at a base offense level of 36 as Brown had originally promised the defendant he would. Brown also told the defendant that he would file a thorough written objection to the sentencing enhancement and hold a separate hearing to argue the validity of it BEFORE the defendant's sentencing hearing to make sure that he made every effort he could to have it removed.

The defendant went over a significant amount of video evidence with Brown which proved that the roles of neither, Kimberly Curtiss or Louis Fernandez Jr, could have realistically been considered to be minor during the alleged conspiracy. The defendant asked Brown to please bring this matter up in his sentencing memorandum and during his sentencing hearing when requesting departures for him. The defendant also asked Brown to bring up the sentences of his co-defendants in his sentencing memorandum and during his sentencing hearing, especially for Curtiss and Fernandez Jr, who received very lenient sentences.

Brown told the defendant that in order to make the best argument he can for his request for a downward departure

for diminished capacity under 5K2.13, that he would have Dr Edgar come to his sentencing hearing to testify why it should be taken into serious consideration by Judge Covington. Dr Edgar was the defendant's Psychiatrist who was prescribing him medications for his conditions, and who the defendant was also seeing on a regular basis for counseling before his bond was revoked. Brown felt that including Dr Edgar in the defendant's sentencing hearing would add invaluable strength to his diminished capacity argument.

Pertaining to Brown's motion for a downward departure under 5K2.0, due to Foster's conflicts causing the defendant prejudice, Brown was too lazy to go over all of the evidence to support this motion, which the defendant had, and was available to him, and to incorporate very important evidence into this motion, or into his argument like the defendant had asked him to do. The defendant had multiple email communications, letters, and even court documents, which he wanted Brown to reference in support of this motion. The defendant also wanted Brown to order the court transcripts for the 01/19/2012 Conflict Hearing in front of Judge McCoun (Case No. 8:11-cr-550-T-33TMB), which was held as a result of the Conflict Motion AUSA Peluso filed on 01/13/2012 (same case), but Brown told the defendant that he had more than enough evidence to support his argument from the court transcripts for the defendant's Preliminary Hearing held in front of Judge Jenkins on 05/16/2012 (Case No. 8:12-mj-1250-T-AEP). Thus, despite the defendant requesting Brown to please provide the court more evidence to support this motion, which was readily available to him at the time, Brown instead compiled a weak

and incomplete motion to appease the defendant for this matter. Then, Brown was not ready to provide Judge Covington supporting documentation when she asked for it during the defendant's sentencing hearing, which Brown could have easily done if he complied with the defendant's simple requests concerning this matter. Judge Covington told Brown that "to really flush out those issues requires more than what you filed." If Brown had reviewed all of the overwhelming evidence for this matter, and brought and/or provided copies of it to the court, as the defendant asked him to do, there is a reasonable probability that this motion for a downward departure would have been granted, especially considering that the majority of the 01/19/2012 Conflict Hearing focused on Foster's conflicts from representing the defendant, as clearly shown in the court transcripts which the defendant has subsequently had transcribed.

Brown told the defendant that he thought his motion for a downward departure for diminished capacity was very strong and that he was confident that relief would be granted for it, as well as for his motion for a downward departure for Foster's conflicts causing him prejudice. Brown told the defendant that if he also made a motion for a downward departure under 5K2.12 for him being under serious coercion, blackmail and/or duress during the alleged conspiracy, like the defendant wanted him to, that it would somehow weaken his other 2 requests for downward departures. The defendant showed Brown a significant amount of evidence that a strong argument could have definitely been made for a 5K2.12 motion for him, including, but not limited to, text messages from

Beltran threatening the defendant, text messages from Curtiss threatening and extorting the defendant, and even statements from an individual who Beltran tried to hire to kill the defendant. In fact, the defendant was even able to convince that individual, Miguel, who was Beltran's former "right hand man", to come meet with the government (Agent Shearer and Agent Bill Davis), on October 8, 2010, on the defendant's behalf, during which Miguel told them about Beltran offering to pay him to kill the defendant, as well as numerous other illegal activities Curtiss and Beltran were involved in. Despite the defendant believing that there was more than enough supporting evidence for him to be granted relief due to this mitigating factor, Brown still refused to bother filing a 5K2.12 motion for the defendant, and the 5K2.13 motion he did file was mostly written up by Tess Lopez, along with nearly the entire sentencing memorandum he filed for the defendant.

Brown promised the defendant that he would address all of these issues in order to help mitigate the defendant's sentence, but he failed to follow through with his promises to do so when the defendant's sentencing hearing occurred. Instead of filing a written objection to the sentencing enhancement placed on the defendant, and requesting a separate court hearing to argue it before his sentencing hearing, Brown waited until the last minute, and put together a haphazard and disorganized argument against its validity during the defendant's sentencing hearing. Brown also did not bring up the co-defendant's sentences in the defendant's sentencing memorandum, or during his sentencing hearing, or the minor role adjustments they received, or the reduced pill count for

at least one of them. Brown also did not bother to arrange for Dr Edgar to come to the defendant's sentencing hearing, or even get a signed affidavit from him, despite assuring the defendant that he would do this in order to support his argument for his 5K2.13 motion. Pertaining to the downward departure request (5K2.0 motion) Brown filed for the defendant due to him suffering prejudice due to Foster's conflicts, Brown did not properly prepare for it, and did not bring the necessary documentation to support it, or even bother to review all of it with the defendant. Brown also refused to file a downward departure request (5K2.12 motion) for the defendant for him being subject to serious coercion, blackmail, and/or duress during the alleged conspiracy, despite the defendant providing Brown with enough information and evidence to support this motion. Had Brown followed through with these matters as he promised the defendant he would, there is a reasonable probability that the outcome of the defendant's sentencing hearing would have been different.

In Summary, the defendant asserts the following errors were committed by defense counsel Jeff Brown during the 9 months he represented him (06/15/12 to 03/15/13), particularly prior to and during his 02/21/2013 sentencing hearing, in support of Ground 5:

- 1) falsely representing the base sentencing offense level which the defendant would start at from accepting the government's plea offer as a level 36 instead of a level 38
- 2) guaranteeing the defendant that he would not be subject to any sentencing enhancements if he signed the plea bargain, and also had the prosecutor tell him this as well before his change of plea hearing started
- 3) not bringing up in the defendant's sentencing memorandum, or during his sentencing hearing, that the pill count of at least one of his co-conspirators, Kimberly Curtiss, was changed from 150,000 to 50,000 pills shortly before her sentencing took place
- 4) not bringing up in the defendant's sentencing memorandum, or during his sentencing hearing, that 2 of his co-defendants received Minor Role reductions when they were sentenced, despite the defendant having an enormous amount of video evidence which proved that neither of their roles could have realistically been considered minor, which he had showed to Brown
- 5) not bringing up in the defendant's sentencing memorandum, or during his sentencing hearing, the sentences which his co-defendants received, as well as all of their reductions, in order to support his arguments for downward departures for the

defendant

6) failing to review and/or use all of the overwhelming evidence which would have supported the 5K2.0 motion requesting a downward departure for the defendant due to the fact that he suffered prejudice while being represented by Foster due to his actual conflicts of interest, and failing to comply with Judge Covington's request to provide it to her

7) failing to have Dr Edgar, who was the Psychiatrist the defendant was seeing on a regular basis for treatment through medication and counseling before his bond was revoked, come to the defendant's sentencing hearing in order to testify to support the 5K2.13 motion for a downward departure for the defendant's diminished capacity during the alleged conspiracy

8) failing to file a 5K2.12 motion requesting a downward departure to be given to the defendant due to him being unable to stop and/or prevent a lot of the illegal activities which occurred at his pharmacy because of serious coercion, blackmail, and/or duress, despite the defendant providing Brown with significant evidence to support this motion

GROUND 6: THE DEFENDANT WAS DENIED HIS SIXTH AMENDMENT RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL DURING THE PLEA AND SENTENCING PROCESS.

SUPPORTING FACTS FOR GROUND 6:

The defendant attests that his counsel Jeff Brown was ineffective due to putting his greed and the prospect of his own personal significant financial gains in front of the defendant's best interests throughout his representation. Brown took advantage of the defendant's unfortunate circumstances, especially while he was in solitary confinement, in order to convince the defendant to agree to the terms of Brown's desired discreet payment arrangement, which severely negatively affected the ultimate outcome of the defendant's case. The defendant further attests that his counsel Jeff Brown was ineffective due to violating the attorney - client privilege between them, which caused irreparable damage to the defendant's relationship with the government.

The defendant attests that his counsel Jeff Brown requested that the majority of his significant fee be paid to him with over \$160,000.00 worth of silver bars and gold coins, which belonged to the defendant, in order to keep as much of his payment "off the books" as he could, in case the government also attempted to seize his fees as they did Kehoe's. Brown told the defendant that "the government can't seize what they don't know about", and assured the defendant that he would remain on his case even if the government tried

to seize the documented \$30,000.00 portion of his fee, which the defendant had paid to him in full through checks. Brown drew up and signed, and had the defendant also sign, fraudulent contracts which represented that Brown was paid only \$15,000.00 for each of the defendant's 2 cases if they were resolved with a plea bargain, even though Brown received at least \$160,000.00 more than that "off the books". Brown assured the defendant that for the money, silver and gold he was paid by the defendant in early June of 2012, that he would represent him "until the day the defendant got out of jail or prison", which would include any Rule-35 motions.

Brown knew that the defendant still had a significant amount of gold coins left, and knowing that he would not be able to convince the defendant to give the rest of them to him if the defendant was sentenced to a minimal amount of time, Brown intentionally sabotaged the plea and the sentencing process of the defendant's case in order to ensure that he received a lengthy prison term. Then in early March of 2013, which was shortly after the defendant was sentenced to 9 years in prison, Brown used the defendant's lengthy sentence as leverage to demand the defendant to give him the rest of his gold coins, which were worth about \$150,000.00 at the time. The defendant reminded Brown that he had promised the defendant to represent him "until the day he got out of jail", including for any Rule-35 motions, for everything the defendant had already paid Brown in June of 2012.

Brown told the defendant that he was the only attorney who would even accept the defendant's gold coins as payment, and that he definitely deserved to be given the rest of them

because he had to do a lot more work that he had not initially anticipated in order to make sure that the defendant would get out of jail within the next year. Brown became angry with the defendant for not immediately complying with his new financial demands. At the conclusion of the argument which Brown initiated with the defendant over wanting the rest of his gold coins, Brown ultimately told the defendant that if he was not given the rest of his gold coins that, not only would he not help with making sure that the defendant received the promised reductions in his sentence via Rule-35 motions, but that he would instead make sure that the defendant never received any credit for all of the cooperation he did, and also make sure that the government would not use him to testify in any cases.

Brown also told the defendant that if he did not agree to give the rest of his gold coins to him then he would make sure that the government would get them anyway. Brown began following through with his threats shortly after the defendant refused to comply with his new financial demands, starting with using his influence to make sure that the defendant was no longer allowed to use an office in the DIU department of the jail, where he had been brought to work on cooperation matters for the previous 6 months nearly everyday.

The defendant met with AUSA Peluso and Agent Shearer in DIU to discuss the Heromin case in early April of 2013, shortly after Brown broke the promises he made the defendant, and made his new financial demands. During this meeting, the defendant attempted to tell Peluso incriminating information about Brown but was stopped by Agent Shearer before he was able to explain anything. Peluso told the defendant not to

worry about Brown not representing him anymore and that he was still going to be called as a witness for the Heromin and Weiler trials, and that he was still going to get a sentence reduction as a Rule-35 motion for all of the cooperation he has done. Peluso and Shearer both told the defendant that "nothing has changed" and that they would see him again before Heromin's trial began. After Peluso and Shearer left DIU after meeting with the defendant, where Brown had him banned from using an office there about a month earlier, it was confirmed by Deputy Squalini that Brown was the one who instructed him, Sergeant Petruzzi, and Deputy Johnson, to not bring the defendant down there to work on anything anymore since he was no longer his client. Squalini also told the defendant that same day Brown told them this that he removed everything the defendant had at DIU which he was still using to work on the cooperation projects there, including his files, laptop and printer.

The defendant then sent Brown 2 letters, one in April of 2013, and another in early May of 2013. The defendant asked Brown to please come see him in both of these letters. In the latter letter, the defendant told Brown that if he was refusing to come see the defendant and straighten everything out between them within the next 2 weeks, then he would turn Brown in for his unethical and illegal actions. The defendant let Brown know that if Brown did not intend to keep his promises he made to the defendant pertaining to his representation for the significant amount of money, silver and gold he already received, than the defendant would not keep his promise to Brown about not telling anyone how much, and

with what, Brown was paid to represent him, which Brown wanted to be kept as discreet as possible for obvious reasons. Since Brown never bothered to come see the defendant, he then sent a letter to AUSA Peluso on May 16, 2013, asking her to please come see him because he wanted to discuss illegal activities committed by Brown. However, Peluso never came to see the defendant to discuss anything with him after receiving that letter, and was likely warned by Brown that she would be getting a letter like this from the defendant. Then in June of 2013, the defendant was informed by attorney Lucas Fleming that Brown's brother was a DEA agent in the Tampa office, and warned him that Brown likely had influence in the right places to follow through on the threats he made against the defendant, and that it sounded like things "could get out of hand" for the defendant.

Shortly after the defendant was told by Fleming about Brown's influences, a friend of the defendant, Jeanne Bush, had her houses raided in late June or early July of 2013 by numerous armed DEA agents. Apparently they were looking for gold coins which belonged to the defendant, which Bush did not have at that time. Then shortly after that, the house of the defendant's ex-girlfriend, Carol Delo, was also raided by armed DEA agents for 2 straight days, to also look for gold coins which belonged to the defendant. Then Delo gave the gold coins she was holding for the defendant to Bush in late August or early September of 2013. Then the DEA agents raided Bush's house again in early September of 2013, and took 62 1-Ounce gold Kruggerand coins from her, which belonged to the defendant.

Also during this timeframe, the defendant was unexpectedly transferred from the Pinellas County Jail to a Federal Prison in South Carolina, without ever getting the chance to talk to Peluso about any of these matters, all the while still fully expecting to testify at the upcoming trials for Heromin and Weiler, and still fully expecting to be getting a Rule-35 sentence reduction for everything he had worked on. There is sufficient evidence that Brown did in fact proceed to follow through with all of the threats he made towards the defendant, doing whatever he could to cause the defendant harm, before the defendant had the chance to cause Brown any problems by turning him in for the things he did wrong himself.

Thus, after Brown had spent the previous 8 months promoting the defendant to be an excellent witness for the government, about a month after he was sentenced, Brown began doing the exact opposite, and did whatever he could to ruin the credibility of the defendant in the eyes of the government in order to keep himself out of trouble. Due to the defendant refusing to give Brown the rest of his gold coins, and because the defendant told Brown that he would reveal his illegal activities, Brown did whatever he could to protect himself in order to avoid suffering from any negative consequences as a result of his actions, which included carrying out his previous threats against the defendant.

Attorney Darlene Barror spoke with AUSA Peluso earlier this month and was told by her that she had changed her mind about giving the defendant a Rule-35 motion, and also changed her mind about using the defendant as a witness for any

upcoming cases. Peluso told Barror that information was brought to her attention concerning the defendant (which was privileged to his attorneys, namely Brown), which is what changed her mind about these matters. However, the defendant attests that he has never directly told Peluso any of this information in question, and that what she did hear was severely misconstrued and twisted around, likely by Brown. There is also documented proof that Brown also revealed similar privileged information to other attorneys, including, but not limited to, attorney Jeff Siskind.

Also, besides Carroll Delo, her family and Jeanne Bush, Brown was the only other person who knew that the defendant had saved a significant amount of gold coins, which Delo was holding onto for him, which she eventually gave to Bush, which Brown wanted all for himself. Obviously Delo and Bush did not voluntarily disclose to the government that they were holding onto gold coins belonging to the defendant, and they definitely did not want their houses raided by the DEA multiple times. Thus, the only reasonable explanation as to the DEA's actions, and their seizure of the defendant's gold coins, over 6 months after he was sentenced and nearly 3 & 1/2 years after his case began, is that Brown had also revealed privileged information about them as well. This is a serious matter, especially if Brown's brother actually is an active DEA agent out of the Tampa field office, as attorney Fleming subsequently told the defendant after Brown stopped representing him and threatened him. Thus, the only logical person who could have been responsible for revealing this additional privileged information, concerning the defendant's

gold coins, which Brown wanted for himself, would have been Brown.

The defendant attests that there is a significant amount of proof that Brown's representation of the defendant was ineffective throughout the 9 months he represented him, especially during the plea and sentencing process of his case.

Brown's ulterior personal financial motives severely conflicted with him doing what was best for the defendant throughout his representation. Thus, there is a reasonable probability that the outcome of the defendant's case and his sentencing hearing would have been different if these issues had not transpired.

In Summary, the defendant asserts that the following errors were committed by defense counsel Jeff Brown during the 9 months he represented him (06/15/12 to 03/15/13), as well as for several months after he represented him, in support of Ground 6:

- 1) taking advantage of the defendant's unfortunate circumstances in order to get him to pay the majority of his significant fee with over \$160,000.00 worth of silver bars and gold coins, which belonged to the defendant, in order to keep as much as his payment "off the books" as he could in case the government attempted to seize his fees as well, telling the defendant that "the government can't seize what they don't know about", and assuring the defendant that he would remain on his case even if the government tried to seize the \$30,000.00 portion of his fee which he documented receiving from the defendant via checks in the fraudulent engagement contracts he drew up, which he and the defendant both signed on 06/06/2012.
- 2) putting his own financial interests and the potential for him to be able to get additional discreet significant payments from the defendant in front of the defendant's best interests throughout his representation of the defendant
- 3) violating the attorney - client privilege he had with the defendant by revealing privileged information to the government, as well as to other attorneys, which he was told by the defendant while he represented him, in order to lessen the credibility of the defendant so that he would not be eligible for reduction of his 108 month sentence via Rule-35

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motions, as the defendant was previously promised he would be by Brown and his prosecutor, AUSA Peluso, as well as to also help keep himself out of trouble for committing unethical and potentially illegal activities himself

VII. ARGUMENT

The facts and circumstances establish that the defendant has met his burden to state a claim for ineffective assistance of counsel in violation of the Sixth Amendment set forth under Strickland v. Washington, 466 U.S. 668, 104 S.Ct.2052, 80 L.Ed.2d 674 (1984). In applying Strickland, the defendant has shown from the facts above that there were several serious errors committed. In addition, the defendant has shown that he sustained prejudice by being sentenced to an extended number of years in prison. These failures, coupled with doing virtually nothing, are tantamount to errors so serious that counsel was not functioning as the "counsel" guaranteed to the defendant by the Sixth Amendment. Because the various lawyers did not effectively represent the defendant's best interests throughout his case, and actually created new problems for him as well, defense counsel's failures prejudiced the defendant. Since counsels did not properly represent the defendant throughout this case, the Sixth Amendment's right to counsel was absent and did not function to make the adversarial process work. See Strickland.

The defendant has shown that "that there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." It is clear that the defendant's sentence is unreliable because of a breakdown in the adversarial process, particularly due to his counsel's actual conflicts of interest, and due to the serious errors his various counsels made during the plea process, cooperation process, and

sentencing process of his case.

Therefore, the facts in this case established that defense counsel's performance "fell below an objective standard of reasonableness" and the resulting prejudice was that the defendant was sentenced to an extended term of prison.

WHEREFORE, the defendant prays that this Honorable Court enter an Order setting aside the judgment and sentence of conviction.

I HEREBY CERTIFY THAT THE ABOVE STATEMENTS ARE TRUE AND CORRECT UNDER PENALTY OF PERJURY.

Dated this 20th day of February, 2014.



CHRISTOPHER SWITLYK

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STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

DEPARTMENT OF HEALTH, BOARD OF
PHARMACY,

Petitioner,

vs.

CASE NO. 14-0883PL

CHRISTOPHER STEPHEN SWITLYK,
R.P.H.,

Respondent.

14 APR - 7 PM 1:12
DIVISION OF
ADMINISTRATIVE
HEARINGS

TRANSCRIPT OF TELEPHONIC PROCEEDINGS

DATE TAKEN: March 26, 2014
TIME: 9:47 a.m. - 11:09 a.m.
PLACE: 1230 Apalachee Parkway
The DeSoto Building
Tallahassee, Florida
BEFORE: HONORABLE J. LAWRENCE JOHNSTON
Administrative Law Judge

This cause came on to be heard at the time and
place aforesaid, when and where the following
proceedings were reported by:

LISA A. BABCOCK, Court Reporter
For the Record Reporting, Inc.
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Tallahassee, Florida, 32308

ORIGINAL

1 APPEARANCES OF COUNSEL:

2 On behalf of the Petitioner:

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7 On behalf of the Respondent:

8 CHRISTOPHER S. SWITLYK, *pro se*
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(Appearing telephonically)

11

12 ALSO PRESENT:

13 Elizabeth Carlson, Notary
FCI Estill
14 Post Office Box 699
Estill, South Carolina 29918-0699
15 (Appearing telephonically)

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P R O C E E D I N G

1
2 THE COURT: Okay. As I was starting to say,
3 we are here for the final hearing in the case
4 which is titled *Department of Health, Board of*
5 *Pharmacy, Petitioner, vs. Christopher Stephen*
6 *Switlyk, R.PH., Respondent; Division of*
7 *Administrative Hearings Case No. 14-0883PL.*

8 My name is Jim Lawrence Johnston, the
9 administrative law judge assigned to the case, and
10 as is reflected in the docket, Mr. Switlyk is
11 participating by telephone. And here, I'll let
12 the counsel for the Petitioner make their
13 appearances for the record at this time.

14 MR. MAY: Hello, Your Honor. My name is
15 Lucas May, Petitioner -- attorney for the
16 Petitioner.

17 THE COURT: All right. You'll have to speak
18 up probably for Mr. Switlyk to hear you.

19 MR. SWITLYK: I heard a little bit.

20 THE COURT: That was Mr. May making his
21 appearance for the record.

22 MR. SWITLYK: Okay.

23 THE COURT: But you will have to speak up for
24 him to hear you.

25 MS. GREEN: And I'm -- Mr. Switlyk, this is

1 Yolanda Green, assistant general counsel, also
2 with the Department of Health representing the
3 Petitioner.

4 THE COURT: And, Mr. Switlyk, the record
5 reflects that you are on the telephone and calling
6 in from your location in South Carolina. Still
7 there?

8 MR. SWITLYK: Yeah, I'm here. I heard you.

9 THE COURT: All right. Preliminarily,
10 there -- since the last time we talked over the
11 phone and I made some rulings on pending motions
12 at that time, I have received a, from you,
13 Mr. Switlyk, a motion to postpone the hearing.

14 I was advised about something about a fax to
15 the same effect. I don't know if it's a different
16 document or if it's the same document, but I
17 understand you're asking to postpone the hearing.
18 Let me ask, has the department received a copy of
19 this?

20 MS. GREEN: Your Honor, our office received a
21 copy of it, but they received it while we were
22 here present at the hearing. But I have had an
23 opportunity to review it, and I do have it on my
24 phone just so you'll know that --

25 THE COURT: Okay.

1 MS. GREEN: -- if I look at my phone, that's
2 what I'm reading from.

3 THE COURT: So what I was hearing about this
4 morning is this document?

5 MS. GREEN: If it is the motion for
6 continuance based on the ability to provide
7 additional evidence or documents?

8 THE COURT: Yes. It's called Motion to
9 ~~Postpone the Hearing.~~

10 MS. GREEN: Yes.

11 THE COURT: Yeah.

12 MS. GREEN: We do have a copy of it.

13 THE COURT: All right. I'm --

14 MR. SWITLYK: I'm not sure if I did it all
15 correctly or not, but I'm not a lawyer. I drew it
16 up the best I could.

17 THE COURT: I understand. It's fine in that
18 regard. I'm not sure about how the service was
19 made on the department but --

20 MR. SWITLYK: I mailed a copy to them the
21 same day I mailed it to you.

22 THE COURT: Okay. All right. So they have
23 received it. I have reviewed it. You're asking
24 for a postponement. Anything you want to add to
25 that, to what you've written?

1 MR. SWITLYK: Well, I wrote letters to all
2 four of those doctors' offices, and hopefully,
3 I'll get some information back, you know, because
4 I wanted to submit those records. But actually, I
5 just got the Department of Health pamphlet
6 yesterday, and they -- there's a section there
7 that had, like, the, like, the penalties, I guess,
8 the disciplinary guidelines?

9 THE COURT: Yes.

10 MR. SWITLYK: As part of the disciplinary
11 guidelines, there's a section where it says it's
12 the mitigating factors. And one of the mitigating
13 factors was "steps taken by the licensee to ensure
14 the nonoccurrence of similar violations in the
15 future, including continuing education." And, I
16 mean, some of the stuff in my medical records from
17 those four doctors, you know, I think it'll show
18 some of those steps.

19 THE COURT: All right. Any response from the
20 department?

21 MS. GREEN: Yes, Your Honor. The -- well,
22 first, we'd point out that the Respondent has
23 already raised this particular motion previously
24 and Your Honor has ruled on --

25 MR. SWITLYK: I can't hear, I'm sorry.

1 MS. GREEN: The department's first argument
2 is that Your Honor has ruled on a motion to place
3 this case -- to continue this case for a period of
4 time and those arguments were heard previously.

5 But I'll also -- I want to point out that the
6 Respondent was served with an emergency suspension
7 order in this case in February -- February 14th of
8 2013. There was an administrative complaint
9 filed, and subsequently, an amended administrative
10 complaint was filed in December of 2013, and the
11 Respondent elected for a formal hearing, which was
12 filed with our office January 13th of 2014.

13 We did advise the Respondent and his
14 then-counsel that we would refer the case to the
15 Division of Administrative Hearings pursuant to
16 his request. So at that point, the Respondent was
17 aware that this case was going to proceed for
18 formal hearing pursuant to his election.

19 So therefore, the department asserts that the
20 Respondent has had sufficient time to provide
21 evidence to Your Honor and to the department, and
22 therefore, we ask that you -- that you'd deny this
23 motion.

24 Alternatively, the department would not have
25 any objection to leaving the record open for the

1 Respondent to provide this additional evidence and
2 for a period of time as the Judge sees fit so long
3 as the department has an opportunity to raise any
4 objections as appropriate.

5 MR. SWITLYK: May I say something?

6 THE COURT: Yes.

7 MR. SWITLYK: Actually, I just got this
8 disciplinary guidelines, I just got it yesterday,
9 so I had no idea what I could submit or what I
10 couldn't submit. And, you know, I had -- I had an
11 attorney helping me at the time, and, you know,
12 due to financial reasons, I wasn't able to retain
13 him any longer. So, I mean, I've just been doing
14 this on my own only for a couple weeks now.

15 THE COURT: Okay. Well --

16 MR. SWITLYK: I thought he was going to help
17 me take care of all of this. So, I mean, I have
18 no access to any of these guidelines, any laws,
19 any changes. I mean, you know, I'm in prison. I
20 don't know what I can and can't submit.

21 I mean, I just found out once you told me
22 about it two or three weeks ago when I talked to
23 you that I could submit evidence to you and -- and
24 I didn't have any addresses. I just got your
25 address last week and Mr. May's address. Mr. May,

1 I just talked to him for the first time two weeks
2 ago.

3 THE COURT: Well, this is kind of a
4 re-argument of what you argued on the phone the
5 other day with some additional information or
6 specifics as to what you're -- some other grounds
7 for the postponement, but I'm going to deny the
8 motion to postpone the hearing.

9 I will, however, grant the alternative
10 suggestion made by Ms. Green, which is that if you
11 have these documents that you wish to submit in
12 mitigation, I'll leave the record open and give
13 you a certain amount of time to do that. But
14 since we're all here and --

15 MR. SWITLYK: I have a question, Your Honor.
16 What about, like, there's actually a video
17 surveillance of my pharmacy for the last five
18 months it was open, and I guess that was, you
19 know, the timeframe where they, you know, were
20 alleging conspiracy. And I didn't get that video
21 evidence given back to me until about a
22 year-and-a-half after the -- I closed the
23 pharmacy.

24 And, you know, the video evidence will show
25 that, you know, I was never really there. I mean,

1 I had other pharmacists working there, and, you
2 know, I just came in, you know, at the end of the
3 day for an hour or two.

4 And if I'd be able to submit that video
5 evidence, it would actually refute a lot of the
6 things even in the indictment and even in the plea
7 bargain. But, I mean, I'm in prison. I don't
8 have enough access here. But, I mean, I will when
9 I get out. Am I going to be able to submit that
10 evidence?

11 THE COURT: Well, why don't we do this: Why
12 don't we proceed with the hearing, and you can
13 testify to what you think you can testify to in
14 that regard. As I understand, as I read these
15 charges, they're not going to retry your criminal
16 proceeding. It's based on the judgment that
17 exists as a result of your plea bargain.

18 In terms of -- I think the last time you
19 requested a postponement, you were, unless I am
20 getting this confused with another case, you were
21 wanting to go back to court to have that judgment
22 reopened.

23 MR. SWITLYK: Actually, Judge, I do have an
24 appeal filed and I mailed you guys a copy to it --

25 THE COURT: Right. And that was -- that was

1 your reason --

2 MR. SWITLYK: -- the other day.

3 THE COURT: Correct. And that was your
4 reason for post -- for asking for the postponement
5 previously. And what I said then is, well, if
6 that happens, that would be a new development that
7 could affect your case. But in the meantime, I
8 wasn't going to postpone the hearing just because
9 it's a possibility at this point in time.

10 So, for the same reasons -- as I understand
11 it, this prosecution is based on the judgment that
12 exists, not -- they're not going to reprove or
13 retry your criminal case. So I don't know whether
14 the surveillance information -- evidence that
15 you're discussing would even be relevant to the
16 charges in this case, because they're not retrying
17 that case. But even --

18 MR. SWITLYK: Well, they may be.

19 THE COURT: You may, in your part of the
20 case, testify to what you want to testify to. You
21 may not -- there may be objections and I'll deal
22 with them, and there may be some evidence that
23 you -- would support what you're saying that would
24 not be available, but we'll deal with that when we
25 get to that part of the hearing.

1 MR. SWITLYK: Okay. What about the
2 deposition for that expert witness? I never
3 received a copy of it.

4 THE COURT: Well --

5 MS. GREEN: Your Honor, if I may?

6 THE COURT: Yes.

7 MS. GREEN: The department forwarded all of
8 its exhibits to the Respondent, and that included
9 the deposition transcript for Dr. Salem, the
10 expert.

11 THE COURT: It may be not yet there, because
12 my -- I believe my packet of the exhibits of the
13 department came in two different deliveries, and
14 the actual copy of the deposition came subsequent
15 to the first delivery. So it may be on the way.
16 But in any event, you were there at the
17 deposition, so if that's a ground for -- another
18 ground for postponement, I'll deny that.

19 So are there any other preliminary matters
20 before we proceed with the hearing? Are there any
21 opening statements to be made, starting with the
22 Petitioner?

23 MR. MAY: Your Honor, the department would
24 like to make a very short opening statement.

25 THE COURT: All right.

1 MR. MAY: My name is Lucas May, and my
2 co-counsel, Yolanda Green, and I represent the
3 Petitioner, the *Florida Department of Health vs.*
4 *Mr. Christopher Stephen Switlyk.*

5 Through the admission of documents and expert
6 witness testimony, the Petitioner will demonstrate
7 that Mr. Switlyk entered three guilty pleas which
8 relate to the practice of pharmacy. These
9 documents and testimony describe the extent and
10 severity of the crimes, and the Pharmacy
11 Administrative Rules demonstrate that Respondent's
12 guilty pleas may be disciplined with permanent
13 licensure revocation.

14 The documents demonstrate that Mr. Switlyk,
15 on his own accord, freely entered the guilty pleas
16 without promise of benefit of any kind. The
17 documents describe that Respondent understood his
18 plea agreement and that the United States
19 recommended the sentence at the low end of the
20 applicable guideline range but that Respondent
21 also understood that the recommendation was not
22 binding on the court.

23 Respondent's criminal sentencing documents
24 will demonstrate that, "The defendant shall
25 refrain from engaging in any employment relating

1 to dispensing prescription drugs, either in a
2 pharmacy, pain clinic or other medical
3 environment."

4 Through the admission of expert testimony by
5 Ronald B. Salem, a registered pharmacist, the
6 Petitioner will demonstrate that Respondent's
7 guilty pleas are related to the practice of
8 pharmacy, and as such, should be disciplined as
9 ~~this Court determines to be fair and reasonable.~~

10 THE COURT: All right. That was the opening
11 statement by the department. Did you have an
12 opening statement you want to make at this time?

13 MR. SWITLYK: Well, I mean, I would just like
14 to note that that guilty plea, I actually never
15 signed it. I -- I signed a rough draft of it on
16 the 3rd day of September, and then when it came
17 time to -- at my plea hearing when my lawyer stuck
18 it in front of me, you know, he had me initial the
19 pages.

20 And then when it came to the last page, I
21 said, you know, "I'm not signing this." And then
22 he said, "Oh, that's fine. I'll just use the one
23 you signed a couple days ago," and he stuck it in
24 there. So technically, I never signed that plea
25 bargain.

1 THE COURT: That happened in open court
2 you're saying?

3 MR. SWITLYK: Yeah. I mean, you can see it
4 if you look in the document. Do you have a copy
5 of the document in front of you?

6 THE COURT: I'm not looking at it right now,
7 but it's one of the exhibits that was proposed.

8 MR. SWITLYK: Yeah, Document 236, my lawyer
9 had me sign it. He came to the jail September 3rd
10 and he said, "Go ahead and sign this so I can use
11 this last page for negotiation, and I'm going to
12 negotiate and have all the changes made to the
13 plea bargain that you want changed to it." And
14 then, you know, he did a plea in the next two days
15 with the revised plea bargain. And then I went to
16 the change of plea hearing and --

17 THE COURT: It sounds like you're -- excuse
18 me, it sounds like you might be getting into your
19 testimony, something you want to testify to. I
20 understand what you're saying --

21 MR. SWITLYK: I mean, I know you're basing
22 stuff on my agreeing to a plea bargain, but
23 technically, I actually never signed that plea
24 bargain.

25 THE COURT: All right. Well, is there any

1 other opening -- any other opening statement or
2 any other statements that you want to make in the
3 way of an opening statement at this time?

4 MR. SWITLYK: I mean, other than, you know, I
5 just got a copy of the disciplinary guidelines
6 yesterday, and, you know, I just had a chance to
7 review it and I'm not sure which ones they're
8 applying to me.

9 THE COURT: Well, let me tell you in that
10 regard that we haven't even gotten into the
11 hearing yet, but it's one of their exhibits so if
12 we assume that it's -- well, whether it's in
13 evidence or not, you have a copy of it now.

14 You will have an opportunity to submit a
15 proposed order to me, which you -- and you'd have
16 an opportunity -- you'd have more time to review
17 that document before you submit your proposed
18 order so --

19 MR. SWITLYK: Well, the only thing is, I
20 mean, I don't have any access to look at any
21 similar cases or anything, like, I have no -- you
22 know, I have no access to any of that stuff in
23 here.

24 THE COURT: Okay. Well, back to opening
25 statement, any other -- the opening statement is

1 basically for you to outline what you think the
2 evidence is going to show.

3 MR. SWITLYK: Um --

4 THE COURT: But let me just say this: Since
5 you're the only -- you only have yourself to
6 support any statements that you make, you're
7 basically going to have to retestify to anything
8 you say at this time. So --

9 MR. SWITLYK: I mean, other than that, you
10 know, the government and my lawyer at the time
11 pressured me into agreeing to a plea bargain that
12 wasn't accurate, I mean --

13 THE COURT: Okay.

14 MR. SWITLYK: -- I mean, I'm not really sure
15 what else I can say --

16 THE COURT: Okay.

17 MR. SWITLYK: -- regards to that. But I,
18 mean, it's, you know -- I mean, at the point in
19 time where I actually was considering taking the
20 case to trial, and then the government revoked
21 my -- revoked my bond, and then -- you know,
22 because I was thinking about taking it to trial.

23 And then once I was in jail and then they
24 held me in jail, they put me in solitary
25 confinement for two months with no access to any

1 phone or pen and paper or anything, and they
2 wouldn't let me out until I signed a plea bargain.

3 THE COURT: Okay.

4 MR. SWITLYK: You know, I mean, in my
5 opinion, I mean, it was definitely malicious
6 prosecution is what they did. They forced me into
7 pleading to a plea bargain that, you know, I
8 didn't agree with.

9 THE COURT: Okay. Okay. Back to the next

10 phase of the hearing, which is the presentation of
11 evidence. What evidence is going to be presented
12 by the Petitioner?

13 MR. MAY: Okay. Your Honor, the Petitioner
14 would like to enter five separate exhibits into
15 evidence. Exhibit No. 1 is Mr. Switlyk's
16 licensure certification printout, and the
17 Department of Health would like to submit this
18 document into evidence as a self-authenticating
19 document under Florida Statutes Section 90.902(1).
20 And the printout demonstrates that Mr. Switlyk has
21 an active pharmacy license subject to emergency
22 suspension.

23 THE COURT: All right. Do you have that --
24 do you have these documents in front of you now,
25 Mr. Switlyk?

1 MR. SWITLYK: Yeah. Hold on.

2 THE COURT: This is their Exhibit 1, which
3 is --

4 MR. SWITLYK: Yeah, I got that. Exhibit 1,
5 it says --

6 THE COURT: Your license certification.

7 MR. SWITLYK: Okay.

8 THE COURT: Do you have any objection -- they
9 ~~are moving that -- are you moving this into~~
10 evidence at this time?

11 MR. MAY: Yes, please.

12 THE COURT: Do you have any objection to that
13 being in evidence?

14 MR. SWITLYK: No. I mean, I guess right now,
15 since my license is expired, no.

16 THE COURT: Okay. It's received.

17 (Whereupon, Petitioner's Exhibit No. 1,
18 having been pre-marked for identification, was received
19 in evidence.)

20 MR. MAY: As Exhibit No. 2, the Petitioner
21 would like to admit Florida Statutes 456.072 into
22 evidence under Florida Statutes Section 90.201
23 relating to judicial notice.

24 THE COURT: All right. Mr. Switlyk, this is
25 just a copy of the statute that -- statutes that

1 apply.

2 MR. SWITLYK: Was that Exhibit 2?

3 THE COURT: Yes.

4 MR. SWITLYK: Was that the letter C where he
5 has the asterisk next to it?

6 MR. MAY: Yes.

7 MR. SWITLYK: Okay. Yeah, I got a copy of
8 that.

9 THE COURT: All right. And do you have any
10 objection?

11 MR. SWITLYK: No.

12 THE COURT: Okay. It'll be received. I
13 don't know that it's necessary for it to be in
14 evidence but it's received.

15 (Whereupon, Petitioner's Exhibit No. 2,
16 having been pre-marked for identification, was received
17 in evidence.)

18 MR. MAY: Okay. And related to that, Your
19 Honor, the Petitioner would like to submit into
20 evidence the guidelines applicable to Mr. Switlyk,
21 the disciplinary guidelines; also, under judicial
22 notice under Florida Statutes Section 90.202(9) as
23 a rule promulgated by a governmental agency
24 published in the Florida Administrative Code.

25 THE COURT: All right. Now, they're

1 switching to No. 4.

2 MR. MAY: Yeah. I'm sorry about jumping
3 around.

4 THE COURT: So they're on Exhibit 4, which
5 are the disciplinary guidelines that you were
6 referring to earlier.

7 MR. SWITLYK: Yeah.

8 THE COURT: So any objection to them being
9 received?

10 MR. SWITLYK: No.

11 THE COURT: Okay. Again, I don't know that
12 it's actually necessary for them to be in
13 evidence, but they'll be received without
14 objection. Let me ask you this: Is this the
15 version that is in effect at this time or at some
16 point in the past?

17 (Whereupon, Petitioner's Exhibit No. 4,
18 having been pre-marked for identification, was received
19 in evidence.)

20 MR. MAY: It's my understanding that it was
21 in effect when he entered the guilty pleas on
22 September 9th, 2012.

23 THE COURT: September 9th, 2012. Is that --
24 and so that goes for the --

25 MR. SWITLYK: It was September 5th.

1 MR. MAY: I mean, excuse me, September 5th,
2 2012.

3 THE COURT: All right. And that goes for the
4 statutes as well? Those are the statutes that
5 were in effect at that time?

6 MR. MAY: That's correct.

7 THE COURT: Okay.

8 MR. MAY: At this point, the Petitioner would
9 like to enter Exhibit 3, composite exhibit, into
10 evidence; and this is composed of Mr. Switlyk's
11 federal indictment, amended plea agreement, report
12 and recommendation concerning plea of guilty and
13 the judgment.

14 And the Department would like to have the
15 indictment, the amended plea agreement and the
16 report and recommendation concerning plea
17 agreement admitted under Section 90.902(1) as
18 self-authenticating, and the judgment admitted
19 under Section 92.06 which allows for the admission
20 of judgments.

21 THE COURT: All right. Mr. Switlyk, do you
22 have objections to these being received in
23 evidence?

24 MR. SWITLYK: The only objection I have is to
25 actually -- the plea agreement may be -- I have a

1 motion right now to withdraw that plea. I mean, I
2 don't know what's going to happen with it but --

3 THE COURT: Okay.

4 MR. SWITLYK: I mean, that's part of the
5 appeal. I mailed you guys a copy of it. I just
6 mailed it out on, I think, on Monday.

7 THE COURT: Okay. So it's a motion to do
8 what now? To --

9 MR. SWITLYK: A motion to -- my appeal --

10 THE COURT: Yeah.

11 MR. SWITLYK: -- my appeal on the my criminal
12 case.

13 THE COURT: Yes.

14 MR. SWITLYK: It's part of that appeal. Part
15 of that appeal asks to withdraw the plea, the
16 guilty plea.

17 THE COURT: Okay. All right. I understand
18 that aspect of your position, however, it would
19 not be a ground to not receive the evidence that's
20 been offered, so I will --

21 MR. SWITLYK: What about -- what about, I
22 didn't sign that plea on the day -- on the day of
23 the plea hearing.

24 THE COURT: Well, I will listen to your
25 testimony concerning that but -- any response?

1 MS. GREEN: Your Honor, with respect to the
2 amended plea agreement, there are approximately --
3 let me see, where is that -- approximately 27
4 pages, and on each page, the Respondent was
5 required to initial to, you know, indicate that he
6 acknowledged what was in the actual plea
7 agreement. And then his signature appears on the
8 Page 27 along with the signature of his attorney,
9 ~~the US attorney -- the US attorney assigned to the~~
10 case. Therefore, the Department --

11 MR. SWITLYK: Your Honor, there is actually a
12 plea -- original plea filed on September, I think,
13 4th on my docket. And if you look at the
14 signature page on that -- on that plea and none of
15 the pages are initialed, they actually just used
16 the same signature page in that plea on the second
17 plea.

18 THE COURT: Yeah, I understood that from what
19 you were saying in your opening statement but --

20 MR. SWITLYK: They just reused the same
21 signature page because I didn't sign it.

22 THE COURT: Well, and that's subject as part
23 of your appeal.

24 MR. SWITLYK: I mean, it was brought up.

25 THE COURT: Yeah. Well, I will overrule that

1 objection. I will receive the exhibit based on
2 what's -- based on it being the certified copy of
3 the document. I understand you have a -- you have
4 some disagreements with it, but it is a
5 self-authenticating document, and I will hear your
6 testimony about it when it gets to your part of
7 the case. So I will receive that document as
8 evidence.

9 (Whereupon, Petitioner's Exhibit No. 3,
10 having been pre-marked for identification, was received
11 in evidence.)

12 MR. SWITLYK: Did you see the last page of it
13 where it has a date on it?

14 THE COURT: Yes. Yeah. I understand what
15 you're saying, but I -- I understand what you're
16 saying. But I will, at this time, receive the
17 document, and I will listen to your testimony when
18 it comes your turn to testify.

19 MR. SWITLYK: Is it possible to also submit
20 into evidence the plea that was filed on
21 September 4th as well?

22 THE COURT: That -- that could be part of
23 your case; yes.

24 MR. SWITLYK: Okay.

25 THE COURT: So I will receive No. 3.

1 MR. MAY: Okay. And lastly, Your Honor, the
2 Petitioner would like to submit Exhibit No. 5, a
3 copy of the deposition transcript of Ronald B.
4 Salem dated March 13th, 2014, to be admitted into
5 evidence under Florida Rules of Civil Procedure,
6 1.330(3)(F), which allows for admissibility of a
7 deposition if the witness is an expert.

8 THE COURT: All right. Any objection to
9 Mr. Salem's deposition?

10 MR. SWITLYK: You know, I object, you know,
11 just because he's a paid expert witness, and I
12 didn't get a chance to pay an expert witness to
13 come to my defense.

14 THE COURT: Okay. I'll overrule that
15 objection, so it will be received.

16 (Whereupon, Petitioner's Exhibit No. 5,
17 having been pre-marked for identification, was received
18 in evidence.)

19 MR. MAY: Also to note at this point, Your
20 Honor -- no, never mind.

21 THE COURT: Any other evidence to be
22 presented by the Petitioner?

23 MS. GREEN: The Petitioner would like to call
24 the Respondent as a witness.

25 THE COURT: All right. Mr. Switlyk, you've

1 been called by the Petitioner to testify in their
2 case.

3 Is there a notary at his end?

4 MS. GREEN: There should be someone --

5 MR. SWITLYK: No. There's no notary here at
6 the prison.

7 MS. GREEN: There should be someone there to
8 swear him in.

9 ~~THE COURT: Is there somebody there who would~~
10 be able to swear you from that end?

11 MR. SWITLYK: What do you mean, swear me?

12 THE COURT: Swear you to give testimony at
13 this hearing so that your testimony will be sworn
14 testimony.

15 MR. SWITLYK: I don't know.

16 (Whereupon, a pause was had in the
17 proceeding.)

18 MR. SWITLYK: Okay, yeah. She -- she has to
19 be a notary?

20 THE COURT: Yes.

21 MR. SWITLYK: If you need a notary, the
22 (indecipherable) is a notary.

23 THE COURT: Okay.

24 MR. SWITLYK: I think that she'll be able to
25 do that.

1 THE COURT: Yes.

2 Are you aware of the requirement that the
3 notary has to submit an affidavit regarding the
4 swearing of the witness. I think we have a --
5 there's a rule or something that gives guidance as
6 to what needs to be done at this point.

7 MS. GREEN: Okay.

8 THE COURT: You have to be in touch with that
9 notary to have the notary submit an affidavit.

10 MS. GREEN: Yeah. Because we were in contact
11 with -- I believe that's probably his counselor
12 he's referring to. So we can -- we'll make sure
13 that we contact her and ensure that we get that
14 document.

15 THE COURT: Are you still there, Mr. Switlyk?

16 MR. SWITLYK: Yes, I'm here.

17 THE COURT: Are you waiting for somebody to
18 arrive?

19 MR. SWITLYK: Oh, no. Do they swear me right
20 now?

21 THE COURT: Yeah.

22 MR. SWITLYK: Okay. What about any evidence
23 I want to submit into evidence?

24 THE COURT: Well, that -- that's -- you'll
25 be -- you'd be able to testify. You only have to

1 be sworn one time. You can testify in your own
2 behalf as well.

3 MR. SWITLYK: No. I'm talking about how the
4 prosecution, they just submitted all these
5 exhibits. What about the exhibits that I want to
6 be submitted?

7 THE COURT: Well, you can -- you can mail
8 them -- you can mail them.

9 MR. SWITLYK: Okay. Can I -- can I mention
10 them now, or do I just --

11 THE COURT: Yes. Well, not right now. At
12 this point, we're waiting for the notary to swear
13 you so we can proceed.

14 MR. SWITLYK: So do I just hand her the
15 phone?

16 THE COURT: Excuse me?

17 MR. SWITLYK: Just hand her the phone?

18 THE COURT: Let me just -- first of all, let
19 me ask the notary to -- yeah, hand her the phone.

20 MS. CARLSON: We're on speaker phone. This
21 is Elizabeth Carlson.

22 THE COURT: Could you give us your full name,
23 please.

24 MS. CARLSON: This is Elizabeth Carlson,
25 C-a-r-l-s-o-n.

1 THE COURT: Okay. And your address up there?

2 MS. CARLSON: Post Office Box 699, Estill,
3 South Carolina.

4 THE COURT: Okay. And you're a notary in the
5 state of South Carolina?

6 MS. CARLSON: I am.

7 THE COURT: Okay. I would ask you to -- are
8 you familiar with swearing witnesses to testify?

9 MS. CARLSON: I've done it a few times; yes.

10 THE COURT: Well, I'll just ask you to take
11 the oath of the -- of Mr. Switlyk that the
12 testimony that he is about to give, that he gives
13 this morning, will be the truth, the whole truth
14 and nothing but the truth. You ask him to swear
15 to that and --

16 Whereupon,

17 CHRISTOPHER SWITLYK, R.PH.
18 was called as a witness, having been first duly sworn
19 to speak the truth, the whole truth, and nothing but
20 the truth, was examined and testified as follows:

21 THE WITNESS: Yes.

22 THE COURT: All right. Ms. Carlson --

23 MS. CARLSON: Sir?

24 THE COURT: -- you'll be required to, under
25 our procedures, to submit an affidavit regarding

1 your notary, your -- what you just did.

2 MS. CARLSON: Uh-huh.

3 THE COURT: And the attorneys for the
4 department will be in touch with you regarding
5 that.

6 MS. CARLSON: Okay. That's fine.

7 THE COURT: And do they have a phone number
8 where they can reach you?

9 MS. CARLSON: Yes, sir.

10 THE COURT: Okay. All right. Thank you very
11 much.

12 MS. CARLSON: You're welcome.

13 THE COURT: You may proceed.

14 MR. SWITLYK: Hello?

15 THE COURT: Yes. I just asked Ms. Green to
16 proceed with her questioning of you.

17 MR. SWITLYK: Okay.

18 DIRECT EXAMINATION

19 BY MS. GREEN:

20 Q Mr. Switlyk, can you please state and spell
21 your name for the record.

22 A Christopher, C-h-r-i-s-t-o-p-h-e-r; Switlyk,
23 S-w-i-t-l-y-k.

24 Q Okay. And we just had evidence admitted
25 regarding convictions that occurred on September 5th of

1 2012. Did you report those convictions in writing to
2 the Department of Health?

3 A At the time, I didn't have -- I didn't have
4 the address or any information of the Department of
5 Health. I was in jail.

6 Q Right. But you didn't report those in
7 writing to the Department of Health; correct?

8 A I mean, I don't see how I could have.

9 Q So that is a no?

10 A Well, I mean, no, I didn't, because I had no
11 ability to do that.

12 MS. GREEN: Thank you. I have no further
13 questions. And the Department rests its case.

14 THE COURT: All right. Did you, first of
15 all, in the way of what you might call
16 cross-examination, did you have anything you
17 wanted to elaborate on or explain regarding the
18 testimony you just gave on direct?

19 MR. SWITLYK: Me?

20 THE COURT: Yes.

21 MR. SWITLYK: Well, yeah. When I -- as soon
22 as I pled guilty, I actually had a meeting with my
23 attorney and told him that I wanted to withdraw
24 the plea, and then he kept convincing me not to
25 withdraw it and that I was going to get out, you

1 know, within a year or two. I just kept the plea
2 as it was.

3 I asked him if I had to submit anything to
4 the Department of Health or anything and he said
5 no, don't worry about that. And I had -- you
6 know, I had no access to anything, no address, no
7 phone number. You know, I don't know how I could
8 have submitted anything to the Department of
9 Health. I was in jail.

10 You know, I didn't even had -- you know, none
11 of my family was talking to me or anything like
12 that. I didn't have anybody helping me out. I
13 mean, if they sent me a letter, I mean, with their
14 address on it, I would have gladly wrote them a
15 letter back and said that I was -- I pled guilty.
16 But, I mean, I didn't have any contact with the
17 Department of Health. I mean, they knew where I
18 was. Hello?

19 THE COURT: Yes.

20 MR. SWITLYK: Well, I mean, another thing,
21 too, I actually, when I first voluntarily closed
22 my pharmacy, I met with Joe DeGregorio over there
23 from the Department of Health, I met with him and
24 my attorney at the time, John Perrin.

25 And then I -- I agreed to stop -- not to

1 practice pharmacy. That was back in May of 2010.
2 And he was aware of the criminal case and, you
3 know, made me aware that my bond was revoked. And
4 he came to see me, I think after I pled guilty.
5 So, I mean, and -- and I told him about, you know,
6 that I pled guilty and he knew about everything.

7 THE COURT: What was his name and what was
8 his role?

9 MR. SWITLYK: He's an investigator with the
10 Department of Health. Joseph DeGregorio,
11 D-e-G-r-e-g-o-r-i-o.

12 THE COURT: Okay. Okay. Anything else?

13 MR. SWITLYK: Um --

14 THE COURT: On that subject, I mean.

15 MR. SWITLYK: I mean, other than Department
16 of Health knew what was going on with my case, I
17 mean -- I mean, they knew I had a criminal -- an
18 outstanding criminal case. I mean, as soon as my
19 bond was revoked, I didn't really have much of a
20 choice but to plead guilty so --

21 THE COURT: Okay.

22 MR. SWITLYK: Unless I -- you know, I didn't
23 even -- I didn't even know that I was -- you know,
24 had to notify anybody, I mean, other than, you
25 know, Joe coming to see me and I told him about

1 it. I mean, we had some e-mail communications,
2 too.

3 THE COURT: Okay. Anything else?

4 MR. SWITLYK: That's -- actually, when I was
5 in jail, when I was in jail, the government was
6 allowing me to use the computer, and I actually --
7 Joe -- me and Joe e-mailed me back -- you know, we
8 e-mailed each other a couple of times. I did send
9 a copy of the e-mail actually. Didn't I send a
10 copy to the Department of Health, that I had with
11 Joe?

12 THE COURT: I -- I -- there's nobody here
13 that can answer that who's --

14 MR. SWITLYK: I think I sent it to Mr.
15 Jurich, Christopher Jurich or something. Did you
16 guys get that?

17 THE COURT: You're --

18 MR. SWITLYK: I'm talking to the prosecution.

19 THE COURT: This is -- at this point in time,
20 you're testifying, not asking questions of a
21 witness so -- so what's your testimony then?

22 MR. SWITLYK: About notifying the Department
23 of Health?

24 THE COURT: Yes. Well, basically, it sounds
25 to me like you're saying you think you might have

1 sent --

2 MR. SWITLYK: Well, I might have. I don't
3 know. I mean, Mr. DeGregorio came to see me in
4 the jail and, you know, we talked about it. But,
5 I mean, I didn't have any address or any, you
6 know, contact information of who I was supposed to
7 contact and let them know about the, you know,
8 plea bargain.

9 THE COURT: Okay

10 MR. SWITLYK: I mean, I didn't have any
11 ability to contact anyone.

12 THE COURT: All right. Any redirect?

13 REDIRECT EXAMINATION

14 BY MS. GREEN:

15 Q Mr. Switlyk, you said that you spoke with
16 Mr. DeGregorio. Was that the day that he served you
17 with the emergency suspension order on February -- in
18 February of 2013?

19 A I mean, it might have been.

20 Q And your conviction was dated September 5th
21 of 2012; correct?

22 A The plea bargain? Yeah, the plea bargain was
23 entered in, yeah, September 5th.

24 Q Okay. And you did not speak with -- you did
25 not send anything to the Department of Health in

1 writing regarding that conviction within 30 days; is
2 that correct?

3 A Well, like I said, I didn't have any access.
4 How could I have? I'm in jail.

5 Q So that is a no, you did not submit anything
6 in writing to the Department of Health within 30 days
7 of the conviction?

8 A Well, I mean, no. I was in jail. How could
9 I have?

10 Q And while you were -- you were in the
11 Pinellas County Jail --

12 A Yes.

13 Q --- is that correct? And you had access to
14 mail?

15 A I had no one's address, you know.

16 Q Yes or no, you had access to mail?

17 A Well, actually, for two months, I didn't have
18 access to mail. I was in solitary confinement. I
19 didn't have access to a pen or paper. I had access to
20 nothing actually.

21 Q And you had access to the internet?

22 A No. I had access to the internet -- it was a
23 couple -- it was actually when Joe came to see me.
24 That's when they gave me access to it. But no,
25 actually, I didn't have access. I had limited access.

1 I was working with government agents.

2 Government agents were coming and sitting
3 with me all day long for a couple of months. So, I
4 mean, I didn't have access to the internet. They just
5 let me use it to e-mail Joe a couple of times.

6 Q So you had access to e-mail; is that correct?

7 A I e-mailed him a couple of times, but I did
8 not have free access to e-mail anyone I wanted.

9 Q And you did not, again, report these
10 convictions by e-mail to the Department of Health?

11 A Well, at that time Joe came to see me and he
12 knew about it all. No, I didn't have access when I
13 pled guilty. I didn't have access to anything. They
14 only started cooperating until, like, a month or two
15 after I pled guilty.

16 Q Thank --

17 A -- send me that. And I had no access to mail
18 or anything. I didn't have any money in my account or
19 anything.

20 Q Okay. So it's your testimony you had no
21 access to mail between September 5th, 2012, and
22 February of 2013?

23 A To send letters out and mail them?

24 Q Yes.

25 A September to when?

1 Q The date in which you entered your convict --
2 the date in which you were convicted of the crime, on
3 September 5th of 2012, and the timeframe in which you
4 were at the Pinellas County, which was February 2013?

5 A No. I -- I -- it was -- I didn't have
6 access -- it was in June and July. But in September, I
7 got moved back to general population because I pled
8 guilty. But, I mean, I didn't have any money to mail
9 stuff out.

10 Q So is it your testimony that you did not have
11 access to mail or --

12 A Well, even if I did, I didn't have anyone's
13 address. How could I mail anything to the Department
14 of Health?

15 Q Okay. Who was your -- who was your counselor
16 at the Pinellas County Jail?

17 A There are no counselors there.

18 Q Okay.

19 A I was in maximum security. You don't see any
20 counselors.

21 MS. GREEN: Okay. Well, thank you --

22 THE WITNESS: They just throw your food in
23 there. You don't even go outside. 24-hour-a-day
24 lockdown.

25 MS. GREEN: Thank you, Mr. Switlyk. I have

1 no further questions.

2 Your Honor, we reserve the right to offer
3 rebuttal evidence regarding his testimony as to
4 whether he had the ability to -- privileges for
5 mail to submit a notification in writing to the
6 board regarding his conviction.

7 THE COURT: All right. Let me -- I'm a
8 little confused. Your criminal -- the proceeding
9 that your -- your prosecution was in federal
10 court, was it not?

11 MR. SWITLYK: Yeah, federal court.

12 THE COURT: Why were you in the Pinellas
13 County Jail?

14 MR. SWITLYK: Well, that's where they hold --
15 that's where they hold federal inmates.

16 THE COURT: Okay.

17 MR. SWITLYK: Pinellas County.

18 THE COURT: All right.

19 MR. SWITLYK: But I was moved around -- when
20 I was in the Pinellas County Jail, I was moved
21 around to, like, 15 different pods. You know, I
22 went from general population to solitary
23 confinement, max, PC. I mean, I was moved all
24 over the place.

25 But there's no counselors or anything like

1 that in the jail. I mean, it's not like prison
2 where there are counselors here to help you and
3 answer your questions and help you with things.

4 THE COURT: When did you leave the Pinellas
5 County Jail?

6 THE WITNESS: August of last year. August, I
7 think it was, 13th I think maybe -- or no, I'm
8 sorry, July. July 29th of last year.

9 THE COURT: And that's when you went to where
10 you are now?

11 THE WITNESS: Yeah. Well, I got transferred
12 around about three weeks, and I got here
13 August 13th.

14 THE COURT: Okay, thank you.

15 All right. Any other evidence to be
16 presented by the department?

17 MS. GREEN: No, not from the department.
18 Thank you.

19 THE COURT: All right, Mr. Switlyk, that's
20 that concludes the case being presented by the
21 Department of Health. Is there any evidence that
22 you want to submit in the way of your own --

23 MR. SWITLYK: Also, as far as, like, I mean,
24 even if I had access to, like, mail something back
25 then, I didn't have any address until Joe came to

1 see me. If that's when he came to see me was
2 February, I mean, that was the first time I got
3 any paperwork with any address on it to mail
4 anything. So how could I have mailed anything to
5 the Department of Health even if I wanted to?

6 THE COURT: All right. Is there any other
7 any other testimony that you want to give in --
8 now we're -- now we're turning to your case if you
9 have evidence you want to present so -- and that
10 could --

11 MR. SWITLYK: Let me see here. If I -- you
12 know, I would like to include in the exhibits the
13 plea bargain that was filed on September 4th,
14 2012, the one that has the same last page that I
15 signed that they just, you know, photocopied and
16 used as a plea bargain they filed September 5th.

17 THE COURT: So you have a -- you have a copy
18 of that that you can -- that you can provide?

19 MR. SWITLYK: Yeah. I got a copy of that
20 here.

21 THE COURT: Okay.

22 MR. SWITLYK: I can mail that to you and the
23 prosecution.

24 THE COURT: All right. That would be your
25 Exhibit 1 that you're proposing to offer. Do you

1 have any objection to that being received?

2 MS. GREEN: The department -- at this point,
3 we'll reserve any objections, because we haven't
4 had an opportunity to review the document. But
5 we'll also point out that the judgment
6 incorporates the amended agreement that we have
7 offered into evidence as a --

8 MR. SWITLYK: And, Your Honor, the document
9 is actually on PACER too. If they just want to go
10 on PACER and pull it off PACER, it's there right
11 now.

12 THE COURT: Say that again.

13 MR. SWITLYK: The document is already filed
14 on PACER.

15 THE COURT: What do you mean on PACER?

16 MR. SWITLYK: I mean -- I mean, on PACER,
17 PACER.gov. I mean, you can print off, like, if
18 you want to look at court documents. The document
19 is already filed, like, with the court.

20 THE COURT: Well, not with this Court.

21 MR. SWITLYK: No, I understand that; but I'm
22 saying if they want to see it.

23 THE COURT: Okay.

24 MS. GREEN: And, again, we'll just renew our
25 objection that the amended agreement that was

1 adopted as a part of the judgment was offered into
2 evidence as Composite Exhibit 3.

3 THE COURT: Okay. I'll reserve ruling on the
4 objection until I receive what -- Mr. Switlyk,
5 you're going to -- I'm going to give you ten days
6 from today to submit these documents that you're
7 talking about. Okay?

8 MR. SWITLYK: Okay. Yeah, I've got a copy of
9 that so I can (indecipherable.) Can I also submit
10 part of my sentencing transcript, the testimony of
11 Dr. Levine?

12 THE COURT: So you're proposing an Exhibit 2
13 which would be an excerpt from your sentencing
14 transcript?

15 MR. SWITLYK: Yeah. Dr. Levine was a
16 psychologist that I was evaluated by that was
17 coming to see me in the jail, you know, for
18 counseling treatments and things like that.

19 THE COURT: Okay. Is that -- is that what
20 you're referring to in your -- in your request for
21 postponement of the hearing?

22 MR. SWITLYK: No. Because I actually wanted
23 to get all of her records. I mean, she had stood
24 up there and spoke and talked to the judge during
25 my sentencing. But, I mean -- I mean, that's the

1 only thing I have a copy of right now, but she
2 has -- she has like a full, you know, record.

3 I was trying to get a copy of that and submit
4 that as well, but, I didn't -- I sent that letter
5 a week-and-a-half ago, so hopefully, I'll get it
6 this week or next week from her. But, I mean,
7 right now, I actually have a copy of the
8 sentencing transcript.

9 THE COURT: Okay. So that would be your
10 Exhibit No. 2. Will there be an objection to that
11 at this time or --

12 MS. GREEN: At this time -- at this time, no.
13 We haven't -- once we have an opportunity to
14 review it, then we would know. But at this time,
15 we have no objection.

16 THE COURT: So you'll have to spend a copy of
17 it to me --

18 MR. SWITLYK: I understand.

19 THE COURT: -- to me, and also a copy to
20 them.

21 MR. SWITLYK: Yeah, I understand that.

22 THE COURT: All right. And they're
23 reserving -- they're reserving any objection until
24 they see it, and if there is an objection, I
25 will -- I will consider objections at that time.

1 MR. SWITLYK: Okay.

2 THE COURT: Anything else?

3 MR. SWITLYK: Well, I mean -- I mean, I'd
4 like to submit any medical records, I guess, from
5 those four doctors --

6 THE COURT: Okay.

7 MR. SWITLYK: -- that I mentioned in that
8 postponement motion --

9 THE COURT: Yeah.

10 MR. SWITLYK: -- or motion to postpone the
11 hearing, those four doctors there.

12 THE COURT: All right. Why don't we -- since
13 we don't know what you are going to get or from
14 whom, let's see, why don't we just call that a
15 Composite Exhibit No. 3. And, again, there will
16 be reservation of any objections until the
17 department has a chance to review what it is that
18 you submit.

19 MR. SWITLYK: Okay. I'm not sure how long
20 it'll take me to get those copies, but I'll get
21 them to you as soon as I get them.

22 THE COURT: Okay.

23 MR. SWITLYK: Hopefully, I'll get them within
24 the next, you know, week or two, and then I'll
25 forward them to you guys.

1 THE COURT: All right.

2 MR. SWITLYK: And then I --

3 THE COURT: So I had said ten days for the
4 first two exhibits. Let's say, for those, let's
5 say 21 days.

6 MR. SWITLYK: All right. Hopefully,
7 that'll -- hopefully, that'll be fine because I
8 already mailed my letters out.

9 THE COURT: Okay.

10 MR. SWITLYK: And then, let's see, actually,
11 I'd like to -- my sentencing, my memorandum, I'd
12 like to submit that as an exhibit.

13 THE COURT: That's not already in evidence?

14 MR. SWITLYK: My memorandum?

15 THE COURT: Yeah. I'm asking. No? Is that
16 not part -- that's not part of your Exhibit No. 3?
17 Okay. What's the sentencing memorandum?

18 MR. SWITLYK: It's the memorandum written up,
19 you know, with assistance of an attorney that's
20 sent to the judge before a defendant is sentenced.

21 THE COURT: All right. So is that something
22 you have now?

23 MR. SWITLYK: Well, I have a -- I have a copy
24 of -- there's, like -- there's, like, a rough
25 draft, and then there is a final draft. I have a

1 copy of the rough draft, but it's -- I mean, it's
2 not exactly what's on file, but the lawyers had,
3 like, two weeks, which really aren't relevant to
4 this anyway. But if I can just submit what I have
5 now, it's close to the same thing that was filed.

6 THE COURT: All right. So within ten days
7 for that and, again, reservation of objections.

8 MS. GREEN: Yes.

9 THE COURT: Anything else?

10 MR. SWITLYK: I'd like to submit into
11 evidence a letter that Todd Foster sent to
12 Professional Research Network, PRN, to Dr. Reuben
13 Bark on September 10th, 2010. Todd Foster was my
14 attorney at the time, and he sent the letter to
15 Dr. Reuben Bark saying that I needed to focus on
16 my criminal case and he didn't want me to get
17 into -- go into any type of treatment program at
18 PRN.

19 THE COURT: Why -- why is that relevant?

20 MR. SWITLYK: Well, I mean, it -- I mean, it
21 shows that I went to PRN. It shows that I went to
22 PRN right after my case -- my case happened, like,
23 in May of 2010. Late May of 2010 is when I closed
24 the pharmacy and I got arrested and everything,
25 and I went to PRN, Professional Research Network,

1 to see, you know, what kind of help I could get
2 with their program and all that.

3 But my attorney at the time, Todd Foster, he
4 said no, you can't do any type of treatment
5 programs. You've go to worry about, you know,
6 making money again and paying me, because I turned
7 over all the money I had to the government at the
8 time.

9 ~~So he prevented me from entering into a PRN~~
10 program, which I think, if I entered into the PRN
11 program back then, I think it could have changed a
12 lot of my criminal case, too. But, I mean,
13 anyway, it's a letter -- it's a letter saying
14 that, you know, you have to work on the case with
15 his lawyers, this and that, and that he didn't
16 want me to go to PRN treatment.

17 THE COURT: All right. So that would be your
18 Exhibit No. 5 and --

19 MR. SWITLYK: I've got a copy of that right
20 now.

21 THE COURT: -- so within ten days and
22 reservation of objections.

23 MS. GREEN: Well, actually, Your Honor, at
24 this time, we would like to object to that letter.
25 It has no bearing on whether he entered a plea --

1 or no bearing on whether he was convicted of a
2 crime related to the practice, and therefore, we
3 would object to admission of that letter.

4 THE COURT: All right. I'll reserve ruling
5 on that until I see the letter.

6 MR. SWITLYK: All right. I mean, with PRN,
7 you know what it is, though? It's like a -- like
8 a treatment center to help professionals, like
9 medical professionals.

10 THE COURT: Yes.

11 MR. SWITLYK: So, I mean, I -- it just shows
12 that I was, you know --

13 THE COURT: I understand.

14 MR. SWITLYK: Yeah.

15 THE COURT: I understand your -- I'm just
16 going to wait until I see the letter.

17 MR. SWITLYK: Okay, yeah. That's fine. I'll
18 send it in. Oh, and then also, a copy of the
19 appeal I sent in that I filed with the court, the
20 criminal court, for my copy of the 2255 motion.
21 It's already mailed. I already mailed it to you
22 and I mailed to the prosecution.

23 THE COURT: All right.

24 MR. SWITLYK: I mailed it on Monday.

25 THE COURT: That'll be your Exhibit No. 6.

1 Do you have an objection at this time, or do you
2 want to reserve on that?

3 MS. GREEN: We'll reserve objections.

4 THE COURT: Okay. So --

5 MR. SWITLYK: So also, I sent four letters to
6 the Department of Health back in January 8, 2014.
7 I would like to submit all four of those letters
8 into evidence.

9 THE COURT: Those are letters that you'll
10 submit within ten days?

11 MR. SWITLYK: I -- I -- well, I sent -- yeah.
12 I mean, I can mail them to you, but the Department
13 of Health already has them.

14 THE COURT: Well, if they're exhibits, you
15 have to mail them to submit them.

16 MR. SWITLYK: All right. I'll mail them
17 again. Okay.

18 THE COURT: All right. They already have
19 copies. Any objection that you know of at this
20 time to those?

21 MS. GREEN: Not at this time.

22 THE COURT: No objections?

23 MS. GREEN: No objections at this time. And
24 we'd like to review the letters, because I'm not
25 certain which ones he's referring to.

1 THE COURT: All right. So reserving
2 objections on that. Anything else? That would be
3 No. 7. Those four letters would be a composite.
4 That would be Respondent's Exhibit 7 for
5 identification.

6 MR. SWITLYK: I mean, I would like to submit
7 the video evidence, if I could, into -- into
8 evidence, but, you know, I don't have access to it
9 right now. So what can I do about that?

10 I mean, I have video clips of, you know, all
11 kinds of things that were going on in my pharmacy
12 that I didn't even know about until a
13 year-and-a-half after I had closed it, because I
14 didn't have a chance to review any of the
15 surveillance footage while it was open.

16 THE COURT: Well, I don't know how it can be
17 considered if you don't know how you can get it
18 so --

19 MR. SWITLYK: Well, I mean, I could get it
20 but -- well, I may be able to get it. I mean, it
21 all depends. I mean, it -- I'm not sure where it
22 is right now, but I had a lot of -- a lot of
23 video. I had about three, 400 video clips stored
24 on a portable hard drive. You know, the
25 government had it the last time I knew.

1 But, I mean, if I could get some of those
2 clips and submit them into evidence, I mean, it
3 shows that, you know, it shows that the government
4 has really exaggerated their role that they
5 labeled me with, and they didn't prosecute a lot
6 of people that they should have.

7 THE COURT: All right. Well, I --

8 MR. SWITLYK: I mean, unless you --

9 THE COURT: -- I'm feeling like, from what
10 you've said, I think I can rule at this time that
11 that would be not relevant to this proceeding. So
12 I'll -- I will not allow -- I will not wait for
13 that evidence to be submitted. Anything else?

14 MR. SWITLYK: You know, I think I had some --
15 some e-mail communications with Todd Foster about
16 PRN, I mean, kind of the same things as that
17 letter asking if I should go to PRN treatment
18 program -- or actually, it may have been with
19 Steve Romine, Todd Foster's partner. I don't
20 know.

21 I mean, I can -- I mean, it just shows that I
22 was attempting to, you know, enter into this PRN
23 program, and I was being advised by my attorneys,
24 you know, not to worry about it and to worry about
25 my criminal case and not my pharmacist license and

1 treatment.

2 THE COURT: Well, that sounds like what
3 you -- what you referred -- what you have as your
4 Exhibit No. 5.

5 MR. SWITLYK: Yeah. Well, can I submit that
6 e-mail into evidence, too, along with that?

7 THE COURT: Yes. You can make that --

8 MR. SWITLYK: It's all the same --

9 THE COURT: --- make that -- yes --

10 THE WITNESS: -- all the same.

11 THE COURT: Make that part of Exhibit No. 5
12 and that'll be --

13 MR. SWITLYK: Yeah. E-mails to the
14 Department, PRN letter. Okay, I got it, No. 5.

15 THE COURT: Okay.

16 MR. SWITLYK: I've got to write all of these
17 down.

18 THE COURT: We'll go over all of these at the
19 end.

20 MR. SWITLYK: Okay. I mean, other than that,
21 I mean, I guess I'd like to submit into evidence
22 that -- the record that I was in Pinellas County
23 Jail at the time that my plea bargain was entered,
24 you know, showing that I was in jail, and I was
25 unable to communicate with the Department of

1 Health or have any -- I mean, it's not like
2 there's deputies there to look up addresses for
3 people or anything like that. I mean, it's --

4 THE COURT: Well, I don't think that -- well,
5 you can testify to where you were.

6 MR. SWITLYK: I mean, I guess --

7 THE COURT: I don't think there's going to be
8 any records that you can --

9 MR. SWITLYK: -- in jail at the time?

10 THE COURT: I'm sorry?

11 MR. SWITLYK: I mean, jail records showing I
12 was in jail at the time? I mean, would that be
13 submitted as evidence?

14 THE COURT: Why don't you just testify to
15 that.

16 MR. SWITLYK: Okay, that's fine.

17 THE COURT: All right. So now, at this point
18 in the hearing, do you wish to testify in your own
19 behalf?

20 MR. SWITLYK: Yes.

21 THE COURT: Okay. When you're ready --
22 you've already been sworn, so your testimony will
23 be sworn. You're not represented so you may
24 testify in narrative form as to what you think is
25 relevant.

1 MR. SWITLYK: I saw something about the
2 disciplinary guidelines that if you are
3 continuing -- where did I see that -- for, like, a
4 mitigating factor, it says something about doing
5 continuing education and things like that, I mean,
6 the only thing is I don't have access to it right
7 now, but I don't know if the Department of Health
8 or somebody else -- like, sometimes, it's
9 electronically, like, submitted to them when you
10 complete CE things.

11 And I did a whole bunch of CEs, I mean, after
12 I was arrested. I don't know if that could be
13 submitted into evidence or not, but, you know, I
14 don't even have copies of it, but I'm sure they
15 could probably pull it up.

16 I mean, I'm not sure if that would be
17 relevant or not, but I see here, in number five,
18 it says something about, you know, continuing
19 education.

20 THE COURT: Well, if you -- if you can
21 present that, if you have something you want to
22 present and you can get ahold of it --

23 MR. SWITLYK: Well, let me see it I can try
24 and get ahold of it, because you know what, I did
25 a lot of it through one website -- or two

1 different websites. One was about -- you know how
2 you can do a live -- you can, like, do the
3 continuing education, like, live courses online;
4 and the other one, you know, you read through and
5 take the test. I used two websites, so let me see
6 it I can get someone on the outside to log in and
7 print out certificates for me. I can mail them
8 in.

9 THE COURT: So basically, your CLE record
10 will -- or not CLE, continuing education --

11 MR. SWITLYK: Even after -- even after my
12 arrest, I was still trying to -- I don't know. I
13 was just showing that I was trying to --

14 THE COURT: All right. We'll make that your
15 Exhibit No. 8.

16 MR. SWITLYK: Okay.

17 THE COURT: Do you know if there'll be any
18 objection to that?

19 MS. GREEN: The department has no objections
20 to that.

21 THE COURT: Okay. There'll be no objection
22 to that if you can submit that.

23 MR. SWITLYK: All right. Can you give me
24 a -- some time to get that together, though?

25 THE COURT: Yes. I think we'll go over all

1 of this at the end.

2 MR. SWITLYK: Okay.

3 THE COURT: My question now is, do you have
4 any test -- do you want to testify in your own
5 behalf?

6 MR. SWITLYK: Yes, I do.

7 THE COURT: Okay. Go ahead and begin your
8 testimony.

9 MR. SWITLYK: I mean, give my testimony? I
10 mean, I -- I'm not really sure what I'm supposed
11 to talk about. The case or --

12 THE COURT: Talk about your defense to this
13 prosecution, if you have any testimony you wish to
14 add at this point. You're not required to. I'm
15 just -- this is the time to testify if you want to
16 testify in defense of.

17 MR. SWITLYK: I mean, I -- you know, I would
18 like to point out that read through these
19 disciplinary guidelines that they mailed me, so
20 I'd like to notate that. And I'm not really sure
21 which ones they're applying to me. But, like,
22 most of them say, like, minimum and then maximum.

23 And then, like, minimum is, like, one year,
24 you know, up -- you know, suspension and things
25 like that. And I'm not -- you know, I'm not

1 really sure which one applies to me. I wonder if
2 you can clarify that.

3 THE COURT: Well, that -- that's not
4 testimony. Do you have any testimony? Do you
5 want to testify to anything that I should consider
6 as evidence in your defense in this license
7 discipline prosecution?

8 MR. SWITLYK: I mean, can I -- can I -- can I
9 read the excerpts from my sentencing memorandum
10 that the psychologist wrote up?

11 THE COURT: That's something you're going to
12 submit as an exhibit, so no because that will be
13 considered when it's received if it is admitted.
14 But --

15 MR. SWITLYK: Okay. I mean, I would just
16 like to say that, according to the indictment and
17 the plea bargain, what the government stated in
18 those documents, you know, they -- they
19 exaggerated my role tremendously.

20 And, you know, they used a lot of pressure
21 tactics, even got me to agree to that plea
22 bargain, which is why I didn't even sign it on the
23 date of my change of plea hearing and they just --
24 and my lawyer just ended up using the other -- the
25 last page of the other plea bargain he had me sign

1 for negotiation purposes.

2 I mean, also, that I tried to, you know,
3 enter into a PRN program and tried to improve, I
4 guess, you know, make sure that I don't repeat the
5 same mistakes. And I was prevented by my
6 attorneys from pursuing that avenue when I was out
7 on bond for the first year-and-a-half, the first
8 attorney I had.

9 I mean, other than that, I mean, I never had
10 any disciplinary actions against my license. I
11 worked in the field of pharmacy since I was 16 as
12 a pharmacy technician for (indecipherable)
13 pharmacy. Then I worked for the hospital for four
14 years as a pharmacy technician, then as a pharmacy
15 intern.

16 Then I worked for an extern at CVS Pharmacy,
17 and then I was a pharmacist at Walgreens Pharmacy
18 and then at CVS Pharmacy again. And then I worked
19 for a couple independent pharmacies, including a
20 compounding pharmacy and a couple independent
21 pharmacies, and I never had any, you know,
22 disciplinary actions, never had any misfills.

23 I mean, up until this timeframe of when I
24 owned my own pharmacy, I got involved with the
25 wrong people and, you know, I had a clean license,

1 and I and -- I always abided by all the rules and
2 regulations.

3 I mean, it was just a small timeframe of
4 my -- I mean, I'm 35. I mean, it's -- from 16 to
5 32, 33, I -- you know, that's 16 years that I, you
6 know, abided by all the rules and regulations of
7 the pharmacy. It was just that six-, seven-month
8 timeframe where, you know, this conspiracy or
9 alleged conspiracy happened.

10 And, I mean -- I mean, it's -- I mean,
11 according to all these government documents, I'm
12 being held more responsible than I was. But, I
13 mean, it's -- I mean, come down to it, it was my
14 pharmacy and I should have been more strict with
15 everything that went on there.

16 And when I found out things were going on
17 that shouldn't have went on, I should have turned
18 people into the police, instead of just turning a
19 blind eye and changing the locks on the door
20 trying to keep people away. But, I mean, that's
21 what I did. I didn't make the right decisions
22 and, you know, I paid the price.

23 I mean, I turned every -- I turned every
24 single penny I made over to the government on the
25 first day of the raid. And, you know, I even --

1 money I made -- I worked at CVS and Walgreens for
2 years.

3 All the money I ever made even working for
4 other pharmacies, for them, I turned everything
5 over to them. You know, I have nothing now. So,
6 I mean, I've been punished far in extent of anyone
7 else involved in this conspiracy.

8 I mean, I just want to, you know, have the
9 chance to work as a pharmacist again. I mean, I
10 went to six years of college, and I took all the
11 tests and I passed everything, and, you know, I've
12 made some mistakes.

13 And I -- I just want -- I mean, I know I
14 need -- I mean, obviously, they want to suspend my
15 license for a certain amount of time, but I just
16 don't want it to be suspended for the rest of my
17 life.

18 THE COURT: Okay.

19 MR. SWITLYK: Are you there?

20 THE COURT: Yes.

21 MR. SWITLYK: I mean, other than that, I
22 mean, I just want, you know -- I just want to be
23 able to have a chance, a chance to prove myself
24 that something like this will never happen again.
25 I mean, I know -- I know, also, when I get

1 released, I mean -- you know, I have, like, five
2 years left in prison right now but that could
3 change.

4 Another thing, too, also, I'd like to -- I'd
5 like to point out is that, you know, I was
6 drinking a lot, too, when this was going on. I
7 was trying to drink my problems away, just trying
8 to turn a blind eye to all of this stuff going
9 crazy at the pharmacy.

10 And, you know, I was just -- I was drinking a
11 lot and not paying attention. And, you know,
12 that's why I didn't know a lot of stuff that was
13 going on. I didn't find out about it until a
14 year-and-a-half later when the DEA gave me my
15 surveillance videos back.

16 And that's why I went to PRN in the first
17 place, because -- you know, because I was drinking
18 a lot back then, and the judge ordered me to
19 complete the 500-hour RDAP program here in the
20 prison that they offer.

21 It's a residential drug -- residential drug
22 abuse program, and that will take one year off my
23 sentence when I complete it. It's a nine-month
24 intensive 500-hour program. Hello?

25 THE COURT: Hello.

1 MR. SWITLYK: Yeah. Yeah. I just heard a
2 beep. But, I mean, I'm going to complete that,
3 too, before I'm released. And even when I'm
4 released -- I'm now on three years of supervised
5 released, and I can't even work in the pharmacy
6 field anyway during that timeframe, you know, as
7 part of my supervised release.

8 So, you know, I'm hoping that -- that my
9 sentence gets reduced through my appeal, or that
10 there's actually changes in sentencing laws, drug
11 sentencing laws that are being proposed right now
12 by Eric Holder. And if it is passed, I'll get
13 21 -- 21 months off my sentencing.

14 And then, you know, who knows what happens to
15 my appeal, if I get a couple years off that. But,
16 I mean, I could get out, you know, sooner than the
17 five years. But either way, you know, I just
18 don't want to have a lifetime ban, you know, to
19 ever work in pharmacy again in the state of
20 Florida.

21 I mean, my family is in Florida. You know,
22 my parents are both physicians. My aunt and uncle
23 are both physicians. You know, I come from, like,
24 a medical background family. And, you know, it's
25 real disappointing, you know, to all them, you

1 know, everything that happened with me that I --
2 that I -- all the mistakes I made.

3 And obviously, I don't want to disappoint
4 them ever again, and I don't want to disappoint
5 myself ever again. You know, I just want to get
6 out and do the right thing. You know, I just want
7 to be able to still have some type of career in
8 pharmacy even if it's, like, some type of
9 suspended license or probationary license for a
10 couple years.

11 I mean, obviously, I know I need some kind of
12 punishment, but I don't think a lifetime ban is
13 fair. I mean, I'm only 35 at the time, you know.
14 Even by -- you know, I could still work at 40 or
15 50 years old so --

16 THE COURT: Okay.

17 MR. SWITLYK: I mean, other than that, I'm
18 not really sure what else I can add.

19 THE COURT: All right. Any
20 cross-examination?

21 MS. GREEN: No, Your Honor.

22 THE COURT: All right. That'll conclude your
23 testimony. And let's go over the documents that
24 you're -- we don't need to do this on the record.
25 Off the record, we'll go over this to make sure

1 you have the -- you know what it is you're
2 supposed to be providing.

3 (Whereupon, a pause was had in the
4 proceeding.)

5 THE COURT: When those documents are
6 submitted, they'll be dealt with. There are some
7 objections being reserved. Rulings will have to
8 be made on any objections. When those are dealt
9 with, that will conclude the evidence in the case
10 except subject to rebuttal.

11 What was your request regarding rebuttal?

12 MS. GREEN: The department would like to
13 reserve the right to introduce rebuttal evidence.
14 We have an excerpt from the Pinellas County Jail
15 indicating all of the policies and procedures that
16 relate to inmates and their -- the access that
17 they have to mail, to telephones and internet; and
18 we would like the opportunity to produce the
19 complete document.

20 THE COURT: Okay. So what they are -- that's
21 all you want to do in rebuttal is submit that
22 exhibit?

23 MR. SWITLYK: Hold on. I'm not sure I
24 understand. Pinellas County Jail is saying we
25 have access to the internet?

1 THE COURT: They -- go ahead and repeat what
2 it is that you are proposing.

3 MS. GREEN: Mr. Switlyk, we are going to
4 offer the complete policies and procedures for the
5 Pinellas County Jail for the timeframe in which
6 you were an inmate at that facility. And then we
7 are also reserving the right for any rebuttal
8 evidence that's based on the evidence that you
9 intend to introduce as we have not had an
10 opportunity to review it and determine whether we
11 need to introduce evidence in rebuttal to the
12 evidence that you're offering.

13 MR. SWITLYK: Okay. But the policy and
14 procedures, what -- you've got to keep in mind
15 that it doesn't apply -- I mean, I'm not sure if
16 it includes, like, each part of the jail they are
17 put at. You know, sometimes people are put in
18 maximum security; a lot of times, protective
19 custody; sometimes they're put -- like, they put
20 me in -- I don't know. It doesn't matter -- I
21 mean, general population.

22 THE COURT: Let's put it this way: She is --
23 the exhibit is supposed to be all of the policy
24 and procedures that govern the jail and a copy
25 will be sent to you. So let's say that exhibit

1 would be Petitioner's Exhibit 6 for
2 identification, and a copy would be submitted to
3 me within -- ten days?

4 MS. GREEN: Yes.

5 THE COURT: And also to you. And when you
6 see it, if you have any objections, you can raise
7 your objections at that time and we will deal with
8 your objections if you have any -- I will deal
9 with your objections.

10 MR. SWITLYK: All right, that's fine. I'll
11 look at a copy of it. But, I mean, believe me,
12 when you are in that jail, there is -- no one is
13 there to be helpful, I can tell you that.

14 THE COURT: All right. In terms of rebuttal
15 evidence or further testimony, what is it that
16 you're seeking to rebut, testimony regarding what?

17 MS. GREEN: At this point, Your Honor, we're
18 uncertain, because we don't know what's in these
19 other documents. For instance, this is the first
20 time we became aware of any other plea agreement.

21 THE COURT: Okay. If it's regarding the
22 documents that you haven't seen yet --

23 MS. GREEN: Right.

24 THE COURT: -- the exhibits, I will leave the
25 record open for that opportunity as well. My --

1 if it was something else, a rebuttal to his
2 testimony --

3 MS. GREEN: No, Your Honor. We have no --

4 THE COURT: -- that should have been done
5 today.

6 MS. GREEN: No. No. Not at all, Your Honor.
7 The rebuttal would be related to the statements
8 that he made as to his access to mail and then --
9 and that was at, what we mentioned would be,
10 Petitioner's Exhibit No. 6.

11 And then, of course, after we have had an
12 opportunity to review his actual exhibits, then if
13 we have any rebuttal evidence that we would like
14 to offer, then we would notify the Court at that
15 time.

16 THE COURT: All right, good.

17 MR. SWITLYK: Can I say something?

18 THE COURT: Yes.

19 MR. SWITLYK: Yes. Your Honor, actually,
20 when Joe DeGregorio, who is a investigator, when
21 he came to see me over in the jail, I was actually
22 in a department of the jail that's called DIU and
23 it's where people go when they are cooperating
24 with the government to cooperate on cases.

25 And I was with some agents and they -- and

1 that's why, when I was with the agents, they let
2 me, you know, e-mail files and things like that to
3 them. And I talked to Joe about a bunch of stuff
4 I was working on with them, and Jose -- and I
5 showed Joe actually a lot of the video clips I had
6 on other, you know, pharmacists and technicians
7 and, you know, some information on doctors I had.

8 And he said, wow, this is a lot of good
9 stuff. He said, you should hook up with the
10 Prosecution Services Unite at the Department of
11 Health, and they'd probably work something out
12 with you if you get some of this evidence to them
13 on all these other pharmacists that are still
14 working out there and never, you know, got into
15 any trouble for any of this stuff.

16 And I -- and I sent the Department of Health
17 a letter about it, but I never heard back about
18 any of it.

19 MS. GREEN: And, Your Honor, just another
20 point, Mr. Switlyk is offering testimony regarding
21 conversations that he's had with the department's
22 investigator, and we've had no opportunity to
23 verify or confirm any of these conversations.

24 So at this point, the rebuttal evidence would
25 really go to these arguments that he's raising at

1 this point, you know, to include the policies and
2 procedures manual. And we'd also like to have an
3 opportunity to speak with Mr. DeGregorio to
4 confirm or verify whether these conversations did,
5 indeed, take place.

6 MR. SWITLYK: Well, yeah, I actually -- I
7 have some e-mails that I sent Joe. Did I send a
8 copy of one of the e-mails I sent to Mr. Jurich?
9 Do you have the copies of everything I mailed to
10 Mr. Jurich?

11 THE COURT: All right. You're talking to --

12 MR. SWITLYK: I'm talking to Ms. Green.

13 THE COURT: Ms. Green.

14 MS. GREEN: Those are not -- the department
15 has entered evidence regarding the charges in the
16 administrative complaint, which are that there was
17 a crime related to the practice and your -- or a
18 conviction related to the practice on September
19 5th of 2012 and that you failed to report that
20 conviction in writing to the department.

21 MR. SWITLYK: I know. But I mailed a bunch
22 of things -- a bunch of letters to Mr. Jurich back
23 in January. Did you ever get -- do you have
24 copies of that stuff?

25 MS. GREEN: We -- if you mailed those to the

1 department, they would be in the investigative
2 file. And with respect to this case, those
3 particular letters would not be relevant.

4 MR. SWITLYK: No. But I actually -- I think
5 I mailed a copy of an e-mail I sent to
6 Mr. DeGregorio about that stuff, but I had a --
7 and actually, I sent a letter to Mr. Jurich about
8 a bunch of the people I had information on.

9 MS. GREEN: Right.

10 MR. SWITLYK: And I actually had some video
11 clips of actually some of these people, like
12 one -- actually two of the pharmacists that worked
13 for me.

14 MS. GREEN: Right.

15 MR. SWITLYK: And they are still licensed,
16 still working.

17 THE COURT: Well, let me -- let me say this:
18 You all can talk about all of this, but I don't
19 think it's relevant to this case.

20 MR. SWITLYK: Well, the reason I bring it up
21 is that Joe said something -- maybe if you work
22 something out with them about helping them with,
23 you know, and letting them know about all these
24 things that happened with these other people that
25 they are licensing, you know, maybe they can

1 mitigate, you know, the penalty on your license.

2 MS. GREEN: The department has nothing
3 further, Your Honor.

4 THE COURT: Okay. All right. So the
5 record -- evidentiary record will remain open at
6 this time to deal with the things we've been
7 discussing.

8 At some point, the record will be closed, and
9 ~~at that point in time, there will be an~~
10 opportunity for both sides to submit proposed
11 orders. So you'll be getting notice when that
12 occurs, and probably from -- within ten days from
13 that point in time, you'll be notified that that's
14 when your proposed orders will be due to be filed
15 here so -- unless there's going to be a transcript
16 of the proceeding. Is that the case?

17 MS. GREEN: Yes, Your Honor. The department
18 will order a transcript.

19 THE COURT: Okay. If there is a transcript
20 of the proceeding of this -- today's hearing and
21 it's not yet filed by the time the evidence is
22 closed, then the proposed orders would be within
23 ten days from the filing of the transcript.

24 So the notice you get subsequently from me
25 regarding the closure of the evidentiary record

1 will give you the information as to the timing of
2 the proposed orders. All right. And if there's
3 nothing else, that concludes the proceedings for
4 today.

5 Let me say this: I'm going to -- did you
6 wish to further discuss any of this -- what you
7 were talking about at the end about -- no?

8 MS. GREEN: No, Your Honor.

9 THE COURT: Okay. So I will disconnect the
10 phone at this point, and that will conclude the
11 hearing. I'll leave the hearing room, and if you
12 wish to discuss things further with the
13 department, you can do that on your own.

14 MS. GREEN: No, Your Honor. We have nothing
15 further to discuss.

16 THE COURT: All right.

17 MR. SWITLYK: What are the range of
18 penalties?

19 THE COURT: Well, look at the -- look at the
20 guidelines that were submitted, and that -- that's
21 where you would get the answer to those questions.
22 All right.

23 MR. SWITLYK: I'm not sure which ones they
24 are applying to me, though.

25 THE COURT: Well --

1 MS. GREEN: Your Honor, if I may just add
2 some guidance in that regard.

3 If you look at the guidelines in Exhibit No.
4 4, if you refer to Page 586, if you look on that
5 page --

6 MR. SWITLYK: 586, okay. Okay, I'm there.

7 MS. GREEN: Look in the left-hand column and
8 you find the statute for which -- or that was
9 alleged in the administrative complaint. That
10 would be the disciplinary guidelines that apply in
11 your case. And in this case, for a felony, the
12 range would be a \$3,000 fine and one-year
13 probation through revocation.

14 MR. SWITLYK: Okay. So the minimum would be,
15 felony, \$3,000 fine, one-year probation, and it
16 goes up to revocation. Okay.

17 MS. GREEN: Yes.

18 MR. SWITLYK: So, I mean, don't you guys take
19 into effect that I never had any type of
20 discipline or --

21 MS. GREEN: At this time, the department has
22 nothing further if Your Honor doesn't have any
23 questions of us.

24 THE COURT: All right. That would be part of
25 your argument as to what discipline should be

1 imposed, and I'll consider your argument as well
2 as anything submitted by the department. All
3 right. And that could be part of your proposed
4 order, which we haven't gotten to yet because the
5 evidentiary record is not closed yet. Okay?

6 MR. SWITLYK: All right. Well, I guess I'll
7 mail in copies of what I have today or, I guess,
8 tomorrow.

9 THE COURT: All right. Good.

10 MR. SWITLYK: Everything else, I'll try to
11 get it as soon as I can.

12 THE COURT: All right, very good. That will
13 conclude today's proceedings. Thank you.

14 (Whereupon, the proceedings adjourned at
15 11:09 a.m.)

16 * * *

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CERTIFICATE OF REPORTER

1
2
3
4
5 I, LISA A. BABCOCK, do hereby certify that I
6 was authorized to and did report the foregoing
7 proceedings, and that the transcript, pages 4 through
8 77, is a true and correct record of my stenographic
9 notes.

10
11 Dated this 7th day of April, 2014, at
12 Tallahassee, Leon County, Florida.

13
14 

15 LISA A. BABCOCK

16 Court Reporter

Mission:

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Vision: To be the Healthiest State in the Nation

March 6, 2014

Christopher Switlyk
2410 Victoria Gardens Lane
Tampa, FL 33609-4107

RE: License Certification for Christopher Stephen Switlyk

To Whom It May Concern:

This is to certify the following information, maintained in the records of the Department of Health, for the above referenced Health Care Practitioner:

| | |
|----------------------------|-------------------------|
| PROFESSION: | Pharmacist |
| LICENSE NUMBER: | PS36908 |
| ORIGINAL CERTIFICATION: | 07/31/2002 |
| EXPIRATION DATE: | 09/30/2013 |
| CURRENT STATUS OF LICENSE: | Emerg. Suspens., ACTIVE |
| AGENCY ACTION: | No |
| LICENSE GRANTED BY: | Exam |

To expedite the verification process, the above format is the standard format for all healthcare practitioners. If you have questions regarding the status of this license, please call the Customer Contact Center at (850) 488-0595, option 5.

Sincerely,

Willie Gaines
Licensure Support Services



Florida Department of Health
Division of Medical Quality Assurance • Bureau of Operations
4052 Bald Cypress Way, Bin C-10 • Tallahassee, FL 32399-3260
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YOUTUBE: fldoh
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for the purpose of determining if any of the provisions of this chapter or any practice act of a profession or any rule adopted thereunder is being violated; or for the purpose of securing such other evidence as may be needed for prosecution.

History.—s. 86, ch. 97-261; s. 88, ch. 2000-160.
Note.—Former s. 455.681.

456.071 Power to administer oaths, take depositions, and issue subpoenas.—For the purpose of any investigation or proceeding conducted by the department, the department shall have the power to administer oaths, take depositions, make inspections when authorized by statute, issue subpoenas which shall be supported by affidavit, serve subpoenas and other process, and compel the attendance of witnesses and the production of books, papers, documents, and other evidence. The department shall exercise this power on its own initiative or whenever requested by a board or the probable cause panel of any board. Challenges to, and enforcement of, the subpoenas and orders shall be handled as provided in s. 120.569.

History.—s. 65, ch. 97-261; s. 69, ch. 2000-160.
Note.—Former s. 455.611.

456.072 Grounds for discipline; penalties; enforcement.—

(1) The following acts shall constitute grounds for which the disciplinary actions specified in subsection (2) may be taken:

(a) Making misleading, deceptive, or fraudulent representations in or related to the practice of the licensee's profession.

(b) Intentionally violating any rule adopted by the board or the department, as appropriate.

* (c) Being convicted or found guilty of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the practice of, or the ability to practice, a licensee's profession.

(d) Using a Class III or a Class IV laser device or product, as defined by federal regulations, without having complied with the rules adopted under s. 501.122(2) governing the registration of the devices.

(e) Failing to comply with the educational course requirements for human immunodeficiency virus and acquired immune deficiency syndrome.

(f) Having a license or the authority to practice any regulated profession revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of any jurisdiction, including its agencies or subdivisions, for a violation that would constitute a violation under Florida law. The licensing authority's acceptance of a relinquishment of licensure, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of charges against the licensee, shall be construed as action against the licensee.

(g) Having been found liable in a civil proceeding for knowingly filing a false report or complaint with the department against another licensee.

(h) Attempting to obtain, obtaining, or renewing a license to practice a profession by bribery, by fraudulent

misrepresentation, or through an error of the department or the board.

(i) Except as provided in s. 465.016, failing to report to the department any person who the licensee knows is in violation of this chapter, the chapter regulating the alleged violator, or the rules of the department or the board.

(j) Aiding, assisting, procuring, employing, or advising any unlicensed person or entity to practice a profession contrary to this chapter, the chapter regulating the profession, or the rules of the department or the board.

(k) Failing to perform any statutory or legal obligation placed upon a licensee. For purposes of this section, failing to repay a student loan issued or guaranteed by the state or the Federal Government in accordance with the terms of the loan or failing to comply with service scholarship obligations shall be considered a failure to perform a statutory or legal obligation, and the minimum disciplinary action imposed shall be a suspension of the license until new payment terms are agreed upon or the scholarship obligation is resumed, followed by probation for the duration of the student loan or remaining scholarship obligation period, and a fine equal to 10 percent of the defaulted loan amount. Fines collected shall be deposited into the Medical Quality Assurance Trust Fund.

(l) Making or filing a report which the licensee knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, or willfully impeding or obstructing another person to do so. Such reports or records shall include only those that are signed in the capacity of a licensee.

(m) Making deceptive, untrue, or fraudulent representations in or related to the practice of a profession or employing a trick or scheme in or related to the practice of a profession.

(n) Exercising influence on the patient or client for the purpose of financial gain of the licensee or a third party.

(o) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities the licensee knows, or has reason to know, the licensee is not competent to perform.

(p) Delegating or contracting for the performance of professional responsibilities by a person when the licensee delegating or contracting for performance of the responsibilities knows, or has reason to know, the person is not qualified by training, experience, and authorization when required to perform them.

(q) Violating a lawful order of the department or the board, or failing to comply with a lawfully issued subpoena of the department.

(r) Improperly interfering with an investigation or inspection authorized by statute, or with any disciplinary proceeding.

(s) Failing to comply with the educational course requirements for domestic violence.

(t) Failing to identify through written notice, may include the wearing of a name tag, or oral patient the type of license under which the practitioner is practicing. Any advertisement for health care se

(7) Notwithstanding subsection (2), upon a finding that a physician has prescribed or dispensed a controlled substance, or caused a controlled substance to be prescribed or dispensed, in a manner that violates the standard of practice set forth in s. 458.331(1)(q) or (t), s. 459.015(1)(t) or (x), s. 461.013(1)(o) or (s), or s. 466.028(1)(p) or (x), the physician shall be suspended for a period of not less than 6 months and pay a fine of not less than \$10,000 per count. Repeated violations shall result in increased penalties.

(8) The purpose of this section is to facilitate uniform discipline for those actions made punishable under this section and, to this end, a reference to this section constitutes a general reference under the doctrine of incorporation by reference.

History.—s. 69, ch. 97-261; s. 84, ch. 99-397; s. 90, ch. 2000-160; s. 26, ch. 2000-318; s. 71, ch. 2001-277; s. 2, ch. 2002-254; s. 6, ch. 2003-411; s. 19, ch. 2003-416; s. 10, ch. 2004-344; s. 1, ch. 2005-240; s. 2, ch. 2006-207; s. 111, ch. 2007-5; s. 64, ch. 2008-6; s. 25, ch. 2009-223; s. 3, ch. 2011-112; s. 1, ch. 2011-141.
Note.—Former s. 455.024.

456.0721 Practitioners in default on student loan or scholarship obligations; investigation; report.—The Department of Health shall obtain from the United States Department of Health and Human Services information necessary to investigate and prosecute health care practitioners for failing to repay a student loan or comply with scholarship service obligations pursuant to s. 456.072(1)(k). The department shall obtain from the United States Department of Health and Human Services a list of default health care practitioners each month, along with the information necessary to investigate a complaint in accordance with s. 456.073. The department may obtain evidence to support the investigation and prosecution from any financial institution or educational institution involved in providing the loan or education to the practitioner. The department shall report to the Legislature as part of the annual report required by s. 456.026, the number of practitioners in default, along with the results of the department's investigations and prosecutions, and the amount of fines collected from practitioners prosecuted for violating s. 456.072(1)(k).

History.—s. 3, ch. 2002-254.

456.073 Disciplinary proceedings.—Disciplinary proceedings for each board shall be within the jurisdiction of the department.

(1) The department, for the boards under its jurisdiction, shall cause to be investigated any complaint that is filed before it if the complaint is in writing, signed by the complainant, and legally sufficient. A complaint filed by a state prisoner against a health care practitioner employed by or otherwise providing health care services within a facility of the Department of Corrections is not legally sufficient unless there is a showing that the prisoner complainant has exhausted all available administrative remedies within the state correctional system before filing the complaint. However, if the Department of Health determines after a preliminary inquiry of a state prisoner's complaint that the practitioner may present a serious threat to the health and safety of any individual who is not a state prisoner, the Department of Health may determine legal sufficiency and proceed with discipline. The Department of Health

shall be notified within 15 days after the Department of Corrections disciplines or allows a health care practitioner to resign for an offense related to the practice of his or her profession. A complaint is legally sufficient if it contains ultimate facts that show that a violation of this chapter, of any of the practice acts relating to the professions regulated by the department, or of any rule adopted by the department or a regulatory board in the department has occurred. In order to determine legal sufficiency, the department may require supporting information or documentation. The department may investigate, and the department or the appropriate board may take appropriate final action on, a complaint even though the original complainant withdraws it or otherwise indicates a desire not to cause the complaint to be investigated or prosecuted to completion. The department may investigate an anonymous complaint if the complaint is in writing and is legally sufficient, if the alleged violation of law or rules is substantial, and if the department has reason to believe, after preliminary inquiry, that the violations alleged in the complaint are true. The department may investigate a complaint made by a confidential informant if the complaint is legally sufficient, if the alleged violation of law or rule is substantial, and if the department has reason to believe, after preliminary inquiry, that the allegations of the complainant are true. The department may initiate an investigation if it has reasonable cause to believe that a licensee or a group of licensees has violated a Florida statute, a rule of the department, or a rule of a board. Notwithstanding subsection (13), the department may investigate information filed pursuant to s. 456.041(4) relating to liability actions with respect to practitioners licensed under chapter 458 or chapter 459 which have been reported under s. 456.049 or s. 627.912 within the previous 6 years for any paid claim that exceeds \$50,000. Except as provided in ss. 458.331(9), 459.015(9), 460.413(5), and 461.013(6), when an investigation of any subject is undertaken, the department shall promptly furnish to the subject or the subject's attorney a copy of the complaint or document that resulted in the initiation of the investigation. The subject may submit a written response to the information contained in such complaint or document within 20 days after service to the subject of the complaint or document. The subject's written response shall be considered by the probable cause panel. The right to respond does not prohibit the issuance of a summary emergency order if necessary to protect the public. However, if the State Surgeon General, or the State Surgeon General's designee, and the chair of the respective board or the chair of its probable cause panel agree in writing that such notification would be detrimental to the investigation, the department may withhold notification. The department may conduct an investigation without notification to any subject if the act under investigation is a criminal offense.

(2) The department shall allocate sufficient and adequately trained staff to expeditiously and thoroughly determine legal sufficiency and investigate all legally sufficient complaints. For purposes of this section, it is the intent of the Legislature that the term "expeditiously" means that the department complete the report of its

STATE OF FLORIDA
DEPARTMENT OF STATE

I, **KEN DETZNER**, Secretary of State of the State of Florida,
do hereby certify that the above and foregoing is a true and correct
copy of Section 456.072(1)(c), Florida Statutes, 2012, in effect on
September 5, 2012, as shown by the records of this office.

Given under my hand and the
Great Seal of the State of Florida
at Tallahassee, the Capitol, this the
7th day of March, A.D., 2014.



Ken Detzner

Secretary of State

If photocopied or chemically altered, the word "VOID" will appear.

"State of Florida" appears in small letters across the face of this 8 1/2" x 11" document.

for the purpose of determining if any of the provisions of this chapter or any practice act of a profession or any rule adopted thereunder is being violated; or for the purpose of securing such other evidence as may be needed for prosecution.

History.—s. 86, ch. 97-261; s. 88, ch. 2000-160.
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History.—s. 65, ch. 97-261; s. 89, ch. 2000-160.
Note.—Former s. 455.611.

456.072 Grounds for discipline; penalties; enforcement.—

(1) The following acts shall constitute grounds for which the disciplinary actions specified in subsection (2) may be taken:

(a) Making misleading, deceptive, or fraudulent representations in or related to the practice of the licensee's profession.

(b) Intentionally violating any rule adopted by the board or the department, as appropriate.

(c) Being convicted or found guilty of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the practice of, or the ability to practice, a licensee's profession.

(d) Using a Class III or a Class IV laser device or product, as defined by federal regulations, without having complied with the rules adopted under s. 501.122(2) governing the registration of the devices.

(e) Failing to comply with the educational course requirements for human immunodeficiency virus and acquired immune deficiency syndrome.

(f) Having a license or the authority to practice any regulated profession revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of any jurisdiction, including its agencies or subdivisions, for a violation that would constitute a violation under Florida law. The licensing authority's acceptance of a relinquishment of licensure, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of charges against the license, shall be construed as action against the license.

(g) Having been found liable in a civil proceeding for knowingly filing a false report or complaint with the department against another licensee.

(h) Attempting to obtain, obtaining, or renewing a license to practice a profession by bribery, by fraudulent

misrepresentation, or through an error of the department or the board.

(i) Except as provided in s. 465.016, failing to report to the department any person who the licensee knows is in violation of this chapter, the chapter regulating the alleged violator, or the rules of the department or the board.

(j) Aiding, assisting, procuring, employing or advising any unlicensed person or entity to practice a profession contrary to this chapter, the chapter regulating the profession, or the rules of the department or the board.

(k) Failing to perform any statutory or legal obligation placed upon a licensee. For purposes of this section, failing to repay a student loan issued or guaranteed by the state or the Federal Government in accordance with the terms of the loan or failing to comply with service scholarship obligations shall be considered a failure to perform a statutory or legal obligation, and the minimum disciplinary action imposed shall be a suspension of the license until new payment terms are agreed upon or the scholarship obligation is resumed, followed by probation for the duration of the student loan or remaining scholarship obligation period, and a fine equal to 10 percent of the defaulted loan amount. Fines collected shall be deposited into the Medical Quality Assurance Trust Fund.

(l) Making or filing a report which the licensee knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, or willfully impeding or obstructing another person to do so. Such reports or records shall include only those that are signed in the capacity of a licensee.

(m) Making deceptive, untrue, or fraudulent representations in or related to the practice of a profession or employing a trick or scheme in or related to the practice of a profession.

(n) Exercising influence on the patient or client for the purpose of financial gain of the licensee or a third party.

(o) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities the licensee knows, or has reason to know, the licensee is not competent to perform.

(p) Delegating or contracting for the performance of professional responsibilities by a person when the licensee delegating or contracting for performance of the responsibilities knows, or has reason to know, the person is not qualified by training, experience, and authorization when required to perform them.

(q) Violating a lawful order of the department or the board, or failing to comply with a lawfully issued subpoena of the department.

(r) Improperly interfering with an investigation or inspection authorized by statute, or with any disciplinary proceeding.

(s) Failing to comply with the educational course requirements for domestic violence.

(t) Failing to identify through written notice, which may include the wearing of a name tag, or orally to a patient the type of license under which the practitioner is practicing. Any advertisement for health care services

naming the practitioner must identify the type of license the practitioner holds. This paragraph does not apply to a practitioner while the practitioner is providing services in a facility licensed under chapter 394, chapter 395, chapter 400, or chapter 429. Each board, or the department where there is no board, is authorized by rule to determine how its practitioners may comply with this disclosure requirement.

(u) Failing to comply with the requirements of ss. 381.026 and 381.0261 to provide patients with information about their patient rights and how to file a patient complaint.

(v) Engaging or attempting to engage in sexual misconduct as defined and prohibited in s. 456.063(1).

(w) Failing to comply with the requirements for profiling and credentialing, including, but not limited to, failing to provide initial information, failing to timely provide updated information, or making misleading, untrue, deceptive, or fraudulent representations on a profile, credentialing, or initial or renewal licensure application.

* (x) Failing to report to the board, or the department if there is no board, in writing within 30 days after the licensee has been convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction. Convictions, findings, adjudications, and pleas entered into prior to the enactment of this paragraph must be reported in writing to the board, or department if there is no board, on or before October 1, 1999.

(y) Using information about people involved in motor vehicle accidents which has been derived from accident reports made by law enforcement officers or persons involved in accidents under s. 316.066, or using information published in a newspaper or other news publication or through a radio or television broadcast that has used information gained from such reports, for the purposes of commercial or any other solicitation whatsoever of the people involved in the accidents.

(z) Being unable to practice with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. In enforcing this paragraph, the department shall have, upon a finding of the State Surgeon General or the State Surgeon General's designee that probable cause exists to believe that the licensee is unable to practice because of the reasons stated in this paragraph, the authority to issue an order to compel a licensee to submit to a mental or physical examination by physicians designated by the department. If the licensee refuses to comply with the order, the department's order directing the examination may be enforced by filing a petition for enforcement in the circuit court where the licensee resides or does business. The department shall be entitled to the summary procedure provided in s. 51.011. A licensee or certificateholder affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that he or she can resume the competent practice of his or her profession with reasonable skill and safety to patients.

(aa) Testing positive for any drug, as defined in s. 112.0455, on any confirmed preemployment or employer-ordered drug screening when the practitioner does not have a lawful prescription and legitimate medical reason for using the drug.

(bb) Performing or attempting to perform health care services on the wrong patient, a wrong-site procedure, a wrong-procedure, or an unauthorized procedure or a procedure that is medically unnecessary or otherwise unrelated to the patient's diagnosis or medical condition. For the purposes of this paragraph, performing or attempting to perform health care services includes the preparation of the patient.

(cc) Leaving a foreign body in a patient, such as a sponge, clamp, forceps, surgical needle, or other paraphernalia commonly used in surgical, examination, or other diagnostic procedures. For the purposes of this paragraph, it shall be legally presumed that retention of a foreign body is not in the best interest of the patient and is not within the standard of care of the profession, regardless of the intent of the professional.

(dd) Violating any provision of this chapter, the applicable practice act, or any rules adopted pursuant thereto.

(ee) With respect to making a personal injury protection claim as required by s. 627.736, intentionally submitting a claim, statement, or bill that has been "upcoded" as defined in s. 627.732.

(ff) With respect to making a personal injury protection claim as required by s. 627.736, intentionally submitting a claim, statement, or bill for payment of services that were not rendered.

(gg) Engaging in a pattern of practice when prescribing medicinal drugs or controlled substances which demonstrates a lack of reasonable skill or safety to patients, a violation of any provision of this chapter, a violation of the applicable practice act, or a violation of any rules adopted under this chapter or the applicable practice act of the prescribing practitioner. Notwithstanding s. 456.073(13), the department may initiate an investigation and establish such a pattern from billing records, data, or any other information obtained by the department.

(hh) Being terminated from a treatment program for impaired practitioners, which is overseen by an impaired practitioner consultant as described in s. 456.076, for failure to comply, without good cause, with the terms of the monitoring or treatment contract entered into by the licensee, or for not successfully completing any drug treatment or alcohol treatment program.

(ii) Being convicted of, or entering a plea of guilty or nolo contendere to, any misdemeanor or felony, regardless of adjudication, under 18 U.S.C. s. 669, ss. 285-287, s. 371, s. 1001, s. 1035, s. 1341, s. 1343, s. 1347, s. 1349, or s. 1518, or 42 U.S.C. ss. 1320a-7b, relating to the Medicaid program.

(jj) Failing to remit the sum owed to the state for an overpayment from the Medicaid program pursuant to a final order, judgment, or stipulation or settlement.

(kk) Being terminated from the state Medicaid program pursuant to s. 409.913, any other state Medicaid program, or the federal Medicare program, unless

(7) Notwithstanding subsection (2), upon a finding that a physician has prescribed or dispensed a controlled substance, or caused a controlled substance to be prescribed or dispensed, in a manner that violates the standard of practice set forth in s. 458.331(1)(q) or (t), s. 459.015(1)(t) or (x), s. 461.013(1)(o) or (s), or s. 466.028(1)(p) or (x), the physician shall be suspended for a period of not less than 6 months and pay a fine of not less than \$10,000 per count. Repeated violations shall result in increased penalties.

(8) The purpose of this section is to facilitate uniform discipline for those actions made punishable under this section and, to this end, a reference to this section constitutes a general reference under the doctrine of incorporation by reference.

History.—s. 69, ch. 97-261; s. 84, ch. 99-397; s. 90, ch. 2000-180; s. 26, ch. 2000-318; s. 71, ch. 2001-277; s. 2, ch. 2002-254; s. 6, ch. 2003-411; s. 19, ch. 2003-416; s. 10, ch. 2004-344; s. 1, ch. 2005-240; s. 2, ch. 2006-207; s. 111, ch. 2007-5; s. 64, ch. 2008-6; s. 25, ch. 2009-223; s. 3, ch. 2011-112; s. 1, ch. 2011-141.

Note.—Former s. 455.624.

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History.—s. 3, ch. 2002-254.

456.073 Disciplinary proceedings.—Disciplinary proceedings for each board shall be within the jurisdiction of the department.

(1) The department, for the boards under its jurisdiction, shall cause to be investigated any complaint that is filed before it if the complaint is in writing, signed by the complainant, and legally sufficient. A complaint filed by a state prisoner against a health care practitioner employed by or otherwise providing health care services within a facility of the Department of Corrections is not legally sufficient unless there is a showing that the prisoner complainant has exhausted all available administrative remedies within the state correctional system before filing the complaint. However, if the Department of Health determines after a preliminary inquiry of a state prisoner's complaint that the practitioner may present a serious threat to the health and safety of any individual who is not a state prisoner, the Department of Health may determine legal sufficiency and proceed with discipline. The Department of Health

shall be notified within 15 days after the Department of Corrections disciplines or allows a health care practitioner to resign for an offense related to the practice of his or her profession. A complaint is legally sufficient if it contains ultimate facts that show that a violation of this chapter, of any of the practice acts relating to the professions regulated by the department, or of any rule adopted by the department or a regulatory board in the department has occurred. In order to determine legal sufficiency, the department may require supporting information or documentation. The department may investigate, and the department or the appropriate board may take appropriate final action on, a complaint even though the original complainant withdraws it or otherwise indicates a desire not to cause the complaint to be investigated or prosecuted to completion. The department may investigate an anonymous complaint if the complaint is in writing and is legally sufficient, if the alleged violation of law or rules is substantial, and if the department has reason to believe, after preliminary inquiry, that the violations alleged in the complaint are true. The department may investigate a complaint made by a confidential informant if the complaint is legally sufficient, if the alleged violation of law or rule is substantial, and if the department has reason to believe, after preliminary inquiry, that the allegations of the complainant are true. The department may initiate an investigation if it has reasonable cause to believe that a licensee or a group of licensees has violated a Florida statute, a rule of the department, or a rule of a board. Notwithstanding subsection (13), the department may investigate information filed pursuant to s. 456.041(4) relating to liability actions with respect to practitioners licensed under chapter 458 or chapter 459 which have been reported under s. 456.049 or s. 627.912 within the previous 6 years for any paid claim that exceeds \$50,000. Except as provided in ss. 458.331(9), 459.015(9), 460.413(5), and 461.013(6), when an investigation of any subject is undertaken, the department shall promptly furnish to the subject or the subject's attorney a copy of the complaint or document that resulted in the initiation of the investigation. The subject may submit a written response to the information contained in such complaint or document within 20 days after service to the subject of the complaint or document. The subject's written response shall be considered by the probable cause panel. The right to respond does not prohibit the issuance of a summary emergency order if necessary to protect the public. However, if the State Surgeon General, or the State Surgeon General's designee, and the chair of the respective board or the chair of its probable cause panel agree in writing that such notification would be detrimental to the investigation, the department may withhold notification. The department may conduct an investigation without notification to any subject if the act under investigation is a criminal offense.

(2) The department shall allocate sufficient and adequately trained staff to expeditiously and thoroughly determine legal sufficiency and investigate all legally sufficient complaints. For purposes of this section, it is the intent of the Legislature that the term "expeditiously" means that the department complete the report of its

STATE OF FLORIDA
DEPARTMENT OF STATE

I, **KEN DETZNER**, Secretary of State of the State of Florida,
do hereby certify that the above and foregoing is a true and correct
copy of Section 456.072(1)(x), Florida Statutes, 2012, in effect on
September 5, 2012, as shown by the records of this office.

Given under my hand and the
Great Seal of the State of Florida
at Tallahassee, the Capitol, this the
7th day of March, A.D., 2014.



Ken Detzner
Secretary of State

DSDE 99 (3/03)

If the word "VOID" will appear

if photocopied or chemically a

"State of Florida" appears in small letters across the face of this 8 1/2 x 11" document.

FILED

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

10 DEC 14 PM 5:00
U.S. DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA, FLORIDA

UNITED STATES OF AMERICA

v.

CASE NO. 8:10-CR-530-33 AEP

LOUIS FERNANDEZ, JR.,
LOUIS FERNANDEZ, III,
MARCO BELTRAN,
CHRISTOPHER SWITLYK, and
KIMBERLY CURTISS

21 U.S.C. § 846
21 U.S.C. § 841(a)(1)
18 U.S.C. § 1956(h)
18 U.S.C. § 1957
21 U.S.C. § 853-(Forfeiture)
18 U.S.C. § 982(a)(1)-(Forfeiture)

INDICTMENT

~~SEALED~~

The Grand Jury charges:

COUNT ONE

A. Introduction

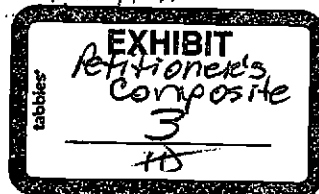
At times material to this Indictment:

1. The Controlled Substances Act (CSA) governed the manufacture, distribution, and dispensing of controlled substances in the United States. With limited exceptions for medical professionals, the CSA made it "unlawful for any person knowingly or intentionally . . . to manufacture, distribute, or dispense . . . a controlled substance" or conspire to do so.

2. The CSA and its implementing regulations set forth which drugs and other substances were defined by law as "controlled substances," and those controlled substances were then assigned to one of five schedules, Schedule I, II, III, IV, or V, depending on their potential for abuse, likelihood of physical or psychological dependency, accepted medical use, and accepted safety for use under medical supervision.

I certify the foregoing to be a true and correct copy of the original.
SHERYL L. LOESCH, Clerk
United States District Court
Middle District of Florida.

BT
Deputy Clerk



3. Pursuant to the CSA and its implementing regulations, Oxycodone, the generic name for a prescription painkiller, was classified as a Schedule II Controlled Substance, and sold generically or under a variety of brand names, including Roxicodone, Roxicet, Oxycontin, Percocet, and Endocet. Oxycodone, when legally prescribed for a legitimate medical purpose, typically was used to treat moderate to moderately severe pain.

4. Medical practitioners, including pharmacies, authorized to distribute or dispense controlled substances by the jurisdiction in which that practitioner or pharmacy was licensed, were authorized under the CSA to dispense controlled substances if they were registered with the Attorney General of the United States. Such medical practitioners and pharmacies were assigned a registration number with the Drug Enforcement Administration (DEA).

5. Under Chapter 21 of the Code of Federal Regulations, Section 1306.04(a), medical practitioners registered with the DEA could not issue a prescription for a controlled substance unless the prescription was "issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his professional practice. The responsibility for the proper prescribing and dispensing of controlled substances [was] upon the prescribing practitioner, but a corresponding responsibility rest[ed] with the pharmacist, who fills the prescription. An order purporting to be a prescription issued not in the usual course of professional treatment or in legitimate and authorized research [was] not a prescription within the meaning and intent of [the CSA]

and the person knowingly filling such a purported prescription, as well as the person issuing it, [was] subject to the penalties provided for violations of the provisions relating to controlled substances."

6. Under Chapter 21 of the Code of Federal Regulations, Section 1306.06, a prescription for a controlled substance could "only be filled by a pharmacist, acting in the usual course of his professional practice and either registered individually or employed in a registered pharmacy, a registered central fill pharmacy, or registered institutional practitioner."

7. The CSA prohibited any person from knowingly and intentionally using a DEA registration number issued to another person in the course of distributing or dispensing a controlled substance.

8. The CSA prohibited any person from knowingly and intentionally acquiring or obtaining possession of a controlled substance by misrepresentation, fraud, forgery, deception or subterfuge.

9. The CSA prohibited any person from knowingly opening, leasing, renting, using, or maintaining any place, whether permanently or temporarily, for the purpose of illegally distributing any controlled substance.

B. DEFENDANTS

10. Defendant LOUIS FERNANDEZ, JR., was an owner, operator, manager and employee of medical businesses, including but not limited to the Tampa Bay Wellness Centre at 2137 West Martin Luther King Boulevard, Tampa, Florida; and the Superior Injury Center, at 1779 West Hillsborough Avenue, Tampa, Florida, and previously located at 1943 West Martin Luther King Boulevard, Tampa, Florida, and

was not a medical professional licensed in any capacity in the State of Florida.

11. Defendant LOUIS FERNANDEZ, III, was an owner, operator, manager and employee of medical businesses, including but not limited to the Tampa Bay Wellness Centre at 2137 West Martin Luther King Boulevard, Tampa, Florida; and the Superior Injury Center, at 1779 West Hillsborough Avenue, Tampa, Florida, and previously located at 1943 West Martin Luther King Boulevard, Tampa, Florida, and was not a medical professional licensed in any capacity in the State of Florida.

12. Defendant MARCO BELTRAN, was an owner, operator, manager and employee of medical businesses, including but not limited to the Tampa Bay Wellness Centre at 2137 West Martin Luther King Boulevard, Tampa, Florida; and the Superior Injury Center, at 1779 West Hillsborough Avenue, Tampa, Florida, and previously located at 1943 West Martin Luther King Boulevard, Tampa, Florida. Defendant BELTRAN also was an employee and licensed pharmacy technician of the TNC Pharmacy, doing business as VIP Pharmacy, at 1947 West Martin Luther King Boulevard, Tampa, Florida, and previously located at 7802 West Waters Avenue, Tampa, Florida.

13. Defendant CHRISTOPHER SWITLYK, was a pharmacist with an active license to practice issued by the State of Florida. Defendant SWITLYK owned and operated the TNC Pharmacy, doing business as VIP Pharmacy, at 1947 West Martin Luther King Boulevard, Tampa, Florida, and previously located at 7802 West Waters Avenue, Tampa, Florida. Defendant SWITLYK applied for and obtained the DEA registration for the TNC Pharmacy doing business as VIP Pharmacy, to dispense, administer and prescribe controlled substances in Schedules II through V.

14. Defendant KIMBERLY CURTISS, was an employee of the TNC Pharmacy, doing business as VIP Pharmacy, at 1947 West Martin Luther King Boulevard, Tampa, Florida, and previously located at 7802 West Waters Avenue, Tampa, Florida, and was not a medical professional licensed in any capacity in the State of Florida.

C. THE AGREEMENT

15. From an unknown date, but at least beginning in or about 2005 and continuing through on or about the November 3, 2010, in the Middle District of Florida and elsewhere, the defendants,

**LUIS FERNANDEZ, JR,
LUIS FERNANDEZ, III,
MARCO BELTRAN,
CHRISTOPHER SWITLYK,
and
KIMBERLY CURTISS,**

did knowingly and willfully conspire with each other and other persons, both known and unknown to the Grand Jury, to commit the following offenses:

- 1) to knowingly and intentionally distribute and possess with the intent to distribute quantities of controlled substances, primarily Oxycodone, a Schedule II Controlled Substance, contrary to Title 21, United States Code, Section 841(a)(1);
- 2) to knowingly and intentionally dispense and distribute, and cause to be dispensed and distributed, quantities of controlled substances, primarily Oxycodone, a Schedule II Controlled Substance, not for a legitimate medical purpose and not in the usual course of professional practice, contrary to Title 21, United States Code, Section 841(a)(1);

- 3) to knowingly and intentionally use, and cause to be used, a registration number that was issued to another person in the course of distributing and dispensing controlled substances, primarily Oxycodone, a Schedule II Controlled Substance, contrary to Title 21, United States Code, Section 843(a)(2);
- 4) to knowingly and intentionally acquire and obtain possession, and cause the acquiring and obtaining of possession, of controlled substances, primarily Oxycodone, a Schedule II Controlled Substance, by misrepresentation, fraud, forgery, deception or subterfuge, contrary to Title 21, United States Code, Section 843(a)(3); and
- 5) to knowingly and intentionally open, lease, rent, use and maintain, and cause to be opened, leased, rented, used, and maintained, certain places for the purpose of distributing and dispensing controlled substances, primarily Oxycodone, a Schedule II Controlled Substance, contrary to Title 21, United States Code, Section 856(a)(1).

D. MANNER AND MEANS OF THE CONSPIRACY

The manner and means of this conspiracy included the following:

16. It was part of the conspiracy that the defendants would and did knowingly open, use, operate and maintain places of business, including the Tampa Bay Wellness Centre at 2137 West Martin Luther King Boulevard, Tampa, Florida; the Superior Injury Center, at 1779 West Hillsborough Avenue, Tampa, Florida, and previously located at 1943 West Martin Luther King Boulevard, Tampa, Florida; the TNC Pharmacy, doing business as VIP Pharmacy, at 1947 West Martin Luther King Boulevard, Tampa,

Florida, and previously located at 7802 West Waters Avenue, Tampa, Florida; for the purpose of unlawfully distributing and dispensing and causing the unlawful distribution and dispensing of controlled substances.

17. It was part of the conspiracy that the defendants would and did knowingly and intentionally distribute and dispense and cause to be distributed and dispensed controlled substances not for a legitimate medical purpose and not in the usual course of professional practice in one or more of the following manners:

- (a) without adequate verification of the patient's identity or medical complaint;
- (b) without adequate and reliable patient medical history;
- (c) without performance of a complete or adequate mental or physical examination;
- (d) without establishment of a true diagnosis;
- (e) without the use of appropriate diagnostic or laboratory testing;
- (f) without sufficient dialogue with the patient regarding treatment options and risks and benefits of such treatments;
- (g) without establishment of a treatment plan;
- (h) without consideration of, or discussion with the patient, regarding, alternatives to treatment other than narcotics;
- (i) without referral of patients to specialists in an effort to identify and correct the cause of pain;
- (j) without any assessment of risk of abuse for individual patients;
- (k) without provision of a means to follow up with the patient or to monitor

the patient's response to the medication or compliance with medical usage; and

(l) without maintaining true, accurate and complete medical records that justified the course of treatment for each patient, including but not limited to medical history, physical examination results, diagnostic therapeutic and laboratory results, evaluations and consultations, treatment plans and objectives, discussions of risks and benefits, records of all medications prescribed, dispensed, or administered, instructions and agreements, and periodic reviews.

18. It was further part of the conspiracy that the defendants would and did knowingly and intentionally distribute and dispense controlled substances and cause controlled substances to be unlawfully distributed and dispensed by using or causing to be used blank prescription forms upon which unauthorized persons would fill in the controlled substance and dosage to be prescribed, fill in the DEA number of a physician without his or her knowledge or participation, and forge the signature of the physician.

~~19. It was further part of the conspiracy that the defendants would and did~~ knowingly and intentionally distribute and dispense controlled substances and cause controlled substances to be unlawfully distributed and dispensed by misrepresentation, fraud, forgery, deception or subterfuge, in that they would and did provide and cause to be provided, false documentation of injuries and opiate prescription profiles for patients in order to support the issuance of prescriptions for controlled substances, and provide and caused to be provided fraudulent and forged prescriptions to be filled by patients or other persons.

20. It was further part of the conspiracy that the defendants would and did knowingly and intentionally distribute and dispense controlled substances and cause controlled substances to be unlawfully distributed and dispensed by persons not authorized to fill prescriptions for controlled substances and without the presence or supervision of a pharmacist acting in the usual course of his professional practice and either registered individually or employed in a registered pharmacy, a registered central fill pharmacy, or registered institutional practitioner.

21. It was further part of the conspiracy that the defendants would and did knowingly and intentionally distribute and cause to be distributed controlled substances without any use of legitimate prescriptions.

22. It was further part of the conspiracy that the defendants would and did perform and cause to be performed acts, and make and cause to be made statements, to hide and conceal the purpose of the conspiracy and the acts committed in furtherance thereof.

All in violation of Title 21, United States Code, Sections 846, 841(b)(1)(C), 843(d), and 856(b).

COUNT TWO

From an unknown date, but at least beginning in or about 2008 and continuing through on or about the date of this Indictment, in the Middle District of Florida and elsewhere, the defendants,

**CHRISTOPHER SWITLYK,
and
MARCO BELTRAN,**

did knowingly and willfully combine, conspire, confederate, and agree between and among themselves, and with other persons, both known and unknown to the Grand Jury, to commit the following offenses against the United States:

(1) to knowingly conduct and attempt to conduct financial transactions, which affected interstate and foreign commerce, involving the proceeds of a specified unlawful activity, that is, a conspiracy to violate and a violation of Title 21, United States Code, Section 846, as alleged in Count One of this Indictment, knowing that the funds involved in the financial transactions represented the proceeds of some form of unlawful activity, and knowing that the transaction was designed in whole and in part to avoid a transaction reporting requirement under Federal law, in violation of Title 18, United States Code, Section 1956(a)(1)(B)(ii); and

(2) to knowingly engage in and attempt to engage in monetary transactions, affecting interstate and foreign commerce, in criminally derived property of a value greater than \$10,000.00, which property was derived from a specified unlawful activity, that is, conspiracy to violate and a violation of Title 21, United States Code, Section 846, as alleged in Count One of this Indictment, contrary to Title 18, United States Code, Section 1957.

All in violation of Title 18, United States Code, Sections 1956(h).

COUNTS THREE THROUGH SIX

On or about the dates set forth below, in the Middle District of Florida and elsewhere, the defendant,

CHRISTOPHER SWITLYK,

did knowingly engage and attempt to engage in the described monetary transactions, in and affecting interstate and foreign commerce, in criminally derived property of a value greater than \$10,000.00, such property having been from a specified unlawful activity, namely, a conspiracy to traffic in controlled substances in violation of Title 21, United States Code, Section 846.

| COUNT | DATE | MONETARY TRANSACTION |
|-------|----------------------------|--|
| THREE | On or about April 21, 2010 | Defendant purchased Bank of America Cashier's Check #7025937 in the amount of \$22,000, payable to Infinity Abstract and Title for the purchase of 4102 W. Swann Avenue, Tampa, FL. |
| FOUR | On or about April 21, 2010 | Defendant purchased Wachovia Bank Cashier's Check #1601932841 in the amount of \$33,000, payable to Infinity Abstract and Title for the purchase of 4102 W. Swann Avenue, Tampa, FL. |
| FIVE | On or about April 21, 2010 | Defendant purchased Regions Bank Cashier's Check #5003723063 in the amount of \$36,000, payable to Infinity Abstract and title for the purchase of 4102 W. Swann Avenue, Tampa, FL. |
| SIX | On or about April 26, 2010 | Defendant caused the transfer of \$20,650.00, via Cashier's Check #5630846562 drawn on SunTrust Bank Account #1000089047699 in the name of Macron Technologies, Inc., to the Cyber Car Store for the purchase of a 2007 Lincoln MKX, VIN #2LMDU68C77BJ08440. |

All in violation of Title 18, United States Code, Sections 1957 and 2.

COUNTS SEVEN THROUGH NINE

On or about the dates set forth below, in the Middle District of Florida and elsewhere, the defendant,

MARCO BELTRAN,

did knowingly engage and attempt to engage in the described monetary transactions, in and affecting interstate and foreign commerce, in criminally derived property of a value greater than \$10,000.00, such property having been from a specified unlawful activity, namely, a conspiracy to traffic in controlled substances in violation of Title 21, United States Code, Section 846.

| COUNT | DATE | MONETARY TRANSACTION |
|-------|----------------------------|--|
| Seven | On or about April 28, 2010 | Defendant purchased SunTrust Bank Official Check #5630799771 in the amount of \$38,000, payable to Infinity Abstract and Title for the purchase of 4102 W. Swann Avenue, Tampa, FL. |
| Eight | On or about April 30, 2010 | Defendant purchased SunTrust Bank Official Check #5630908023 in the amount of \$40,000, payable to Infinity Abstract and Title for the purchase of 4102 W. Swann Avenue, Tampa, FL. |
| Nine | On or about April 26, 2010 | Defendant caused the transfer of \$20,650.00, via Cashier's Check #5630846562 drawn on SunTrust Bank Account #1000089047699 in the name of Macron Technologies, Inc., to the Cyber Car Store for the purchase of a 2007 Lincoln MKX, VIN #2LMDU68C77BJ08440. |

All in violation of Title 18, United States Code, Sections 1957 and 2.

FORFEITURES

1. The allegations contained in Counts One through Nine of this Indictment are hereby realleged and incorporated by reference for the purpose of alleging forfeitures pursuant to Title 21, United States Code, Section 853; and Title 18, United States Code, Section 982(a)(1).

2. Pursuant to Title 21, United States Code, Section 853, upon conviction of the offenses alleged in Count One of the Indictment, in violation of Title 21, United States Code, Section 846, the defendants,

**LOUIS FERNANDEZ, JR.,
LOUIS FERNANDEZ, III,
CHRISTOPHER SWITLYK,
MARCO BELTRAN, and
KIMBERLY CURTISS,**

shall forfeit to the United States of America any property constituting, or derived from, any proceeds obtained, directly or indirectly, as the result of such offenses; and any property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of the offenses. The property to be forfeited includes, but is not limited to, the following:

(a) \$1,609,520.00 in U.S. currency, seized from Regions Bank on May 20, 2010;

(b) \$2,545.00 in U.S. currency, seized from Christopher Switlyk on May 20, 2010;

(c) \$7,960.00 in U.S. currency, seized from Thomas Curtiss on May 20, 2010;

(d) \$18,470.00 in U.S. currency, seized from Tampa Bay Wellness Center on May 20, 2010;

(e) \$425,730.00 in U.S. currency, seized from VIP Pharmacy on May 20, 2010;

(f) \$9,740.00 in U.S. currency, seized from 2410 Victoria Gardens Lane, Tampa, Florida, on May 20, 2010;

(g) \$2,491,850.00 in U.S. currency, seized from two Regions Bank safety deposit boxes on May 21, 2010;

(h) \$25,630.00 in U.S. currency, seized from Tampa Bay Wellness Center on May 20, 2010;

(i) Wachovia Bank cashier's check #1602087681, in the amount of \$917,407.98, seized on May 21, 2010;

(j) Regions Bank cashier's check #5003014747, in the amount of \$42,101.94, seized on May 21, 2010;

(k) 363 assorted money orders in the amount of \$267,650.00, seized from VIP Pharmacy on May 20, 2010;

(l) 6 assorted money orders in the amount of \$4,000.00, seized from Thomas Curtiss on May 20, 2010;

(m) Check #5808 from Infinity Abstract and Title, LLC, in the amount of \$400,000.00, seized on June 3, 2010;

(n) one Rolex 16610T Submariner Wrist Watch, seized on May 20, 2010;

(o) \$8,732.00 in U.S. currency, seized from 2103 W. Ferris Drive, Tampa, Florida 33603, on November 3, 2010;

(p) \$5,750.00 in U.S. currency seized from Louis Fernandez, III, on November 3, 2010;

(q) One Lincoln MKX, Vehicle Identification Number 2LMDU68C77BJ08440, Florida Tag Number ACSG82, titled and registered in the name of Christopher Switlyk, seized on September 7, 2010;

(r) The real property, including all improvements and appurtenances thereto, located at 2103 W. Ferris Drive, Tampa, Florida 33603, which legal description is as follows:

Lot 14, Block 37, WELLSWOOD ESTATES - UNIT NO. 3,
according to the map or plat thereof as recorded in Plat Book
28, Page 63, of the Public Records of Hillsborough County,
Florida. Parcel ID Number: 105980-0000.

(s) a forfeiture money judgment in the amount in an amount to be determined, representing the amount of proceeds that the defendants obtained as a result of the conduct as charged in Count One of the Indictment.

3. Pursuant to Title 18, United States Code, Section 982(a)(1), upon conviction of the offenses alleged in Counts Two through Nine of the Indictment, in violation of Title 18, United States Code, Sections 1956 and 1957, the defendants,

**CHRISTOPHER SWITLYK,
and
MARCO BELTRAN,**

shall forfeit to the United States any property, real or personal, involved in such offenses, or any property traceable to such property, including but not limited to all of the property and assets identified in paragraph 2 above.

4. If any of the property described above, as a result of any act or omission of the defendants:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third party;
- c. has been placed beyond the jurisdiction of the court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be divided

without difficulty,

the United States of America shall be entitled to forfeiture of substitute property pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 18, United States Code, Section 982(b)(1), including but not limited to the following property:

- (a) the real property, including all appurtenances thereto, located at 2410 Victoria Gardens Lane, Tampa, Florida 33609, the legal description of which is as follows:

LOT 1, BLOCK 4, VICTORIA PARK SOHO
TOWNHOMES, ACCORDING TO THE PLAT
THEREOF, RECORDED IN PLAT BOOK 99, PAGE
49 OF THE PUBLIC RECORDS OF
HILLSBOROUGH COUNTY, FLORIDA.


PARCEL ID #A2329187200000004000010; and

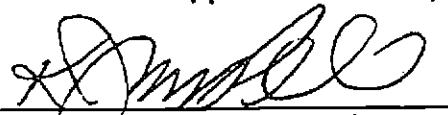
- (b) a 2000 Porsche Carrera, yellow in color, VIN No.
WP0CA2992YS652092, Florida Tag No. UL16X,
registered to Christopher Stephen Switlyk.


A TRUE BILL,


Foreperson

ROBERT E. O'NEILL
United States Attorney

By: 
KATHY J.M. PELUSO
Assistant United States Attorney

By: 
JOSEPHINE W. THOMAS
Assistant United States Attorney

For: 
JOSEPH K. RUDDY
Assistant United States Attorney
Senior Deputy Chief, Narcotics Section

FORM 06,
APR 1991

No.

UNITED STATES DISTRICT COURT

Middle District of Florida
Tampa Division

THE UNITED STATES OF AMERICA

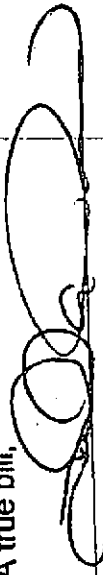
vs.

LUIS FERNANDEZ, JR.,
LUIS FERNANDEZ, III,
MARCOS BELTRAN,
CHRISTOPHER SWITLYK, and
KIMBERLY CURTISS

INDICTMENT

Violations: Title 21, United States Code, Section 846,
Title 21, United States Code, Section 841(a)(1),
Title 18, United States Code, Section 1956(h), and
Title 18, United States Code, Section 1957

A true bill,



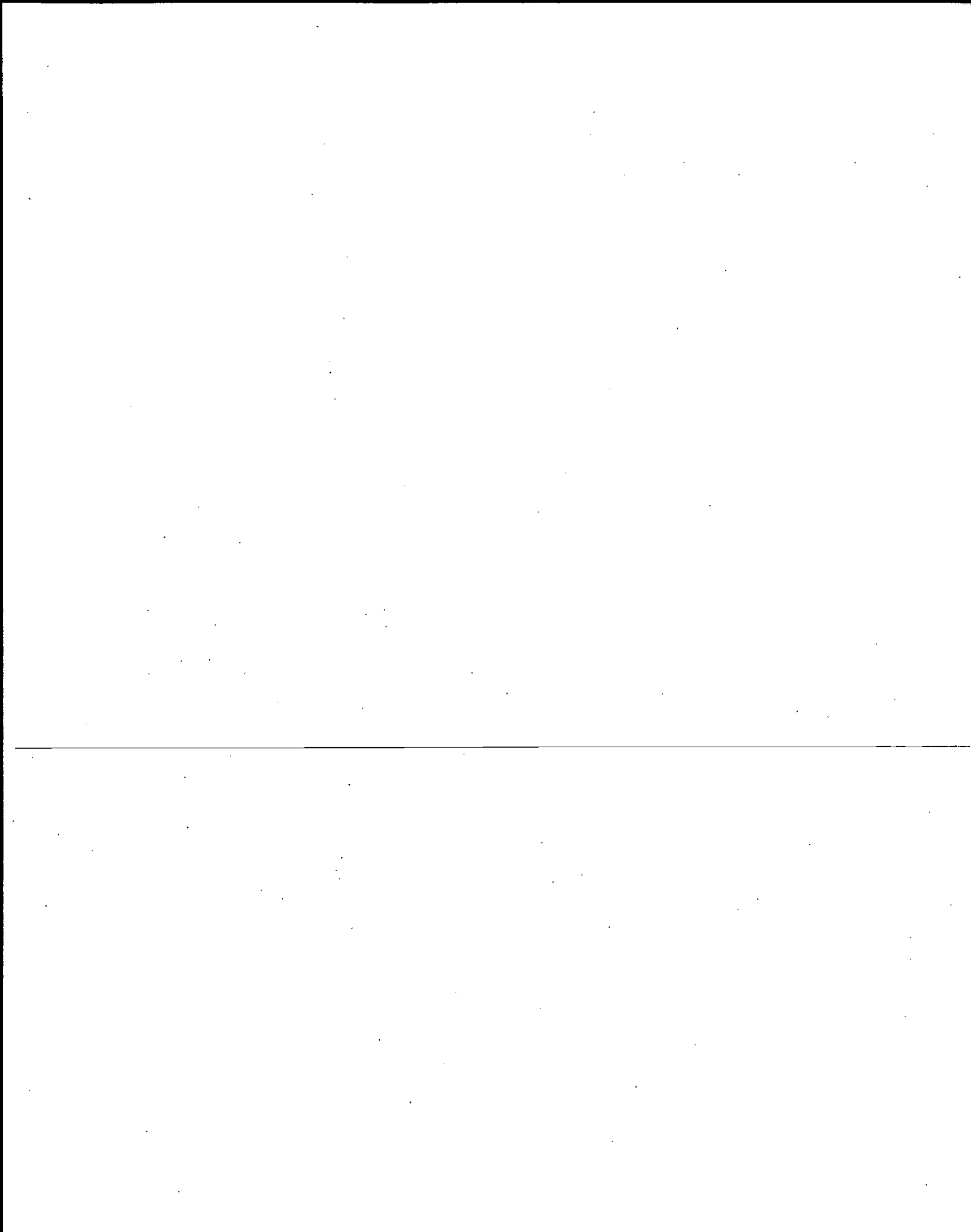
Foreperson

Filed in open court this 13th day

of December, 2010.

Clerk

Bail \$



JKR

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

UNITED STATES OF AMERICA

v.

Case No. 8:10-CR-530-T-33AEP

CHRISTOPHER SWITLYK

**AMENDED
PLEA AGREEMENT**

Pursuant to Fed. R. Crim. P. 11(c), the United States of America, by Robert E. O'Neill, United States Attorney for the Middle District of Florida, and the defendant, CHRISTOPHER SWITLYK, and the attorney for the defendant, Jeffrey Brown, Esq., mutually agree as follows:

A. Particularized Terms

1. Count Pleading To

The defendant shall enter a plea of guilty to Counts One, Five and Six of the Indictment. Count One charges the defendant with conspiring to

1) distribute and possess with intent to distribute quantities of controlled substances, primarily oxycodone, a Schedule II controlled substance, contrary to Title 21, United States Code, Section 841(a)(1);

2) dispense and distribute, and cause to be dispensed and distributed, quantities of controlled substances, primarily oxycodone, a Schedule II controlled substance, not for a legitimate medical purpose and not in the usual course of professional practice, contrary to Title 21, United States Code, Section 841(a)(1);

3) use, and cause to be used, a registration number that was issued to another person in the course of distributing and

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I certify the foregoing to be a true and correct copy of the original. AF Approval

SHREY L LOBSCH, Clerk
United States District Court
Middle District of Florida

BY [Signature]
Deputy Clerk

[Signature]

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dispensing controlled substances, primarily oxycodone, a Schedule II Controlled Substance, contrary to Title 21, United States Code, Section 843(a)(2);

4) acquire and obtain possession, and cause the acquiring and obtaining of possession, of controlled substances, primarily oxycodone, a Schedule II Controlled Substance, by misrepresentation, fraud, forgery, deception or subterfuge, contrary to Title 21, United States Code, Section 843(a)(3); and

5) open, lease, rent, use and maintain, and cause to be opened, leased, rented, used, and maintained, certain places for the purpose of distributing and dispensing controlled substances, primarily oxycodone, a Schedule II Controlled Substance, contrary to Title 21, United States Code, Section 856(a)(1).

All in violation of Title 21, United States Code, § 846.

Counts Five and Six charge the defendant with engaging in monetary transactions, in and affecting interstate and foreign commerce, in criminally derived property of a value greater than \$10,000.00, such property having been from a specified unlawful activity, namely, a conspiracy to traffic in controlled substances in violation of Title 21, United States Code, Section 846, in violation of Title 18 United States Code, Sections 1957 and 2.

2. Minimum and Maximum Penalties

Count One is punishable by a term of imprisonment of up to 20 years, a fine of up to \$1 million, a term of supervised release of at least 3 years, and a special assessment of \$100, said special assessment to be due on the date of sentencing. Counts Five and Six are punishable by a term of imprisonment of up to 10 years, a fine of up to \$250,000, a term of supervised

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release of not more than three years, and a special assessment of \$100 per count, said special assessment to be due on the date of sentencing.

3. Elements of the Offense

The defendant acknowledges understanding the nature and elements of the offenses with which defendant has been charged and to which defendant is pleading guilty. The elements of Count One are:

First: That two or more persons in some way or manner came to a mutual understanding to try to accomplish a common and unlawful plan, as charged in the Indictment.

Second: That the defendant, knowing the unlawful purpose of the plan, willfully joined in it; and

Third: That the object of the unlawful plan was to That the object of the unlawful plan was 1) distribute and possess with intent to distribute, 2) to distribute or dispense not for a legitimate medical purpose and not in the usual course of professional practice, 3) to use or cause to be used a registration number that was issued to another person in the course of distributing and dispensing, 4) to acquire and obtain by misrepresentation, fraud, forgery, deception or subterfuge, and 5) to use and cause to be used certain places for the purpose of distributing and dispensing, controlled substances, primarily oxycodone, a Schedule III controlled substance, as charged.

The elements of Counts Five and Six are:

First: the Defendant knowingly engaged or attempted to engage in a monetary transaction;

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Second: the Defendant knew the transaction involved property or funds that were the proceeds of some criminal activity;

Third: the property had a value of more than \$10,000;

Fourth: the property was in fact proceeds of the specified unlawful activity described in the indictment; and

Fifth: the transaction took place in the United States.

4. Counts Dismissed

At the time of sentencing, the remaining counts against the defendant, Counts Two, Three and Four of the Indictment, will be dismissed pursuant to Fed. R. Crim. P. 11(c)(1)(A).

5. No Further Charges

If the Court accepts this plea agreement, the United States Attorney's Office for the Middle District of Florida agrees not to charge defendant with committing any other federal criminal offenses known to the United States Attorney's Office at the time of the execution of this agreement, related to the conduct giving rise to this plea agreement.

6. Acceptance of Responsibility - Three Levels

At the time of sentencing, and in the event that no adverse information is received suggesting such a recommendation to be unwarranted, the United States will recommend to the Court that the defendant receive a two-level downward adjustment for acceptance of responsibility, pursuant to USSG §3E1.1(a). The defendant understands that this recommendation or request is

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not binding on the Court, and if not accepted by the Court, the defendant will not be allowed to withdraw from the plea.

Further, at the time of sentencing, if the defendant complies with the provisions of USSG §3E1.1(b), the United States agrees to file a motion pursuant to USSG §3E1.1(b) for a downward adjustment of one additional level. The defendant understands that the determination as to whether the defendant has qualified for a downward adjustment of a third level for acceptance of responsibility rests solely with the United States Attorney for the Middle District of Florida, and the defendant agrees that the defendant cannot and will not challenge that determination, whether by appeal, collateral attack, or otherwise.

7. Low End

At the time of sentencing, and in the event that no adverse information is received suggesting such a recommendation to be unwarranted, the United States will recommend to the Court that the defendant receive a sentence at the low end of the applicable guideline range, as calculated by the Court. The defendant understands that this recommendation or request is not binding on the Court, and if not accepted by the Court, the defendant will not be allowed to withdraw from the plea.

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7. Safety Valve Provision

The United States will not oppose to the Court that it impose a sentence in accordance with the applicable guidelines without regard to any statutory minimum sentence, pursuant to USSG §5C1.2, if the Court finds that the defendant meets the criteria set forth in 18 U.S.C. § 3553(f). The defendant understands that this recommendation or request is not binding on the Court, and if not accepted by the Court, the defendant will not be allowed to withdraw from the plea.

8. Cooperation - Substantial Assistance to be Considered

Defendant agrees to cooperate fully with the United States in the investigation and prosecution of other persons, and to testify, subject to a prosecution for perjury or making a false statement, fully and truthfully before any federal court proceeding or federal grand jury in connection with the charges in this case and other matters, such cooperation to further include a full and complete disclosure of all relevant information, including production of any and all books, papers, documents, and other objects in defendant's possession or control, and to be reasonably available for interviews which the United States may require. If the cooperation is completed prior to sentencing, the government agrees to consider whether such cooperation qualifies as "substantial assistance" in accordance with the policy of the United States Attorney for the Middle District of Florida, warranting the filing of a motion at the time of

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sentencing recommending (1) a downward departure from the applicable guideline range pursuant to USSG §5K1.1, or (2) the imposition of a sentence below a statutory minimum, if any, pursuant to 18 U.S.C. § 3553(e), or (3) both. If the cooperation is completed subsequent to sentencing, the government agrees to consider whether such cooperation qualifies as "substantial assistance" in accordance with the policy of the United States Attorney for the Middle District of Florida, warranting the filing of a motion for a reduction of sentence within one year of the imposition of sentence pursuant to Fed. R. Crim. P. 35(b). In any case, the defendant understands that the determination as to whether "substantial assistance" has been provided or what type of motion related thereto will be filed, if any, rests solely with the United States Attorney for the Middle District of Florida, and the defendant agrees that defendant cannot and will not challenge that determination, whether by appeal, collateral attack, or otherwise.

9. Use of Information - Section 1B1.8

Pursuant to USSG §1B1.8(a), the United States agrees that no self-incriminating information which the defendant may provide during the course of defendant's cooperation shall be used in determining the applicable sentencing guideline range, subject to the restrictions and limitations set forth in USSG §1B1.8(b).

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10. Cooperation - Responsibilities of Parties

a. The government will make known to the Court and other relevant authorities the nature and extent of defendant's cooperation and any other mitigating circumstances indicative of the defendant's rehabilitative intent by assuming the fundamental civic duty of reporting crime. However, the defendant understands that the government can make no representation that the Court will impose a lesser sentence solely on account of, or in consideration of, such cooperation.

b. It is understood that should the defendant knowingly provide incomplete or untruthful testimony, statements, or information pursuant to this agreement, or should the defendant falsely implicate or incriminate any person, or should the defendant fail to voluntarily and unreservedly disclose and provide full, complete, truthful, and honest knowledge, information, and cooperation regarding any of the matters noted herein, the following conditions shall apply:

(1) The defendant may be prosecuted for any perjury or false declarations, if any, committed while testifying pursuant to this agreement, or for obstruction of justice.

(2) The United States may prosecute the defendant for the charges which are to be dismissed pursuant to this agreement, if any, and may either seek reinstatement of or refile such charges and prosecute the defendant thereon in the event such charges have been dismissed pursuant to

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this agreement. With regard to such charges, if any, which have been dismissed, the defendant, being fully aware of the nature of all such charges now pending in the instant case, and being further aware of defendant's rights, as to all felony charges pending in such cases (those offenses punishable by imprisonment for a term of over one year), to not be held to answer to said felony charges unless on a presentment or indictment of a grand jury, and further being aware that all such felony charges in the instant case have heretofore properly been returned by the indictment of a grand jury, does hereby agree to reinstatement of such charges by rescission of any order dismissing them or, alternatively, does hereby waive, in open court, prosecution by indictment and consents that the United States may proceed by information instead of by indictment with regard to any felony charges which may be dismissed in the instant case, pursuant to this plea agreement, and the defendant further agrees to waive the statute of limitations and any speedy trial claims on such charges.

(3) The United States may prosecute the defendant for any offenses set forth herein, if any, the prosecution of which in accordance with this agreement, the United States agrees to forego, and the defendant agrees to waive the statute of limitations and any speedy trial claims as to any such offenses.

(4) The government may use against the defendant its own admissions and statements and the information and books, papers,

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documents, and objects that the defendant has furnished in the course of the defendant's cooperation with the government.

(5) The defendant will not be permitted to withdraw the guilty plea to that count to which defendant hereby agrees to plead in the instant case but, in that event, defendant will be entitled to the sentencing limitations, if any, set forth in this plea agreement, with regard to the count to which the defendant has pled; or in the alternative, at the option of the United States, the United States may move the Court to declare this entire plea agreement null and void.

11. Forfeiture of Assets

The defendant agrees to forfeit to the United States immediately and voluntarily any and all assets and property, or portions thereof, subject to forfeiture, pursuant to Title 21, United States Code, Section 853, and Title 18, United States Code, Section 982(a)(1), whether in the possession or control of the United States or in the possession or control of the defendant or defendant's nominees. The assets to be forfeited specifically include, but are not limited to, the following:

- (a) \$1,609,520.00 in U.S. currency, seized from Regions Bank on May 20, 2010;
- (b) \$2,545.00 in U.S. currency, seized from Christopher Switlyk on May 20, 2010;
- (c) \$7,960.00 in U.S. currency, seized from Thomas Curtiss on May 20, 2010;

Defendant's Initials

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- (d) \$425,730.00 in U.S. currency, seized from VIP Pharmacy on May 20, 2010;
- (e) \$25,630.00 in U.S. currency, seized from Tampa Bay Wellness Center on May 20, 2010;
- (f) Regions Bank cashier's check #5003014747, in the amount of \$42,101.94, seized on May 21, 2010;
- (g) 363 assorted money orders in the amount of \$267,650.00, seized from VIP Pharmacy on May 20, 2010;
- (h) 6 assorted money orders in the amount of \$4,000.00, seized from Thomas Curtiss on May 20, 2010;
- (i) Check #5808 from Infinity Abstract and Title, LLC, in the amount of \$400,000.00, seized on June 3, 2010;
- (j) One Lincoln MKX, Vehicle Identification Number 2LMDU68C77BJ08440, Florida Tag Number ACSG82, titled and registered in the name of Christopher Switlyk, seized on September 7, 2010; and
- (k) the real property, including all appurtenances thereto, located at 2410 Victoria Gardens Lane, Tampa, Florida 33609, the legal description of which is as follows:

LOT 1, BLOCK 4, VICTORIA PARK SOHO
TOWNHOMES, ACCORDING TO THE PLAT
THEREOF, RECORDED IN PLAT BOOK 99, PAGE
49 OF THE PUBLIC RECORDS OF
HILLSBOROUGH COUNTY, FLORIDA.

PARCEL ID #A2329187200000004000010.

The defendant agrees to execute any further documents necessary
to allow the United States to negotiate the money orders and checks listed

Defendant's Initials CS

above. He also agrees that by entering this plea agreement he is withdrawing his claim to the administrative forfeiture commenced by the U.S. Drug Enforcement Administration of the approximately \$14,418.91 seized from Pilot Bank account number 4127099 on or about April 25, 2012, and is consenting to the administrative forfeiture of those funds.

In addition, the defendant shall be subject to a forfeiture money judgment in the amount of \$10,700,592.00, representing the amount of proceeds, or property derived from proceeds, or property involved in, the offenses to which the defendant is pleading guilty, for which the defendant shall be jointly and severally liable with his co-defendants in this case. The net proceeds from the forfeiture of the assets enumerated above shall be credited toward the satisfaction of this money judgment. The defendant hereby represents that he has no right, title, or interest in any other assets (e.g., cash, personal property, or real property) listed in the Indictment (Doc. 1) or Bill of Particulars (Doc. 67) in *United States v. Fernández, et al.*, Case No. 8:10-CR-530-T-33AEP.

The defendant agrees and consents to the forfeiture of these assets pursuant to any federal criminal, civil, and/or administrative forfeiture action. The defendant also hereby agrees that the forfeiture described herein is not excessive and, in any event, the defendant waives any constitutional claims that the defendant may have that the forfeiture constitutes an excessive fine.

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The defendant admits and agrees that the conduct described in the Factual Basis below provides a sufficient factual and statutory basis for the forfeiture of the property sought by the government. Pursuant to the provisions of Rule 32.2(b)(1), the United States and the defendant request that at the time of accepting this plea agreement, the court make a determination that the government has established the requisite nexus between the property subject to forfeiture and the offense(s) to which defendant is pleading guilty and enter a preliminary order of forfeiture. Pursuant to Rule 32.2(b)(4), the defendant agrees that the preliminary order of forfeiture shall be final as to the defendant at the time it is entered, notwithstanding the requirement that it be made a part of the sentence and be included in the judgment.

The defendant agrees to forfeit all interests in the properties described above and to take whatever steps are necessary to pass clear title to the United States. These steps include, but are not limited to, the surrender of title, the signing of a consent decree of forfeiture, and signing of any other documents necessary to effectuate such transfers.

Defendant further agrees to take all steps necessary to locate property and to pass title to the United States before the defendant's sentencing. To that end, defendant agrees to fully assist the government in the recovery and return to the United States of any assets, or portions thereof, as described above wherever located. The defendant agrees to make a full and complete disclosure

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of all assets over which defendant exercises control and those which are held or controlled by a nominee. The defendant further agrees to be polygraphed on the issue of assets.

The defendant agrees that the United States is not limited to forfeiture of the property described above. If the United States determines that property of the defendant identified for forfeiture cannot be located upon the exercise of due diligence; has been transferred or sold to, or deposited with, a third party; has been placed beyond the jurisdiction of the Court; has been substantially diminished in value; or has been commingled with other property which cannot be divided without difficulty; then the United States shall, at its option, be entitled to forfeiture of any other property (substitute assets) of the defendant up to the value of any property described above and/or in satisfaction of the forfeiture money judgment. The United States agrees to schedule the defendant's polygraph examination promptly upon the Court's acceptance of the plea agreement, and to complete its financial investigation of the defendant within two years. If the United States concludes that the defendant has not retained any proceeds of the charged drug conspiracy, it will extinguish the forfeiture money judgment.

Defendant's Initials Ct

This Court shall retain jurisdiction to settle any disputes arising from application of this clause. The defendant agrees that forfeiture of substitute assets as authorized herein shall not be deemed an alteration of the defendant's sentence.

Forfeiture of the defendant's assets shall not be treated as satisfaction of any fine, restitution, cost of imprisonment, or any other penalty this Court may impose upon the defendant in addition to forfeiture.

B. Standard Terms and Conditions

1. Special Assessment and Fine

On each count to which a plea of guilty is entered, the Court shall impose a special assessment, to be payable to the Clerk's Office, United States District Court, and due on date of sentencing. The defendant understands that this agreement imposes no limitation as to fine.

2. Supervised Release

The defendant understands that the offense to which the defendant is pleading provides for imposition of a term of supervised release upon release from imprisonment, and that, if the defendant should violate the conditions of release, the defendant would be subject to a further term of imprisonment.

Defendant's Initials CA

3. Sentencing Information

The United States reserves its right and obligation to report to the Court and the United States Probation Office all information concerning the background, character, and conduct of the defendant, to provide relevant factual information, including the totality of the defendant's criminal activities, if any, not limited to the count to which defendant pleads, to respond to comments made by the defendant or defendant's counsel, and to correct any misstatements or inaccuracies. The United States further reserves its right to make any recommendations it deems appropriate regarding the disposition of this case, subject to any limitations set forth herein, if any.

Pursuant to 18 U.S.C. § 3664(d)(3) and Fed. R. Crim. P. 32(d)(2)(A)(ii), the defendant agrees to complete and submit, upon execution of this plea agreement, an affidavit reflecting the defendant's financial condition. The defendant further agrees, and by the execution of this plea agreement, authorizes the United States Attorney's Office to provide to, and obtain from, the United States Probation Office or any victim named in an order of restitution, or any other source, the financial affidavit, any of the defendant's federal, state, and local tax returns, bank records and any other financial information concerning the defendant, for the purpose of making any recommendations to the Court and for collecting any assessments, fines, restitution, or forfeiture ordered by the Court.

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4. Sentencing Recommendations

It is understood by the parties that the Court is neither a party to nor bound by this agreement. The Court may accept or reject the agreement, or defer a decision until it has had an opportunity to consider the presentence report prepared by the United States Probation Office. The defendant understands and acknowledges that, although the parties are permitted to make recommendations and present arguments to the Court, the sentence will be determined solely by the Court, with the assistance of the United States Probation Office. Defendant further understands and acknowledges that any discussions between defendant or defendant's attorney and the attorney or other agents for the government regarding any recommendations by the government are not binding on the Court and that, should any recommendations be rejected, defendant will not be permitted to withdraw defendant's plea pursuant to this plea agreement. The government expressly reserves the right to support and defend any decision that the Court may make with regard to the defendant's sentence, whether or not such decision is consistent with the government's recommendations contained herein.

5. Appeal of Sentence-Waiver

The defendant agrees that this Court has jurisdiction and authority to impose any sentence up to the statutory maximum and expressly waives the right to appeal defendant's sentence on any ground, including the ground that

Defendant's Initials CA

the Court erred in determining the applicable guidelines range pursuant to the United States Sentencing Guidelines, except (a) the ground that the sentence exceeds the defendant's applicable guidelines range as determined by the Court pursuant to the United States Sentencing Guidelines; (b) the ground that the sentence exceeds the statutory maximum penalty; or (c) the ground that the sentence violates the Eighth Amendment to the Constitution; provided, however, that if the government exercises its right to appeal the sentence imposed, as authorized by Title 18, United States Code, Section 3742(b), then the defendant is released from his waiver and may appeal the sentence as authorized by Title 18, United States Code, Section 3742(a).

6. Middle District of Florida Agreement

It is further understood that this agreement is limited to the Office of the United States Attorney for the Middle District of Florida and cannot bind other federal, state, or local prosecuting authorities, although this office will bring defendant's cooperation, if any, to the attention of other prosecuting officers or others, if requested.

7. Filing of Agreement

This agreement shall be presented to the Court, in open court and filed in this cause, at the time of defendant's entry of a plea of guilty pursuant hereto.

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8. Voluntariness

The defendant acknowledges that defendant is entering into this agreement and is pleading guilty freely and voluntarily without reliance upon any discussions between the attorney for the government and the defendant and defendant's attorney and without promise of benefit of any kind other than the concessions contained herein, and without threats, force, intimidation, or coercion of any kind. The defendant further acknowledges defendant's understanding of the nature of the offense to which defendant is pleading guilty and the elements thereof, including the penalties provided by law, and defendant's complete satisfaction with the representation and advice received from defendant's undersigned counsel. The defendant also understands that defendant has the right to plead not guilty or to persist in that plea if it has already been made, and that defendant has the right to be tried by a jury with the assistance of counsel, the right to confront and cross-examine the witnesses against defendant, the right against compulsory self-incrimination, and the right to compulsory process for the attendance of witnesses to testify in defendant's defense; but, by pleading guilty, defendant waives or gives up those rights and there will be no trial. Defendant knowingly and voluntarily waives any rights defendant has under federal law to a jury determination of any fact affecting defendant's sentence. The defendant further understands that if defendant pleads guilty, the Court may ask defendant questions about the offense to which

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defendant pleaded, and if defendant answers those questions under oath, on the record, and in the presence of counsel, defendant's answers may later be used against defendant in a prosecution for perjury or false statement. The defendant also understands that defendant will be adjudicated guilty of the offense to which defendant has pleaded and, if such offense is a felony, may thereby be deprived of certain rights, such as the right to vote, to hold public office, to serve on a jury, or to have possession of firearms.

9. Factual Basis

Defendant is pleading guilty because defendant is in fact guilty.

The defendant certifies that defendant does hereby admit that the facts set forth below are true, and were this case to go to trial, the United States would be able to prove those facts beyond a reasonable doubt:

FACTS

From at least beginning in 2008 through November 3, 2010, Luis FERNANDEZ, JR., Luis FERNANDEZ, III, Marco BELTRAN, and Kimberly CURTISS conspired together and with others to operate and maintain pain management clinics, including TAMPA BAY WELLNESS CENTRE at 2137 W. Martin Luther King Blvd, and SUPERIOR INJURY CENTER, located at 1779 West Hillsborough Avenue, Tampa, FL 33603; and from at least beginning in 2009 through November 2010, Christopher SWITLYK (a pharmacist), CURTISS, and BELTRAN conspired together and with others to operate and maintain a

Defendant's Initials

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pharmacy, the VIP Pharmacy at 1947 W. Martin Luther King Blvd, (formerly the TNC Pharmacy, previously located at 7902 West Waters Avenue, Tampa, Florida), all for the purpose of causing the unlawful possession, distribution and dispensing controlled substances, primarily oxycodone.

During the time frame of the charged conspiracy, defendant CHRISTOPHER SWITLYK, was a pharmacist with an active license to practice issued by the State of Florida. Defendant SWITLYK owned and operated the TNC Pharmacy, doing business as VIP Pharmacy, at 1947 West Martin Luther King Boulevard, Tampa, Florida, and previously located at 7902 West Waters Avenue, Tampa, Florida. Defendant SWITLYK applied for and obtained the DEA registration for the TNC Pharmacy doing business as VIP Pharmacy, to dispense, administer and prescribe controlled substances in Schedules II through V.

Defendants LOUIS FERNANDEZ, JR., LOUIS FERNANDEZ, III, and MARCO BELTRAN were owners, operators, managers and employees of medical businesses, including but not limited to the Tampa Bay Wellness Centre at 2137 West Martin Luther King Boulevard, Tampa, Florida; and the Superior Injury Center, at 1779 West Hillsborough Avenue, Tampa, Florida, and previously located at 1943 West Martin Luther King Boulevard, Tampa, Florida. Defendants LOUIS FERNANDEZ, JR., LOUIS FERNANDEZ, III, were not medical professionals licensed in any capacity in the State of Florida. Defendant

Defendant's Initials

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BELTRAN also was an employee and licensed pharmacy technician of the TNC Pharmacy, doing business as VIP Pharmacy, at 1947 West Martin Luther King Boulevard, Tampa, Florida, and previously located at 7902 West Waters Avenue, Tampa, Florida.

Defendant KIMBERLY CURTISS, was an employee of the TNC Pharmacy, doing business as VIP Pharmacy, at 1947 West Martin Luther King Boulevard, Tampa, Florida, and previously located at 7902 West Waters Avenue, Tampa, Florida, and was not a medical professional licensed in any capacity in the State of Florida.

The defendants illegally operated the clinics and pharmacy by causing the issuance of prescriptions for, and the dispensing of, controlled substances, primarily oxycodone, based on prescriptions that had not been issued for a legitimate medical purpose and not in the usual course of professional practice.

Defendants BELTRAN, FERNANDEZ, III, AND FERNANDEZ, JR., in operating the clinics, also allowed or caused many blank prescription pads from the clinics to be sold and/or used and forged with physician's names, signatures, and DEA registration numbers in order to illegally fill and dispense controlled substances out of pharmacies, including the TNC and VIP pharmacies.

Defendants BELTRAN, FERNANDEZ, III, AND FERNANDEZ, JR., in operating the clinics, also assisted patients in obtaining and using false and fraudulent documentation in order to justify the issuance of prescriptions for

Defendant's Initials

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controlled substances by physicians and non-physicians from the clinics that had not been issued for a legitimate medical purpose and not in the usual course of professional practice. The total amount of prescriptions for oxycodone issued from the clinics that were forged or otherwise issued illegally were for far in excess of 150,000 pills, in 15, 30, 60 and 80 milligram doses, primarily 30 milligram doses.

Defendants BELTRAN, CURTISS, and others, while employed at the TNC and/or VIP Pharmacies, with the knowledge and concurrence of defendant SWITLYK, illegally filled prescriptions for controlled substances, including oxycodone, at the VIP Pharmacy without the supervision or presence of a licensed pharmacist, knowing that said prescriptions were forged or otherwise not issued for a legitimate medical purpose and not in the usual course of professional practice.

Defendants BELTRAN and SWITLYK also caused and allowed many bottles of Oxycodone to be distributed and sold out of the TNC and VIP Pharmacies to individuals without any prescriptions whatsoever. They would then produce or cause to be produced forged prescriptions and false pharmacy profiles in order to appear that they had legitimately dispensed all the oxycodone that was illegally distributed.

According to data compiled by the Drug Enforcement Administration, and supported by records seized at the VIP Pharmacy during the execution of the

Defendant's Initials CT

search warrant on May 20, 2010, from January to December 2009, the TNC Pharmacy (Registrant for VIP and former TNC Pharmacy) purchased from various wholesalers a total of 1,541,640 dosage units of oxycodone. Unknown to defendant SWITLYK, this compares to an average of 111,874 dosage units by Florida pharmacies and an average of 62,931 dosage units by pharmacies across the United States during the same time period.

From January 2010 through May 20, 2010, the TNC Pharmacy, d/b/a VIP Pharmacy, purchased a total of 1,241,400 dosage units of oxycodone. Unknown to defendant SWITLYK, this compares to an average of 48,322 dosage units by Florida pharmacies and an average of 15,663 dosage units by pharmacies across the United States during this same time period.

At the time the search warrant was executed at the VIP Pharmacy on May 20, 2010, there were 107,892 oxycodone tablets left in inventory.

Further, the defendants operated the TNC and VIP Pharmacies as a cash business. The oxycodone that the defendants distributed and sold out of the TNC and VIP Pharmacies to individuals without any prescriptions was paid for in cash. The defendants would then conduct financial transactions with the cash proceeds of their drug trafficking activities with the intent to conceal the source of the funds and evade the currency transaction reporting requirements. They would also engage in monetary transactions in excess of \$10,000 with the drug proceeds. Specifically, on or about April 21, 2010, the defendant SWITLYK

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purchased, with cash proceeds of his unlawful drug trafficking activity and knowing such cash to be proceeds of his drug trafficking activity, Regions Bank Cashier's Check #5003723063 in the amount of \$36,000, payable to Infinity Abstract and Title, for the purchase of 4102 W. Swann Avenue, Tampa, Florida. This monetary transaction was in and affecting interstate and foreign commerce, as Regions Bank is a federally insured financial institution whose transactions affect interstate and foreign commerce. On or about April 21, 2010, the defendant BELTRAN purchased, with cash proceeds of his unlawful drug trafficking activity and knowing such cash to be proceeds of his drug trafficking activity, SunTrust Bank Official Check #5630799771 in the amount of \$38,000, payable to Infinity Abstract and Title for the purchase of 4102 W. Swann Avenue, Tampa, Florida. This monetary transaction was in and affecting interstate and foreign commerce, as SunTrust Bank is a federally insured financial institution whose transactions affect interstate and foreign commerce.

Further, on or about April 26, 2010, the defendants SWITLYK and

BELTRAN knowingly used cash proceeds of his drug trafficking activity to purchase a 2007 Lincoln MKX, VIN #2LMDU68C77BJ08440, from the Cyber Car Store in Tampa, Florida. Specifically, the defendants SWITLYK and BELTRAN structured in an attempt to evade the currency reporting requirements (that is, split cash deposits into amounts under \$10,000). The defendants SWITLYK and BELTRAN then caused the transferred \$20,650, via SunTrust Cashier's

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Check #5630846562 from the Macron Technologies account, to the Cyber Car Store for the purchase of the Lincoln vehicle. This monetary transaction was in and affecting interstate and foreign commerce, as SunTrust Bank is a federally insured financial institution whose transactions affect interstate and foreign commerce.

Further, the defendant and the United States agree that the proceeds, or property derived from proceeds obtained directly or indirectly from, or property involved in, the offenses to which the defendant is pleading guilty, including but not limited to the items listed for forfeiture above (Section A.11) is at least \$10,700,592.00. Additionally, because the TNC and VIP Pharmacies were used to commit and facilitate the commission of such offenses, any property of the business, including at least \$10,700,592.00 obtained from the sale of oxycodone, is subject to forfeiture. Accordingly, the parties agree that for forfeiture purposes, the defendant shall be jointly and severally liable with his co-defendants in this case for a forfeiture money judgment in the amount of \$10,700,592.00.

10. Entire Agreement

This plea agreement constitutes the entire agreement between the government and the defendant with respect to the aforementioned guilty plea and no other promises, agreements, or representations exist or have been made to the defendant or defendant's attorney with regard to such guilty plea.

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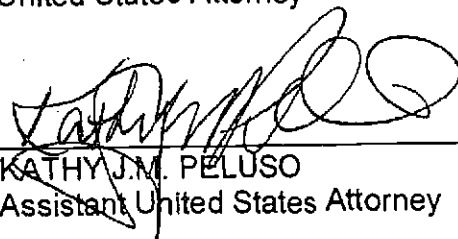
11. Certification


The defendant and defendant's counsel certify that this plea agreement has been read in its entirety by or has been read to the defendant and that defendant fully understands its terms.

DATED this 3rd day of September, 2012.


ROBERT E. O'NEILL
United States Attorney

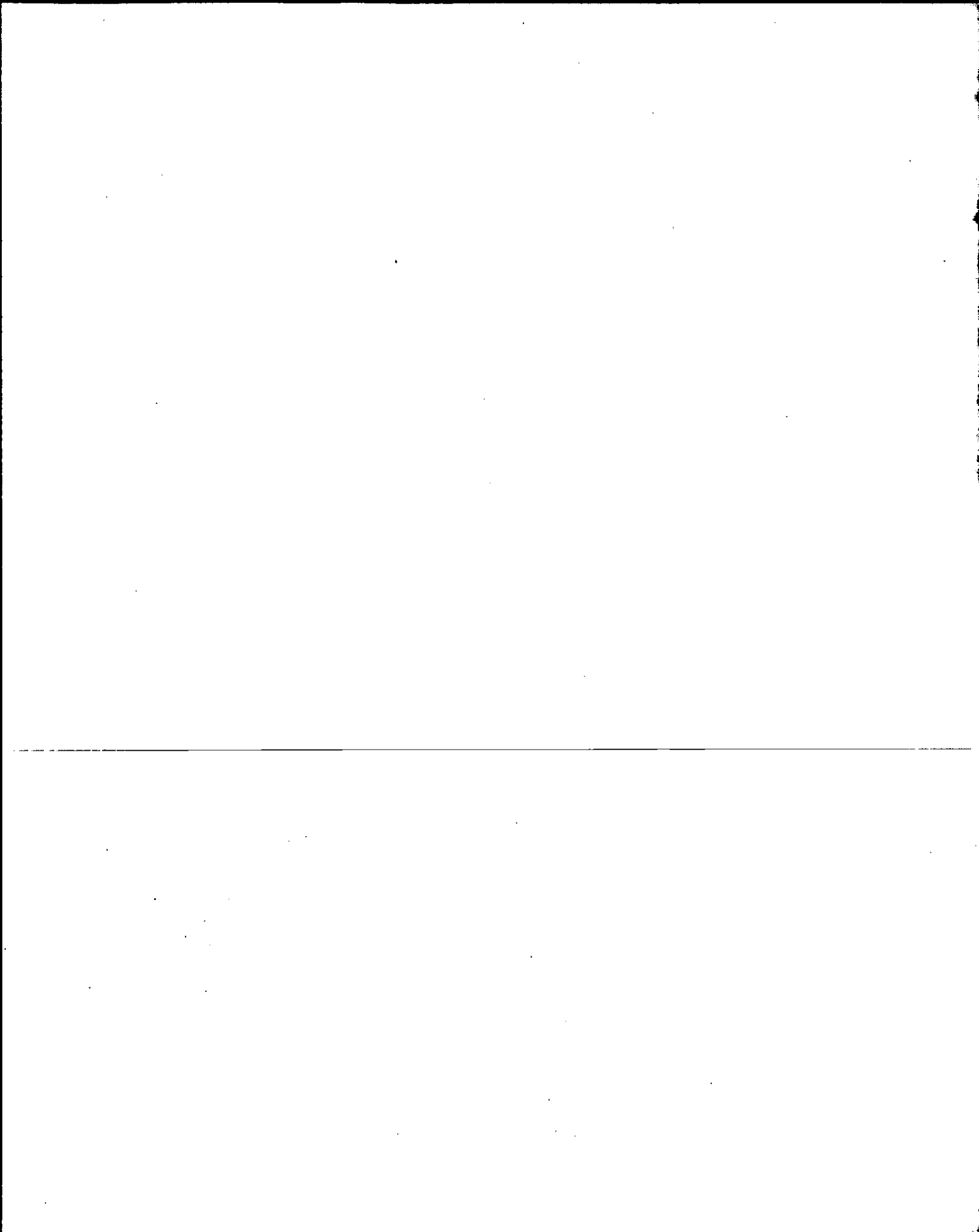

CHRISTOPHER SWITLYK
Defendant

By: 
KATHY J.M. PELUSO
Assistant United States Attorney


JEFFREY BROWN, ESQ.
Attorney for Defendant


JOSEPHINE W. THOMAS
Assistant United States Attorney


JOSEPH K. RUDDY
Assistant United States Attorney
Chief, Narcotics



UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

UNITED STATES OF AMERICA

v.

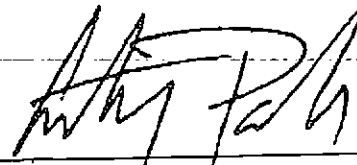
Case No. 8:10-CR-530-T-33AEP

CHRISTOPHER SWITLYK

REPORT AND RECOMMENDATION
CONCERNING PLEA OF GUILTY

The Defendant, by consent, has appeared before me pursuant to Rule 11 of the Federal Rules of Criminal Procedure and Local Rule 6.01(c)(12), and has entered a plea of guilty to **Counts One, Five and Six of the Indictment**. After cautioning and examining the Defendant under oath concerning each of the subjects mentioned in Rule 11, I determined that the guilty plea was knowledgeable and voluntary and that the offense(s) charged is supported by an independent basis in fact as to each of the essential elements of such offense. I therefore recommend that the plea agreement and the plea of guilty be accepted and that the Defendant be adjudged guilty and have sentence imposed accordingly.

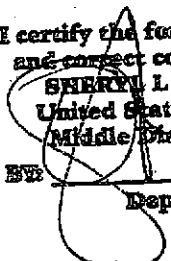
Date: 9/5/12



ANTHONY E. PORCELLI
United States Magistrate Judge

NOTICE

Failure to file written objections to this Report and Recommendation within fourteen (14) days from the date of its service shall bar an aggrieved party from attacking such Report and Recommendation before the assigned United States District Judge. 28 U.S.C. § 636(b)(1)(B); M.D. Fla. R. 6.02.

I certify the foregoing to be a true
and correct copy of the original.
SHERYL L LOESCH, Clerk
United States District Court
Middle District of Florida.
BY 
Deputy Clerk

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

UNITED STATES OF AMERICA

vs.

CASE NO. 8:10-cr-530-T-33AEP

CHRISTOPHER SWITLYK

ACCEPTANCE OF PLEA OF GUILTY
AND ADJUDICATION OF GUILT

The Defendant, CHRISTOPHER SWITLYK, entered a plea of guilty to Count(s) ONE, FIVE AND SIX of the Indictment before Magistrate Judge Anthony E. Porcelli on September 5, 2012. The Magistrate Judge issued a Report and Recommendation in which he recommended the plea(s) of guilty be accepted and that the defendant be adjudged guilty and have sentence imposed accordingly.

Accordingly, it is ORDERED and ADJUDGED:

1. That the Magistrate Judge's Report and Recommendation be adopted and confirmed and made a part hereof.
2. That the defendant, CHRISTOPHER SWITLYK, be adjudicated guilty as to Counts ONE, FIVE, and SIX.
3. That sentencing be scheduled for *December 6, 2012, at 11:00 a.m.*, in Courtroom 14B of the Sam M. Gibbons Courthouse, Tampa, Florida. Defense counsel must review the PSI Report with their client prior to sentencing. Counsel/USPO to notify CRD Lisa Bingham at 813-301-5348 if an evidentiary sentencing is requested and/or if sentencing proceeding will exceed thirty minutes.

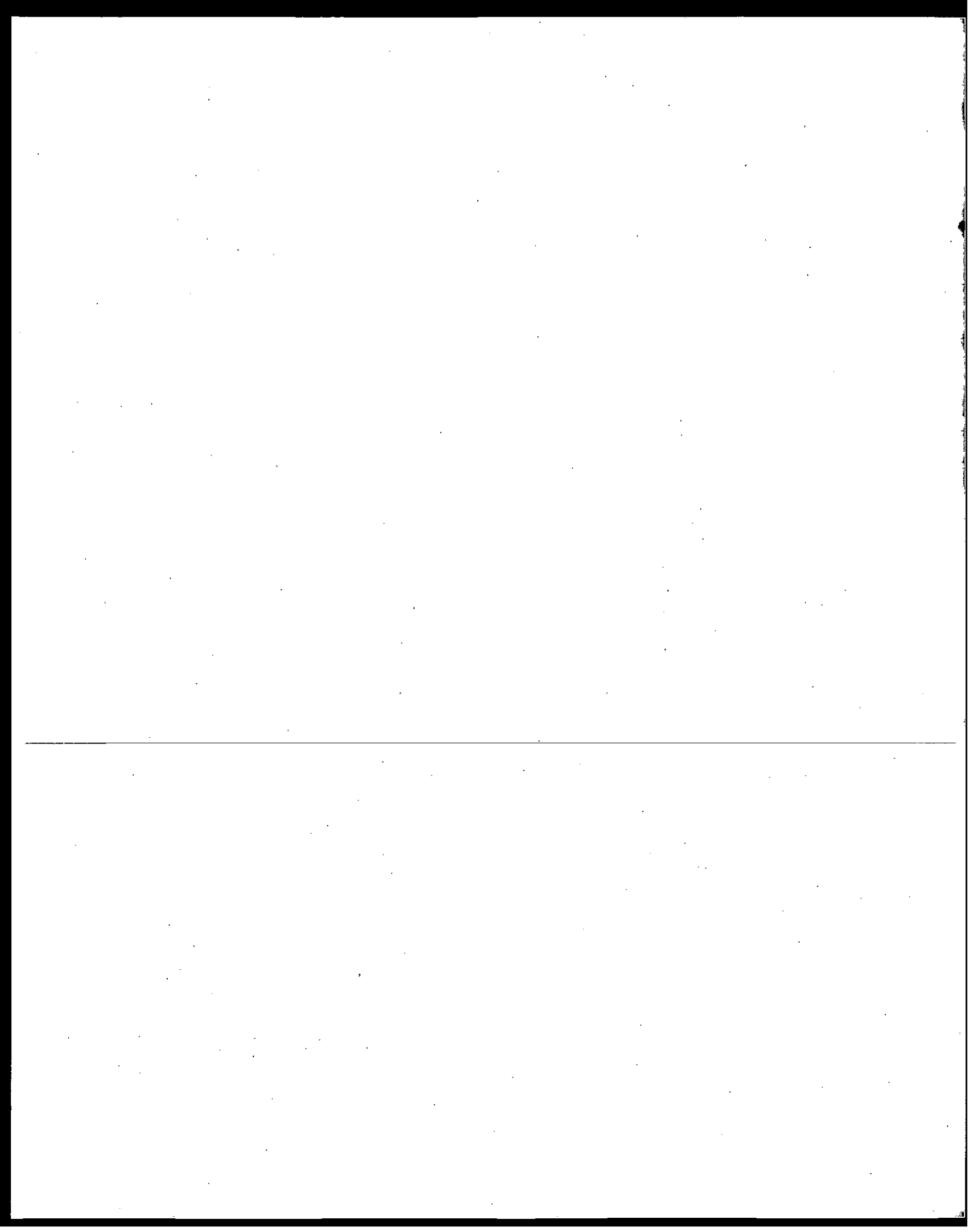
DONE and ORDERED in Chambers, in Tampa, Florida, this 5th day of September, 2012.

Copies:

Counsel of Record
U. S. Pretrial Services
U. S. Probation Office
U. S. Marshal Service

Virginia M. Henery
VIRGINIA M. HENERY
UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA, FLORIDA

Sheri L. Loesch
SHERI L. LOESCH, Clerk
United States District Court
Middle District of Florida.
Deputy Clerk



UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

UNITED STATES OF AMERICA

JUDGMENT IN A CRIMINAL CASE

CASE NUMBER: 8:10-cr-530-T-33AEP
USM NUMBER: 53913-018

vs.

CHRISTOPHER SWITLYK

Defendant's Attorney: Jeff Brown, Ret.

THE DEFENDANT:

- pleaded guilty to Count(s) ONE, FIVE and SIX of the Indictment.
 pleaded nolo contendere to count(s) which was accepted by the court.
 was found guilty on count(s) after a plea of not guilty.

| <u>TITLE & SECTION</u> | <u>NATURE OF OFFENSE</u> | <u>OFFENSE ENDED</u> | <u>COUNT</u> |
|---|---|----------------------|--------------|
| 21 U.S.C. §841(a)(1) 21 U.S.C. §841(a)(1) 21 U.S.C. §843(a)(2) 21 U.S.C. §843(a)(3) 21 U.S.C. §856(a)(1) 21 U.S.C. §§846 and 841(b)(1)(C) 843(d), and 856(b) | Conspiracy to a) Distribute and Possess With Intent to Distribute Oxycodone; b) Dispense and Distribute Oxycodone, not for a Legitimate Medical Purpose; c) Use a Registration Number that was Issued to Another Person in the Course of Distributing and Dispensing Oxycodone; d) Acquire and Obtain Possession of Oxycodone, by Fraud; e) Maintain Certain Places for the Purpose of Distributing and Dispensing Oxycodone. | November 3, 2010 | ONE |
| 21 U.S.C. §846 and 18 U.S.C. §1957 and 2 | Engaging in Monetary Transactions, in Criminally Derived Property, from a Conspiracy to Traffic in Controlled Substances | April 21, 2010 | FIVE |
| 21 U.S.C. §846 and 18 U.S.C. §1957 and 2 | Engaging in Monetary Transactions, in Criminally Derived Property, from a Conspiracy to Traffic in Controlled Substances | April 26, 2010 | SIX |

The defendant is sentenced as provided in pages 2 through 10 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

Continued...

I certify the foregoing to be a true
and correct copy of the original.
SHERYL L. LOESCH, Clerk
United States District Court
Middle District of Florida.
BY _____
Deputy Clerk

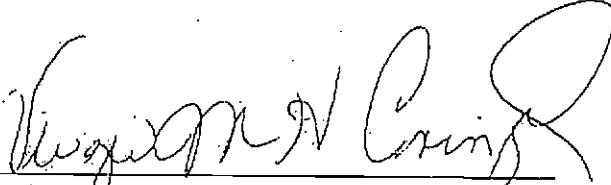
Defendant: CHRISTOPHER SWETLYK
Case No.: 8:10-cr-530-T-33AEP

Judgment - Page 2 of 10

The defendant has been found not guilty on count(s)
 Count(s) TWO, THREE and FOUR are dismissed on the motion of the United States.

IT IS FURTHER ORDERED that the defendant must notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States Attorney of any material change in economic circumstances.

Date of Imposition of Sentence: February 21, 2013



VIRGINIA M. HERNANDEZ COVINGTON
UNITED STATES DISTRICT JUDGE

DATE: February 21, 2013

AO 245B (Rev 06/05) Sheet 2 - Imprisonment (Judgment in a Criminal Case)

Defendant: CHRISTOPHER SWITLYK
Case No.: 8:10-cr-530-T-33AEP

Judgment - Page 3 of 10

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of **ONE HUNDRED EIGHT (108) MONTHS** as to Counts ONE, FIVE and SIX. All such terms to run concurrently.

X The Court makes the following *recommendations* to the Bureau of Prisons:

- 1) Confinement at FCI Coleman, FL;
- 2) Defendant participate in the 500 Hour Residential Drug Abuse Program; and
- 3) Defendant obtain vocational training in computers and culinary arts.

X The defendant is remanded to the custody of the United States Marshal.
The defendant shall surrender to the United States Marshal for this district.

__ at __ a.m./p.m. on __.
__ as notified by the United States Marshal.

__ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons.

__ before 2 p.m. on __.
__ as notified by the United States Marshal.
__ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____
at _____, with a certified copy of this judgment.

United States Marshal

By: _____
Deputy United States Marshal

Defendant: CHRISTOPHER SWITLYK
Case No.: 8:10-cr-530-T-33AEP

Judgment - Page 4 of 10

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of **THIRTY-SIX (36) MONTHS** as to Counts ONE, FIVE and SIX. All such terms to run concurrently.

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state, or local crime. Based on the probation officer's determination that additional drug urinalysis is necessary, the Court authorizes random drug testing not to exceed 104 tests per year. The defendant shall not illegally possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance.

The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

X The mandatory drug testing provisions of the Violent Crime Control Act are imposed. The court orders the defendant to submit to random drug testing not to exceed 104 tests per year.

X The defendant shall not possess a firearm, destructive device, or any other dangerous weapon.

X The defendant shall cooperate in the collection of DNA as directed by the probation officer.

If this judgment imposes a fine or restitution it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer in a manner and frequency directed by the Court or Probation Officer;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

Defendant: CHRISTOPHER SWITLYK
Case No.: 8:10-cr-530-T-33AEP

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SPECIAL CONDITIONS OF SUPERVISION

The defendant shall also comply with the following additional conditions of supervised release:

- X The defendant shall participate in a alcohol abuse program(outpatient and/or inpatient) and follow the probation officer's instructions regarding the implementation of this court directive. Further, the defendant shall contribute to the costs of these services not to exceed an amount determined reasonable by the Probation Office's Sliding Scale for Substance Abuse Treatment Services. During and upon completion of this program, the defendant is directed to submit to random drug testing.
- X The defendant shall participate in a mental health treatment program (outpatient and/or inpatient) and follow the probation officer's instructions regarding the implementation of this court directive. Further, the defendant shall contribute to the costs of services not to exceed an amount determined reasonable to by Probation Office's Sliding Scale for Mental Health Treatment Services.
- X The defendant shall refrain from engaging in any employment related to dispensing prescription drugs either in a pharmacy, pain clinic, or other medical environment.

Defendant: CHRISTOPHER SWITLYK
Case No.: 8:10-cr-530-T-33AEP

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CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

| | <u>Assessment</u> | <u>Fine</u> | <u>Total Restitution</u> |
|----------------|-------------------|-------------|--------------------------|
| <u>Totals:</u> | \$300.00 | Waived | N/A |

— The determination of restitution is deferred until _____. *An Amended Judgment in a Criminal Case*
(AO 245C) will be entered after such determination.

— The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. 3664(i), all non-federal victims must be paid before the United States.

| <u>Name of Payee</u> | <u>Total Loss*</u> | <u>Restitution Ordered</u> | <u>Priority or Percentage</u> |
|----------------------|--------------------|----------------------------|-------------------------------|
|----------------------|--------------------|----------------------------|-------------------------------|

| | | | |
|----------------|----------|----------|--|
| <u>Totals:</u> | \$ _____ | \$ _____ | |
|----------------|----------|----------|--|

— Restitution amount ordered pursuant to plea agreement \$ _____.

— The defendant must pay interest on a fine or restitution of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

— The court determined that the defendant does not have the ability to pay interest and it is ordered that:

— the interest requirement is waived for the ____ fine ____ restitution.

— the interest requirement for the ____ fine ____ restitution is modified as follows:

* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for the offenses committed on or after September 13, 1994, but before April 23, 1996.

Defendant: CHRISTOPHER SWITLYK
Case No.: 8:10-cr-530-T-33AEP

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SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties are due as follows:

- A. Lump sum payment of \$ 300.00 due immediately, balance due
 ___ not later than _____, or
 ___ in accordance ___ C, ___ D, ___ E or ___ F below; or
- B. ___ Payment to begin immediately (may be combined with ___ C, ___ D, or ___ F below); or
- C. ___ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ days (e.g., 30 or 60 days) after the date of this judgment; or
- D. ___ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____, (e.g., months or years) to commence _____ (e.g. 30 or 60 days) after release from imprisonment to a term of supervision; or
- E. ___ Payment during the term of supervised release will commence within ___ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time, or
- F. ___ Special instructions regarding the payment of criminal monetary penalties:

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

___ Joint and Several

___ Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate:

___ The defendant shall pay the cost of prosecution.

___ The defendant shall pay the following court cost(s):

The defendant shall forfeit the defendant's interest in the following property to the United States: See Forfeiture Order attached.

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

UNITED STATES OF AMERICA

v.

CASE NO: 8:10-cr-530-T-33AEP

CHRISTOPHER SWITLYK

FINAL JUDGMENT OF FORFEITURE FOR SPECIFIC ASSETS

THIS CAUSE comes before the Court upon the filing of the Motion by the United States for a Final Judgment of Forfeiture, pursuant to 21 U.S.C. § 853(n)(7) and Fed. R. Crim. P. 32.2(c)(2), for the following assets:

- a. \$2,545.00 in U.S. currency, seized from Christopher Switlyk on May 20, 2010;
- b. \$425,730.00 in U.S. currency, seized from VIP Pharmacy on May 20, 2010;
- c. \$25,630.00 in U.S. currency, seized from Tampa Bay Wellness Center on May 20, 2010;
- d. Regions Bank cashier's check No. 5003014747, in the amount of \$42,101.94, seized on May 21, 2010;
- e. 363 assorted money orders in the amount of \$267,650.00, seized from VIP Pharmacy on May 20, 2010; and
- f. Check #5808 from Infinity Abstract and Title, LLC, in the amount of \$400,000.00, seized on June 3, 2010; and
- g. One Lincoln MKX, Vehicle Identification Number 2LMDU68C77BJ08440, Florida Tag Number ACSG82, titled and registered in the name of Christopher Switlyk, seized on September 7, 2010.

Being fully advised of the relevant facts, the Court finds that on November 13, 2012, the Court, entered a Forfeiture Money Judgment in the amount of

\$10,700,592.00 and a Preliminary Order of Forfeiture for Specific Assets, pursuant to 21 U.S.C. § 853, forfeiting to the United States all right, title, and interest of defendant Switlyk in the assets. Doc. 248.

The Court further finds that in accordance with his *Amended Plea Agreement* (Doc. 236 at 13), the order of forfeiture was final as to Switlyk at the time it was entered.

The Court further finds that in accordance with 21 U.S.C. § 853(n) and Rule 32.2(b)(6)(C), the United States published notice of the forfeiture and of its intent to dispose of the assets on the official government website, www.forfeiture.gov, from December 1, 2012 through December 30, 2012. Doc. 274. The publication gave notice to all third parties with a legal interest in the assets to file with the Office of the Clerk, United States District Court, Middle District of Florida, Sam Gibbons Federal Courthouse, 2nd Floor, 801 North Florida Avenue, Tampa, Florida 33602, a petition to adjudicate their interest within 60 days of the first date of publication.

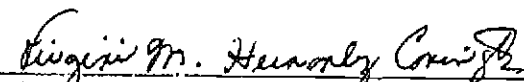
The Court further finds that no person or entity, other than defendant Switlyk and his co-defendants, whose interests were forfeited to the United States in Preliminary Orders of Forfeiture for Specific Assets, are known to have an interest in the assets. No third party has filed a petition or claimed an interest in the assets, and the time for filing a petition has expired. Accordingly, it is hereby:

ORDERED, ADJUDGED, and DECREED that for good cause shown, the United States' motion is GRANTED.

It is FURTHER ORDERED that pursuant to the provisions of 21 U.S.C. § 853(n)(7) and Fed. R. Crim. P. 32.2(c)(2), all right, title and interest in the assets are CONDEMNED and FORFEITED to the United States for disposition according to law.

Clear title to the assets are now vested in the United States of America.

DONE and ORDERED in Tampa, Florida, this 5th day of February, 2013.


VIRGINIA M. HERNANDEZ COVINGTON
UNITED STATES DISTRICT JUDGE

**CHAPTER 64B16-30
DISCIPLINARY GUIDELINES**

- 64B16-30.001 Disciplinary Guidelines; Range of Penalties; Aggravating and Mitigating Circumstances.
- 64B16-30.002 Minor Violations.
- 64B16-30.003 Citations.
- 64B16-30.0035 Mediation.

64B16-30.001 Disciplinary Guidelines; Range of Penalties; Aggravating and Mitigating Circumstances.

(1) The board sets forth below a range of disciplinary guidelines from which disciplinary penalties will be imposed upon practitioners guilty of violating Chapter 465, F.S. The purpose of the disciplinary guidelines is to give notice to licensees of the range of penalties which will normally be imposed upon violations of particular provisions of Chapter 465, F.S. The minimum penalty range is based upon a first time single count violation of each provision listed. The

maximum penalty range is based upon repeated violations of the same provision of Chapter 465, F.S., or the rules promulgated thereto. All penalties at the upper range of the sanctions set forth in the guidelines, i.e., suspension, revocation, etc., include lesser penalties, i.e., fine, probation or reprimand which may be included in the final penalty at the board's discretion. Probation may be subject to conditions, including restriction from practice in certain settings, restricting the licensee to working only under designated conditions or in certain settings, requiring continuing or remedial education, or any other restriction found to be necessary for the protection of the public health, safety and welfare. In addition to any other discipline imposed under these guidelines, the board shall assess costs relating to the investigation and prosecution of the case.

(2) The following disciplinary guidelines shall be followed by the board in imposing disciplinary penalties upon licensees and permittees for violation of the below mentioned statutes and rules:

| VIOLATION | MINIMUM | PENALTY RANGE | MAXIMUM |
|---|--|---|---|
| (a) Obtaining a license or permit by misrepresentation fraud or error (465.016(1)(a), F.S.) (465.023(1)(a), F.S.) | | Revocation | |
| (b) Procuring a license or permit through false representation (465.016(1)(b), F.S.) (465.023(1)(b), F.S.) | | Revocation | |
| (c) Permitting unlicensed persons to practice pharmacy (465.016(1)(c), F.S.) | \$2,500 fine | | \$5,000 and one (1) year suspension |
| (d) Being unfit or incompetent to practice pharmacy (465.016(1)(d), (m), F.S.) | | Revocation or, at the licensee's discretion, voluntarily relinquishment with reinstatement under the terms and conditions approved by the board | |
| (e) Violating laws governing the practice of pharmacy (465.016(1)(e), F.S.) (465.023(1)(c), F.S.) | | | |
| 1. Chapter 465: | | | |
| a. Failure to supervise pharmacy technician (465.014, F.S.) | \$1,500 fine and one (1) year probation | | \$5,000 and one (1) year suspension |
| b. Operating a pharmacy without a permit (465.015(1)(a), F.S.) | \$500 per month to maximum of \$5,000 (penalty will require permittee to renew permit or cease practice) | | Revocation (if no permit exists, refer to State's Attorney) |
| c. Operating a pharmacy where an unlicensed and unsupervised person practices pharmacy (465.015(1)(b), F.S.) | \$5,000 fine and one (1) year probation | | \$5,000 and one (1) year suspension |

Ref. Ex. 4
AD

d. Making a false or fraudulent statement to the board
(465.015(2)(a), F.S.)

Revocation

e. Practicing pharmacy as an inactive licensee
(465.015(2)(b), F.S.)

Fine based on length of time in practice while inactive; \$200/month or \$5,000 maximum (penalty will require licensee to renew license or cease practice)

f. Selling or dispensing drugs without a prescription
(465.015(2)(c), F.S.)

(i) Non-scheduled legend drugs \$1,500 fine

\$5,000 and one (1) year suspension

(ii) Scheduled (controlled substances) legend drugs \$5,000 fine and one (1) year probation

Revocation

g. Selling samples or complimentary drugs
(465.015(2)(d), F.S.)

Same as violation of 465.015(2)(c), F.S. (see Rule 64B16-30.001(2)(e)1.f., above)

h. Failure to notify the board of or not to have a prescription department manager or consultant pharmacist
(465.022(4), F.S.)

(i) Failure to notify

Fine based on length of time prior to notifying board. \$200 a month to \$5,000 maximum (penalty requires notification or ceasing practice)

(ii) Failure to have prescription department manager or consultant pharmacist \$2,500 fine and one (1) year probation

Revocation

i. Failure to comply with required substitution of legend drug requirements
(465.025, F.S.) \$1,000 fine

\$2,500 fine

j. Failure to follow negative formulary requirements
(465.025(6), F.S.)
64B16-27.500, F.A.C. Reprimand

\$2,500 fine and one (1) year probation

k. Failure to follow emergency prescription requirements
(465.0275, F.S.) \$500 fine

\$1,000 fine and one (1) year probation

l. Engage in prohibited rebate scheme
(465.185, F.S.) \$1,500 fine

\$5,000 fine and one (1) year probation

m. Failure to comply with pharmacist dispensing requirements
(465.186, F.S.)

DISCIPLINARY GUIDELINES

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| | | | |
|---|---|--|---|
| (i) Failure to follow procedure, but dispense drug appearing on formulary (465.186(3), F.S.) 64B16-27.210, F.A.C. | Reprimand | | \$1,000 fine, one (1) year probation and suspension of right to dispense |
| (ii) Dispensing drug not on the formulary (465.186(2), F.S.) 64B16-27.220, F.A.C. 64B16-27.230, F.A.C. | | Same as violation of 465.015(2)(c), F.S. (see Rule 64B16-30.001(2)(e)1.f. above) | |
| 2. Chapter 499 | | | Revocation |
| a. Adulteration of a drug (499.005(2), (3), F.S.) (499.006, F.S.) | \$2,000 fine and one (1) year probation | | |
| b. Misbranding a drug (499.005(2), (3), F.S.) (499.007, F.S.) | | | \$2,500 fine and one (1) year probation |
| (i) Incomplete or inaccurate labeling (499.007, F.S.) 64B16-28.108, F.A.C. | \$1,000 fine | | Revocation |
| (ii) Fraudulent misbranding of legend drugs (499.007, F.S.) | One (1) year suspension | | |
| 3. Chapter 893 (Controlled substances) | | | |
| a. Filling a prescription not appropriately signed (893.04(1)(b), F.S.) | \$1,500 fine | | \$5,000 fine and one (1) year suspension |
| b. Filling an improper prescription (other 64B16-30.001(2)(e)3. above) (893.04(1)(b), (c), F.S.) | \$1,500 fine | | \$5,000 fine and one (1) year probation |
| c. Failing to retain prescription records for two (2) years (893.04(1)(d), F.S.) | \$1,000 fine | | \$2,500 fine and one (1) year probation |
| d. Failing to appropriately label (893.04(1)(e), F.S.) | \$500 fine | | \$1,000 fine and one (1) year probation |
| e. Dispensing a Schedule II drug inappropriately with a non-written prescription (893.04(1)(f), F.S.) | \$2,500 fine | | \$5,000 fine and one (1) year probation (for dispensing without a prescription see Rule 64B16-30.001(2)(e)1.f. above) One (1) year suspension |
| f. Inappropriate refilling of Schedule III, IV, or V drugs (893.04(1)(g), F.S.) | \$1,750 fine and one (1) year probation | | |
| g. Receiving controlled substances without an appropriate order form (893.06(1), F.S.) | \$1,500 fine | | \$5,000 fine and one (1) year probation |
| h. Unlawful possession of controlled substances (893.06(2), F.S.) | \$2,500 fine and one (1) year probation | | Revocation |

| | | |
|--|---|---|
| i. Failure to take a biennial inventory (893.07(1)(a), (2), (3), (4), (5), F.S.) | \$1,000 fine | \$2,500 fine and one (1) year probation |
| j. Failure to maintain a complete and accurate record of controlled substances (893.07(1)(b), (2), (3), (4), (5), F.S.) | \$1,000 fine and one (1) year probation | Revocation |
| k. Dispensing controlled substances in other than good faith (893.08(3)(b), F.S.) | \$2,500 fine and one (1) year probation | Revocation |
| l. Inappropriate selling of Schedule V controlled substance (893.08(3)(c), F.S.) | \$1,500 fine and one (1) year probation | One (1) year suspension |
| m. Unlawful possession of controlled substance (893.13, F.S.) | \$2,500 fine and one (1) year probation | Revocation |
| 4. Violation of Federal Drug Abuse Act 21 U. S. C. 821 et seq. | \$1,000 fine and one (1) year probation | \$5,000 fine and one (1) year suspension |
| (f) Criminal conviction related to pharmacy (465.016(1)(f), F.S.) (465.023(1)(d), F.S.) | Misdemeanor: \$1,000 fine | \$5,000 fine, one (1) year suspension and two (2) years probation |
| | Felony: One (1) year suspension, two (2) years probation & \$5,000 fine | Revocation |
| (g) Using in the compounding of a prescription, or furnishing upon prescription, an ingredient or article different in any manner from the ingredient or article prescribed, except as authorized in 465.019(6), F.S., or 465.025, F.S., or compounding, dispensing or distributing legend drugs outside professional practice of pharmacy (465.016(1)(g), F.S.) (465.016(1)(i), F.S.) | \$1,000 fine and one (1) year probation | Revocation |
| (h) Filing a false report or failing to file a report required by law | | |
| 1. Knowing violation | \$2,000 fine and one (1) year probation | Revocation |
| 2. Negligent violation | Reprimand | One (1) year probation and \$1,000 fine |
| (i) Failure to make prescription price information available (465.016(1)(k), F.S.) | Letter of guidance | \$1,000 fine and one (1) year probation |

DISCIPLINARY GUIDELINES

(R. 1/02)
64B16-30.001

(j) Improperly placing returned drugs into the stock of a pharmacy (465.016(1)(l), F.S.)

\$1,500 fine

\$3,000 fine and one (1) year probation

(k) Violating a rule or order of the board or Department (465.016(1)(n), F.S.)

1. Rules of Board of Pharmacy

a. 64B16-28.101 to 64B16-28.104
64B16-27.100
64B16-28.106
64B16-28.107
64B16-28.109
64B16-27.103
64B16-28.111
64B16-27.104
64B16-26.400
64B16-26.401
64B16-28.404
64B16-26.301
64B16-28.114
64B16-27.105

\$1,000 fine

One (1) year probation and \$2,000 fine

b. 64B16-28.105 (sanitation)

Suspension until compliance

Revocation

c. 64B16-27.101 (counterfeit drugs)

Same as penalty for adulterated drugs (see Rule 64B16-30.001(2)(e)2.)

One (1) year probation and \$2,000 fine (if drugs dispensed, one (1) year suspension)

d. 64B16-28.110 (outdated pharmaceuticals)

\$500 fine

Same as underlying statutory or rule violation

One (1) year suspension of pharmacist license

e. 64B16-28.112 (violations)

f. 64B16-26.300 (Serving as consultant pharmacist without being licensed as a consultant pharmacist)

\$500 per month up to a \$5,000 maximum

\$5,000 fine and two (2) years probation

g. 64B16-28.140 and 64B16-28.150 (Data processing systems)

\$1,000 fine

\$5,000 fine and two (2) years probation

h. 64B16-28.120 (Location of legend drugs)

\$1,000 fine

i. 64B16-28.900, 64B16-28.901, 64B16-28.902 (Nuclear pharmacy)

(i) Practicing nuclear pharmacy without being licensed as a nuclear pharmacy (64B16-28.903, F.A.C.)

\$1,000 fine and one (1) year probation

Revocation of pharmacist's license or permit

(ii) Failure to follow technical requirements (64B16-28.901 and 64B16-28.902, F.A.C.)

One (1) year probation and \$1,000 fine

Revocation of license of practice nuclear pharmacy

| | | | |
|---|--|--|--|
| j. 64B16-28.202 and 64B16-28.203 (transfer of prescription files and drugs) | \$1,500 fine | | Revocation of permit |
| 2. Violation of orders of Board or Department (l) License disciplined by another jurisdiction (465.016(1)(h), F.S.) | \$2,500 fine and one (1) year probation | Same penalty as imposed in other jurisdiction or as closely as possible to penalties set forth in Florida Statutes | Revocation |
| (m) Failure to comply with Board's rule on patient counseling (64B16-27.800, 64B16-27.810, 64B16-27.820, F.A.C.) | \$750 fine | | \$2,500 fine and one year probation. |
| (n) Violation 465.018 by and through 465.016 and 465.023 (o) Violating 456.072, F.S. | Penalty as closely as possible to those set forth in the Disciplinary Guidelines | | |
| 1. Making misleading, deceptive, or fraudulent representations in or related to the practice of the licensee's profession. | \$2,500 fine and one (1) year probation | | \$5,000 fine and one (1) year suspension |
| 2. Intentionally violating any rule adopted by the Board or the Department, as appropriate. | \$1,500 fine | | \$2,500 fine and one (1) year probation |
| 3. Being convicted or found guilty of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the practice of, or the ability to practice, a licensee's profession. | Misdemeanor: \$1,000 fine Felony: \$3,000 fine and one (1) year probation | | \$5,000 fine and one (1) year suspension Revocation |
| 4. Failing to comply with the educational course requirements for human immunodeficiency virus and acquired immune deficiency syndrome. | \$500 fine | | \$1,000 fine |

DISCIPLINARY GUIDELINES

5. Having a license or the authority to practice the regulated profession revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of any jurisdiction, including its agencies or subdivisions, for a violation that would constitute a violation under Florida law. The licensing authority's acceptance of a relinquishment of licensure, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of charges against the license, shall be construed as action against the license.

Same penalty as imposed in other jurisdiction or as closely as possible to penalties for similar violation

6. Having been found liable in a civil proceeding for knowingly filing a false report or complaint with the Department against another licensee.

\$3,000 fine

\$5,000 fine and six (6) month suspension

7. Attempting to obtain, obtaining, or renewing a license to practice a profession by bribery, by fraudulent misrepresentation, or through an error of the Department or the Board.

Revocation

8. Except as provided in 465.016, F.S., failing to report to the Department any person who the licensee knows is in violation of this part, the chapter regulating the alleged violator, or the rules of the Department or the Board.

\$500 fine and one (1) year probation

\$1,000 fine and two (2) years probation

9. Aiding, assisting, procuring, employing, or advising any unlicensed person or entity to practice a profession contrary to this part, the chapter regulating the profession, or the rules of the Department or the Board.

\$2,000 fine

\$5,000 fine and one (1) year suspension

- | | | |
|---|---|---|
| 10. Failing to perform any statutory or legal obligation placed upon a licensee. | \$2,000 fine | \$5,000 fine and one (1) year probation |
| 11. Making or filing a report which the licensee knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, or willfully impeding or obstructing another person to do so. Such reports or records shall include only those that are signed in the capacity of a licensee. | \$3,000 fine and two (2) years probation | \$5,000 fine and one (1) year suspension |
| 12. Making deceptive, untrue, or fraudulent representations in or related to the practice of a profession or employing a trick or a scheme in or related to the practice of a profession. | \$10,000 fine and two (2) years probation | \$10,000 fine and one (1) year suspension |
| 13. Exercising influence on the patient or client for the purpose of financial gain of the licensee or a third party. | \$3,000 fine and two (2) years probation | \$5,000 fine and one (1) year suspension |
| 14. Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities the licensee knows, or has reason to know, the licensee is not competent to perform. | \$2,000 fine and two (2) years probation | \$5,000 fine and one (1) year suspension |
| 15. Delegating or contracting for the performance of professional responsibilities by a person when the licensee delegating or contracting for performance of such responsibilities knows, or has reason to know, such person is not qualified by training, experience, and authorization when required to perform them. | \$2,000 fine and two (2) years probation | \$5,000 fine and one (1) year suspension |

DISCIPLINARY GUIDELINES

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16. Violating any provision of this part, the applicable professional practice act, a rule of the Department or the Board, or a lawful order of the Department or the Board, or failing to comply with a lawfully issued subpoena of the Department.

\$1,000 fine

\$5,000 fine and two years probation

17. Improperly interfering with an investigation or inspection authorized by statute, or with any disciplinary proceeding.

\$2,500 fine and two years probation

\$5,000 fine and one year suspension

18. Failing to report to the board in writing within 30 days after the licensee has been convicted or found guilty or entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction.

\$1,000 fine

\$2,500 fine and one year probation

19. Testing positive for any drug, as defined in Section 112.0455, F.S., on any confirmed preemployment or employer ordered drug screening when the practitioner does not have a lawful prescription and legitimate medical reason for using such drug.

\$2,500 fine and two years probation

\$5,000 fine and one year suspension

20. Being terminated from or failing to successfully complete an impaired practitioners treatment program (456.072(1)(hh), F.S.)

Suspension until successful completion or receipt of written confirmation of compliance with ongoing treatment and a fine of up to \$1,000

Revocation

(3) The board shall be entitled to deviate from the above-mentioned guidelines upon a showing of aggravating or mitigating circumstances by clear and convincing evidence presented to the board prior to the imposition of a final penalty. The fact that an Administrative Law Judge of the Division of Administrative Hearings may or may not have been aware of the below-mentioned aggravating or mitigating circumstances prior to a recommendation of penalty in a Recommended Order shall not obviate the duty of the board to consider aggravating and mitigating circumstances brought to its attention prior to the issuance of a Final Order.

(a) Aggravating circumstances; circumstances which may justify deviating from the above set forth disciplinary guidelines and cause the enhancement of a penalty beyond the maximum level of discipline in the guidelines shall include but not be limited to the following:

1. History of previous violations of the practice act and the rules promulgated thereto.

2. In the case of negligent acts, the magnitude and scope of the damage or potential damage inflicted upon the patient or the general public by the licensee's misfeasance.

3. Evidence of violation of professional practice acts in other jurisdictions wherein the licensee has been disciplined by the appropriate regulatory authority.

4. Violation of the provision of the practice act wherein a letter of guidance as provided in Section 456.073(3), F.S., has previously been issued to the licensee.

(b) Mitigating circumstances; circumstances which may justify deviating from the above set forth disciplinary guidelines and cause the lessening of a penalty beyond the minimum level of discipline in the guidelines shall include but not be limited to the following:

1. In cases of negligent acts, the minor nature of the damage or potential damage to the patient's or the public's health, safety and welfare resulting from the licensee's misfeasance.

2. Lack of previous disciplinary history in this or any other jurisdiction wherein the licensee practices his profession.

3. Restitution of any monetary damage suffered by the patient.

4. The licensee's professional standing among his peers.

5. Steps taken by the licensee to insure the non-occurrence of similar violations in the future including continuing education.

6. The degree of financial hardship incurred by a licensee as a result of the imposition of fines or the suspension of his practice.

(4) All fines imposed by the Board shall be paid within a period of 30 days from the date of the final order entered by the Board. This time limitation may be modified by the Board for good cause shown in order to prevent undue hardship.

Rulemaking Authority 456.072, 456.079, 465.005 FS. Law Implemented 456.072 456.079 FS. History—New 3-1-87, Amended 5-11-88, Formerly 21S-17.001, 21S-30.001, 61F10-30.001, Amended 6-26-95, 1-30-96, Formerly 59X-30.001, Amended 12-3-97, 11-15-98, 5-3-00, 1-2-02, 11-29-06.

64B16-30.002 Minor Violations

(1) The Board sets forth the following guidelines for use by Department investigators when a licensee is in noncompliance of an initial offense of a minor violation. The Board deems the following violations, depending upon severity, to be consistent with Section 456.073(3), F.S.

(a) Outdated pharmaceuticals — Rule 64B16-28.110, F.A.C.

(b) Failure to meet regulation of daily operating hours — Rule 64B16-28.404, F.A.C.

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DISCIPLINARY GUIDELINES

12. Making deceptive, untrue, or fraudulent representations in or related to the practice of a profession or employing a trick or a scheme in or related to the practice of a profession.

\$10,000 fine and two years probation

Revocation \$10,000 fine and one year suspension

13. Exercising influence on the patient or client for the purpose of financial gain of the licensee or a third party.

\$3,000 fine and two years probation

Revocation

14. Practicing or offering to practice beyond the scope permitted by law or

\$2,000 fine and two years probation

Revocation

accepting and performing professional responsibilities the licensee knows, or has reason to know, the licensee is not competent to perform.

15. Delegating or contracting for the performance of professional responsibilities by a person when the licensee delegating or contracting for performance of such responsibilities knows, or has reason to know, such person is not qualified by training, experience, and authorization when required to perform them.

\$2,000 fine and two years probation

Revocation

16. Violating any provision of this part, the applicable professional practice act, a rule of the Department or the Board, or a lawful order of the Department or the Board, or failing to comply with a lawfully issued subpoena of the Department.

\$1,000 fine

Revocation

17. Improperly interfering with an investigation or inspection authorized by statute, or with any disciplinary proceeding.

\$2,500 fine and two years probation

Revocation

18. Failing to report to the board in writing within 30 days after the licensee has been convicted or found guilty or entered a plea of

\$1,000 fine

Revocation

nolo contendere to, regardless of adjudication, a crime in any jurisdiction.

19. Testing positive for any drug, as defined in Section 112.0455, F.S., on any confirmed preemployment or employer ordered drug screening when the practitioner does not have a lawful prescription and legitimate medical reason for using such drug.

\$1,500 fine PRN evaluation and two years probation or compliance with PRN contract

Revocation

20. Being terminated from or failing to successfully complete an impaired practitioners treatment program.

Suspension until successful completion or receipt of written confirmation of compliance with ongoing treatment and a fine of up to \$1,000.

Revocation

(Section 456.072(1)(hh), F.S.)

21. Being convicted of, or entering a plea misdemeanor or felony, regardless of adjudication, under 18 U.S.C. §§ 669, 285-287, 371, 1001, 1035, 1341, 1343, 1347, 1349, or 1518, or 42 U.S.C. §§ 1320a-7b, relating to the Medicaid program.

Revocation and a fine of \$10,000, or in the case of application for licensure, denial of license.

(Section 456.072(1)(ii), F.S.)

22. Failing to remit the sum owed to the state for overpayment from the Medicaid program pursuant to a final order, judgment, or settlement.

From a letter of concern to probation, and a fine of \$500 to \$5,000.

From a reprimand to revocation, and a fine of \$2,500 to \$5,000.

(Section 456.072(1)(jj), F.S.)

23. Being terminated from the state Medicaid program, or any other state Medicaid program, or the federal Medicare program.

From a letter of concern to probation, and a fine of \$1,000 to \$5,000.

From a reprimand to revocation, and a fine of \$5,000 to \$10,000.

(Section 456.072(1)(kk), F.S.)

24. Being convicted of, or entering into a plea of guilty or nolo contendere to any misdemeanor or felony, regardless of adjudication, which relates to health care fraud.

Revocation and a fine of \$10,000, or in the case of application for licensure, denial of license.

(Section 456.072(1)(ll), F.S.)

(3) The board shall be entitled to deviate from the above-mentioned guidelines upon a showing of aggravating or mitigating circumstances by clear and convincing evidence presented to the board prior to the imposition of a final penalty. The fact that an Administrative Law Judge of the Division of Administrative Hearings may or may not have been aware of the below-mentioned aggravating or mitigating circumstances prior to a recommendation of penalty in a Recommended Order shall not obviate the duty of the board to

consider aggravating and mitigating circumstances brought to its attention prior to the issuance of a Final Order.

(a) Aggravating circumstances; circumstances which may justify deviating from the above set forth disciplinary guidelines and cause the enhancement of a penalty beyond the maximum level of discipline in the guidelines shall include but not be limited to the following:

1. History of previous violations of the practice act and the rules promulgated thereto.

DISCIPLINARY GUIDELINES

2. In the case of negligent acts, the magnitude and scope of the damage or potential damage inflicted upon the patient or the general public by the licensee's misfeasance.

3. Evidence of violation of professional practice acts in other jurisdictions wherein the licensee has been disciplined by the appropriate regulatory authority.

4. Violation of the provision of the practice act wherein a letter of guidance as provided in Section 456.073(3), F.S., has previously been issued to the licensee.

(b) Mitigating circumstances; circumstances which may justify deviating from the above set forth disciplinary guidelines and cause the lessening of a penalty beyond the minimum level of discipline in the guidelines shall include but not be limited to the following:

1. In cases of negligent acts, the minor nature of the damage or potential damage to the patient's or the public's health, safety and welfare resulting from the licensee's misfeasance.

2. Lack of previous disciplinary history in this or any other jurisdiction wherein the licensee practices his profession.

3. Restitution of any monetary damage suffered by the patient.

4. The licensee's professional standing among his peers.

5. Steps taken by the licensee to insure the non-occurrence of similar violations in the future including continuing education.

6. The degree of financial hardship incurred by a licensee as a result of the imposition of fines or the suspension of his practice.

(4) All fines imposed by the Board shall be paid within a period of 90 days from the date of the final order entered by the Board. This time limitation may be modified by the Board for good cause shown in order to prevent undue hardship.

Rulemaking Authority 456.072, 456.079, 465.005 FS. Law Implemented 456.072, 456.079 FS. History-New 3-1-87, Amended 5-11-88, Formerly 21S-17.001, 21S-30.001, 61F10-30.001, Amended 6-26-95, 1-30-96, Formerly 59X-30.001, Amended 12-3-97, 11-15-98, 5-3-00, 1-2-02, 11-29-06, 9-26-12.

64B16-30.002 Minor Violations.

(1) The Board sets forth the following guidelines for use by Department investigators when a licensee is in noncompliance of an initial offense of a minor violation. The Board deems the following violations, depending upon severity, to be consistent with Section 456.073(3), F.S.

(a) Outdated pharmaceuticals - Rule 64B16-28.110, F.A.C.

(b) Failure to meet regulation of daily operating hours - Rule 64B16-28.404, F.A.C.

(c) Generic substitution sign not displayed - Section 465.025(7), F.S.

(d) Information required on controlled substance prescriptions: practitioner's address, practitioner's DEA registration number, patient's address - Section 893.04, F.S.

(e) Failure to have certified by dispensing pharmacists the daily hard-copy printout or daily log - paragraph 64B16-28.140(3)(c) or (e), F.A.C.

(f) Failure to have pharmacy minimally equipped i.e. references, compounding equipment, and a current copy of the laws and rules governing the practice of pharmacy in the State of Florida - Rule 64B16-28.107, F.A.C.

(g) Failure to properly identify pharmacy technicians - Rule 64B16-27.410, F.A.C.

(h) Results of P&E quality assurance program not documented or available for inspection - paragraph 64B16-28.820(3)(d), F.A.C.

(i) Improper storage of legend drugs - Rule 64B16-28.120, F.A.C.

(j) Improper documentation of destruction of controlled substances - Rules 64B16-28.301, 64B16-28.303, F.A.C.

(k) Consultant pharmacist's monthly reports not current or available for inspection - Rule 64B16-28.501, subsection 64B16-28.702(2), F.A.C.

(l) Controlled substance prescription labels lack transfer crime warning labeling - paragraph 64B16-28.502(2)(c), F.A.C.

(2) The Department's investigator may issue a Notice of Deficiencies when the above conditions occur and the requirements of Section 456.073(3), F.S., are met. In such cases licensee shall correct the violation and respond to the investigator on forms provided by the Department and with other evidence of compliance as may be necessary, within 30 days, to certify current compliance. Failure to do so shall subject the licensee to further proceedings.

Rulemaking Authority 456.073(3), 465.005 FS. Law Implemented 456.073(3) FS. History-New 11-12-90, Formerly 21S-17.002, 21S-30.002, 61F10-30.002, 59X-30.002, Amended 12-9-98, 8-26-02.

64B16-30.003 Citations.

(1) Pursuant to Section 456.077, F.S., the Board sets forth in subsection (3) of this rule those violations for which there is no substantial threat to the public health, safety and welfare; or, if there is a substantial threat to the public health, safety and welfare, such potential for harm has been removed prior to the issuance of the citation. Next to each violation is the fine to be imposed.

(2) Prior to issuance of the citation, the Department must confirm that the violation has been corrected or is in the process of being corrected. If the violation is a substantial threat to the public health, safety and welfare, such potential for harm must be removed prior to issuance of the citation.

(3) The following violations with accompanying fines may be disposed of by citation:

(a) Practicing pharmacy as an inactive licensee (Section 465.015(2)(b), F.S.)

Fine based on length of time in practice while inactive; \$200/month or \$5,000 maximum (penalty will require licensee to renew license or cease practice).

(b) Operating a pharmacy with an inactive permit (Section 465.015(1)(a), F.S.)

\$500 per month to a maximum of \$5,000 (penalty will require permittee to renew permit or cease practice).

(c) First time failure to complete the required continuing education during the biennial licensure period (Section 456.072(3), F.S.)

Failure to complete less than 10 hours
Failure to complete 10 or more hours

\$500

\$1000

In addition, licensees shall take two additional hours of continuing education for each of the continuing education deficiencies. Said hours shall not count for continuing education renewal requirements for the next biennium.

(d) Failure to timely pay a fine or costs imposed by a final order.

\$500 per month late to a maximum of \$5,000 (penalty will require

CHAPTER 64B16-30
DISCIPLINARY GUIDELINES

- 64B16-30.001 Disciplinary Guidelines; Range of Penalties; Aggravating and Mitigating Circumstances.
- 64B16-30.002 Minor Violations.
- 64B16-30.003 Citations.
- 64B16-30.0035 Mediation.

64B16-30.001 Disciplinary Guidelines; Range of Penalties; Aggravating and Mitigating Circumstances.

(1) The board sets forth below a range of disciplinary guidelines from which disciplinary penalties will be imposed upon licensees guilty of violating Chapter 465, F.S. The purpose of the disciplinary guidelines is to give notice to licensees of the range of penalties which will normally be imposed upon violations of particular provisions of Chapter 465, F.S. The term license means any permit, registration, certificate, or license, including a provisional license, issued by the Department. The minimum penalty range is based upon a first time single count violation of each provision listed. The maximum penalty range is based upon multiple or repeated

violations of the same provision of Chapter 465, F.S., or the rules promulgated thereto. All penalties at the upper range of the sanctions set forth in the guidelines, i.e., suspension, revocation, etc., include lesser penalties, i.e., fine, probation or reprimand which may be included in the final penalty at the board's discretion. Probation may be subject to conditions, including restriction from practice in certain settings, restricting the licensee to working only under designated conditions or in certain settings, requiring continuing or remedial education, or any other restriction found to be necessary for the protection of the public health, safety and welfare. In addition to any other discipline imposed under these guidelines, the board shall assess costs relating to the investigation and prosecution of the case.

(2) The following disciplinary guidelines shall be followed by the board in imposing disciplinary penalties upon licensees and permittees for violation of the below mentioned statutes and rules. For the purposes of this rule, the descriptions of the violations are abbreviated and the full statute or rule cited should be consulted to determine the prohibited conduct.

| VIOLATION | PENALTY RANGE | |
|--|--|--|
| | MINIMUM | MAXIMUM |
| (a) Obtaining a license or permit by misrepresentation, fraud or error (Section 465.016(1)(a), F.S.) (Section 465.023(1)(a), F.S.) | \$10,000 fine for each count and Revocation | \$10,000 fine for each count and Revocation |
| (b) Procuring a license or permit by false representation (Section 465.016(1)(b), F.S.) (Section 465.023(1)(b), F.S.) | \$10,000 fine for each count and Revocation | \$10,000 fine for each count and Revocation |
| Permitting unlicensed persons to practice pharmacy (Section 465.016(1)(c), F.S.) | \$2,500 fine and 12 hours Laws & Rules course or Multistate Pharmacy Jurisprudence Exam (MPJE) | Revocation |
| (d) Being unfit or incompetent to practice pharmacy (Section 465.016(1)(d), (m), F.S.) | \$250 fine, indefinite suspension with PRN review and board appearance. | Revocation or, at the licensee's discretion, voluntarily relinquishment with reinstatement under the terms and conditions approved by the board. |
| (e) Violating laws governing the practice of pharmacy. (Section 465.016(1)(e), F.S.) (Section 465.023(1)(c), F.S.) | | |
| 1. Chapter 465, F.S.: | | |
| a. Failure to supervise registered pharmacy technician. (Section 465.014, F.S.) | \$250 fine and one year probation and 12 hour Laws & Rules Course or MPJE | Revocation |
| b. Operating a pharmacy that is not registered (Section 465.015(1)(a), F.S.) | \$500 per month to maximum of \$5,000 (penalty will require permittee to renew permit or cease practice) | Revocation |

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| c. Operating a pharmacy where an unlicensed and unsupervised person practices pharmacy (Section 465.015(1)(b), F.S.) | \$5,000 fine and one year probation | Revocation |
| d. Making a false or fraudulent statement to the board (Section 465.015(2)(a), F.S.) | \$10,000 fine for each count | \$10,000 fine for each count and Revocation |
| e. Practicing pharmacy as an inactive licensee (Section 465.015(2)(b), F.S.) | Fine based on length of time in practice while inactive; \$500/month | Revocation |
| f. Selling or dispensing drugs without a prescription (Section 465.015(2)(c), F.S.) | | |
| (i) Non-scheduled legend drugs | \$1,500 fine | Revocation |
| (ii) Scheduled (controlled substances) legend drugs | \$5,000 fine and one year probation | Revocation |
| g. Selling samples or complimentary drugs (Section 465.015(2)(d), F.S.) | | |
| (i) Non-scheduled legend drugs | \$1,500 fine | Revocation |
| (ii) Scheduled (controlled substances) legend drugs | \$5,000 fine and one year probation | Revocation |
| h. Failure to notify the board of or not to have a prescription department manager or consultant pharmacist Sections 465.018, .019, .0193, .0196, or .0197, F.S. (Section 465.022(10), (11), F.S.) | | |
| (i) Failure to notify (Section 465.018, F.S.) | Fine based on length of time prior to notifying board. \$500 per month | \$7,500 maximum (penalty requires notification or ceasing practice) |
| (ii) Failure to have prescription department manager or consultant pharmacist of record | Fine based on length of time prior to notifying board, \$750 per month and one year probation | Revocation |
| i. Failure to comply with required substitution of legend drug requirements (Sections 465.025(2), (3), (4), F.S.) | \$500 fine and 12 hour Laws & Rules Course or MPJE | \$2,500 fine |
| j. Failure to follow negative formulary requirements (Section 465.025(6), F.S.) (Rule 64B16-27.500, F.A.C.) | \$1,000 fine and 12 hours Laws & Rules Course or MPJE | \$2,500 fine and one year probatopm |
| k. Failure to follow emergency prescription requirements (Section 465.0275, F.S.) | \$500 fine | \$1,000 fine and one year probation |
| l. Engage in prohibited rebate scheme (Section 465.185, F.S.) | \$1,500 fine | Revocation |
| m. Failure to comply with pharmacist dispensing requirements (Section 465.186, F.S.) | | |

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| (i) Failure to follow procedure, but dispense drug appearing on formulary (Section 465.186(3), F.S.) (Rule 64B16-27.210, F.A.C.) | \$500 fine | \$1,000 fine, one year probation and suspension of right to dispense |
| (ii) Dispensing drug not on the formulary (Section 465.186(2), F.S.) (Rules 64B16-27.220, .230, F.A.C.) | \$1,500 fine | Revocation |
| 2. Chapter 499, F.S. | | |
| a. Adulteration of a drug (Section 499.005(2), (3), F.S.) (Section 499.006, F.S.) | \$1,000 fine | Revocation |
| b. Misbranding a drug (Section 499.005(2), (3), F.S.) (Section 499.007, F.S.) | | |
| (i) Incomplete or inaccurate labeling (Section 499.007, F.S.) (Rule 64B16-28.108, F.A.C.) | \$250 fine and 12 hour Laws & Rules Course or MPJE | \$2,500 fine and one (1) year probation |
| (ii) Fraudulent misbranding of legend drugs (Section 499.007, F.S.) | \$2,500 fine and one year suspension | Revocation |
| c. Prescriptions Drug Pedigree | \$500 fine and 12 hour Laws & Rules Course or MPJE | Revocation |
| d. Recordkeeping requirement | \$500 fine and 12 hour Laws & Rules Course or MPJE | Revocation |
| e. Storage of drugs | \$500 fine and 12 hour Laws & Rules Course or MPJE | Revocation |
| 3. Chapter 893, F.S. | | |
| (Controlled substances) | | |
| a. Filling a prescription for controlled substances that does not meet the requirements of Chapter 893, F.S. (Section 893.04(1)(b), F.S.) | \$1,500 fine | \$5,000 fine and one year probation |
| b. Failing to retain prescription records for two years (Section 893.04(1)(d), F.S.) | \$1,000 fine | Revocation |
| c. Failing to appropriately label (Section 893.04(1)(e), F.S.) | \$250 fine and 12 hour Laws & Rules Course or MPJE | \$2,500 fine and one year probation |
| d. Dispensing a Schedule II drug inappropriately with a non-written prescription (Section 893.04(1)(f), F.S.) | \$5,000 fine and one year probation | Revocation |
| e. Inappropriate refilling of Schedule III, IV, or V drugs (Section 893.04(1)(g), F.S.) | \$1,750 fine and one year probation | One year suspension |

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| f. Receiving controlled substances without an appropriate order form (Section 893.06(1), F.S.) | \$2,500 fine | Revocation |
| g. Unlawful possession of controlled substances (Section 893.06(2), F.S.) | \$2,500 fine and one year probation | Revocation |
| h. Failure to take a biennial inventory (Section 893.07(1)(a), (2), (3), (4), (5), F.S.) | \$1,000 fine | \$2,500 fine and one year probation |
| i. Failure to maintain a complete and accurate record of controlled substances (Section 893.07(1)(b), (2), (3), (4), (5), F.S.) | \$1,000 fine and one year probation | Revocation |
| j. Dispensing controlled substances in other than good faith (Section 893.08(3)(b), F.S.) | \$5,000 fine and one year probation | Revocation |
| k. Inappropriate selling of Schedule V controlled substance (Section 893.08(3)(c), F.S.) | \$1,500 fine and one year probation | One year suspension |
| l. Unlawful possession of controlled substance (Section 893.13, F.S.) | \$5,000 fine and two years probation | Revocation |
| 4. Violation of Federal Drug Abuse Act 21 U.S.C. § 821 et seq. (f) Criminal conviction related to pharmacy (Section 465.016(1)(f), F.S.) (Section 465.023(1)(d), F.S.) | \$500 fine and one year probation | Revocation |
| (i) Misdemeanor | \$1,000 fine | Revocation |
| (ii) Felony | One year suspension, two years probation & \$5,000 fine | Revocation |
| (g) Using in the compounding of a prescription, or furnishing upon prescription, an ingredient or article different in any manner from the ingredient or article prescribed, except as authorized in Section 465.019(6), F.S. or Section 465.025, F.S., or compounding, dispensing or distributing legend drugs outside professional practice of pharmacy (Section 465.016(1)(g), F.S.) (Section 465.016(1)(i), F.S.) | \$250 fine and complete approved CE course in the prevention of medication errors of no less than eight hours | Revocation |
| (h) Filing a false report or failing to file a report required by law | | |
| 1. Knowing violation | \$2,000 fine and one year probation | Revocation |

DISCIPLINARY GUIDELINES

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| 2. Negligent violation | Reprimand | One year probation and \$1,000 fine |
| (i) Failure to make prescription price information available (Section 465.016(1)(k), F.S.) | \$250 fine and 12 hour Laws & Rules Course or MPJE | \$1,000 fine and one year probation |
| (j) Improperly placing returned drugs into the stock of a pharmacy (Section 465.016(1)(l), F.S.) | \$1,500 fine | \$3,000 fine and one year probation |
| (k) Violating a rule or order of the board or Department (Section 465.016(1)(n), F.S.) | | |
| 1. Rules of Board of Pharmacy | | |
| a. Rules 64B16-28.101 to 64B16-28.1035, F.A.C. | \$500 fine and 12 hour Laws & Rules or MPJE | One year probation and \$2,000 fine |
| Rule 64B16-27.100, F.A.C. | | |
| Rule 64B16-28.109, F.A.C. | | |
| Rule 64B16-27.103, F.A.C. | | |
| Rule 64B16-27.104, F.A.C. | | |
| Rule 64B16-26.400, F.A.C. | | |
| Rule 64B16-26.2032, F.A.C. | | |
| Rule 64B16-28.1081, F.A.C. | | |
| Rule 64B16-26.301, F.A.C. | | |
| Rule 64B16-28.114, F.A.C. | | |
| Rule 64B16-27.105, F.A.C. | | |
| Rule 64B16-27.211, F.A.C. | | |
| Rule 64B16-28.113, F.A.C. | | |
| Rule 64B16-28.2021, F.A.C. | | |
| Rule 64B16-28.603, F.A.C. | | |
| b. Rule 64B16-28.102, F.A.C. | Suspension until compliance | Revocation |
| c. Rule 64B16-27.101, F.A.C. (counterfeit drugs) | \$1,000 fine for dispensing | Revocation |
| d. Rule 64B16-28.110, F.A.C. (outdated pharmaceuticals) | \$500 fine for possession \$1,000 fine for dispensing | Revocation |
| e. Rules 64B16-28.301, 64B16-28.303, F.A.C. (destruction of controlled substances) (violations) | \$500 fine and 12 hour Laws & Rules or MPJE | Revocation |
| f. Rule 64B16-26.300, F.A.C. (Serving as consultant pharmacist without being licensed as a consultant pharmacist) | \$500 per month up to \$5,000 fine (fine based upon the length of time the person is serving as a consultant without being licensed as a consultant | Revocation |
| g. Rule 64B16-28.140, F.A.C. (Data processing systems) | \$1,000 fine | Revocation |
| h. Rule 64B16-28.120, F.A.C. (Location of legend drugs) | \$1,000 fine | Revocation |

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| i. Practicing nuclear pharmacy without being licensed as a nuclear pharmacist (Rule 64B16-26.303, F.A.C.) | \$500 per month up to \$5,000 fine (fine based upon the length of time the person is practicing without being licensed as a nuclear pharmacist) | Revocation |
| j. Failure to follow technical requirements (Rules 64B16-28.901 and 64B16-28.902, F.A.C.) | One year probation and \$1,000 fine | Revocation |
| k. Rules 64B16-28.202 and 64B16-28.203, F.A.C. (transfer of prescription files and drugs) | \$1,500 fine | Revocation |
| l. Failure to complete the required continuing education during the biennial licensure period. (Rule 64B16-26.103, F.A.C.) | | |
| 1. Failure to complete less than ten hours | \$500 fine | \$1,500 fine |
| 3. Failure to complete ten or more hours | \$1,000 fine | \$2,500 fine |
| In addition, licensees shall take two additional hours of continuing education for each of the continuing education deficiencies. Said hours shall not count for continuing education renewal requirements for the next biennium. | | |
| m. Failure to maintain program requirements for certification, training, or continuing education programs or providers. (Rule 64B16-26.601, F.A.C.) | \$500 fine | Revocation |
| n. Failure to retain continuing education records. (Rule 64B16-26.603, F.A.C.) | \$250 fine | \$1,500 fine |
| o. Failure to practice in accordance with established practice standards. (Rules 64B16-27.1001, .104, F.A.C.) | | |
| 1. Pharmacist | \$500 fine | Revocation |
| 2. Pharmacy Intern | \$250 fine | Revocation |
| 3. Permittee | \$500 fine | Revocation |
| p. Failure to have current policies and procedures. (Rules 64B16-28.141, .450, F.A.C.) | \$500 fine | Revocation |
| q. Failure to have or maintain standards for an automated pharmacy system in a community pharmacy. (Rule 64B16-28.141, F.A.C.) | \$500 fine and 12 hours Laws & Rules MJPE | Revocation |
| r. Failure to have or maintain standards for a central fill pharmacy. (Rule 64B16-28.450, F.A.C.) | \$500 fine and 12 hour Laws & Rules or MJPE | Revocation |
| s. Failure to have or maintain standards for an institutional pharmacy. (Rules 64B16-28.602, .6021, .605, .606, .702, F.A.C.) | \$500 fine and 12 hour Laws & Rules or MJPE | |

V. 10, p. 587

DISCIPLINARY GUIDELINES

| | | |
|---|--|--------------------------------------|
| t. Failure to maintain or have standards for a special pharmacy. (Rules 64B16-28.800, .810, .820, .840, .850, .860, .870, F.A.C.) | \$500 fine and 12 hour Laws & Rules or MJPE | |
| u. Failure to maintain standards for animal control shelters | \$500 Fine | Revocation |
| 2. Violation of orders of Board or Department | \$2,500 fine and one year probation | Revocation |
| (l) License disciplined by another jurisdiction (Section 465.016(1)(h), F.S.) | Same penalty as imposed in other jurisdiction or as closely as possible to penalties set forth in Florida Statutes | |
| (m) Failure to comply with Board's rule on patient counseling (Rules 64B16-27.800, .810, .820, F.A.C.) | \$750 fine | \$2,500 fine and, one year probation |
| (n) Abandoning or allowing permit to become null and void after notice of disciplinary proceedings. (Section 465.018(3), F.S.) | Revocation | Revocation |
| (o) Violating 456.072, F.S. | | |
| 1. Making misleading, deceptive, or fraudulent representations in or related to the practice of the licensee's profession. | \$1,500 fine and one year probation | Revocation |
| 2. Intentionally violating any rule adopted by the Board or the Department. | \$2,500 fine and two years probation | Revocation |
| 3. Being convicted or found guilty of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the practice of, or the ability to practice, a licensee's profession. | | |
| (i) Misdemeanor | \$1,000 fine | Revocation |
| (ii) Felony | \$3,000 fine and one year probation. | Revocation |
| 4. Failing to comply with the educational course requirements for human immunodeficiency virus and acquired immune deficiency syndrome, or medical errors. | \$500 fine | \$1,000 fine |
| 5. Having a license or the authority to practice the required regulated profession revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing | Same penalty as imposed in other jurisdiction or as closely as possible to penalties for similar violation | |

authority of any jurisdiction, including its agencies or subdivisions, for a violation that would constitute a violation under Florida law. The licensing authority's acceptance of a relinquishment of licensure, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of charges against the license, shall be construed as action against the license.

6. Having been found liable in a civil proceeding for knowingly filing a false report or complaint with the Department against another licensee.

\$3,000 fine

Revocation

7. Attempting to obtain, obtaining, or renewing a license to practice a profession by bribery, by fraudulent misrepresentation, or through an error of the Department or the Board.

Revocation or denial of license application

8. Except as provided in Section 465.016, F.S., failing to report to the Department any person who the licensee knows is in violation of this part, the chapter regulating the alleged violator, or the rules of the Department or the Board.

\$500 fine and one year probation

Revocation

9. Aiding, assisting, procuring, employing, or advising any Unlicensed person or entity to practice a profession contrary to This part, the chapter regulating the profession, or the rules of the Department or the Board.

\$2,000 fine

Revocation

10. Failing to perform any statutory or legal obligation placed upon a licensee.

\$2,000 fine

Revocation

11. Making or filing a report which the licensee knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, or willfully impeding or obstructing another person to do so. Such reports or records shall include only those that are signed in the capacity of a licensee.

\$2,500 fine and two years probation

Revocation

V. 10, p. 588-1

DISCIPLINARY GUIDELINES

12. Making deceptive, untrue, or fraudulent representations in or related to the practice of a profession or employing a trick or a scheme in or related to the practice of a profession.

\$10,000 fine and two years probation

Revocation \$10,000 fine and one year suspension

13. Exercising influence on the patient or client for the purpose of financial gain of the licensee or a third party.

\$3,000 fine and two years probation

Revocation

14. Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities the licensee knows, or has reason to know, the licensee is not competent to perform.

\$2,000 fine and two years probation

Revocation

15. Delegating or contracting for the performance of professional responsibilities by a person when the licensee delegating or contracting for performance of such responsibilities knows, or has reason to know, such person is not qualified by training, experience, and authorization when required to perform them.

\$2,000 fine and two years probation

Revocation

16. Violating any provision of this part, the applicable professional practice act, a rule of the Department or the Board, or a lawful order of the Department or the Board, or failing to comply with a lawfully issued subpoena of the Department.

\$1,000 fine

Revocation

17. Improperly interfering with an investigation or inspection authorized by statute, or with any disciplinary proceeding.

\$2,500 fine and two years probation

Revocation

18. Failing to report to the board in writing within 30 days after the licensee has been convicted or found guilty or entered a plea of

\$1,000 fine

Revocation

nolo contendere to, regardless of adjudication, a crime in any jurisdiction.

19. Testing positive for any drug, as defined in Section 112.0455, F.S., on any confirmed preemployment or employer ordered drug screening when the practitioner does not have a lawful prescription and legitimate medical reason for using such drug.

20. Being terminated from or failing to successfully complete an impaired practitioners treatment program.

(Section 456.072(1)(hh), F.S.)

21. Being convicted of, or entering a plea misdemeanor or felony, regardless of adjudication, under 18 U.S.C. §§ 669, 285-287, 371, 1001, 1035, 1341, 1343, 1347, 1349, or 1518, or 42 U.S.C. §§ 1320a-7b, relating to the Medicaid program.

(Section 456.072(1)(ii), F.S.)

22. Failing to remit the sum owed to the state for overpayment from the Medicaid program pursuant to a final order, judgment, or settlement.

(Section 456.072(1)(jj), F.S.)

23. Being terminated from the state Medicaid program, or any other state Medicaid program, or the federal Medicare program.

(Section 456.072(1)(kk), F.S.)

24. Being convicted of, or entering into a plea of guilty or nolo contendere to any misdemeanor or felony, regardless of adjudication, which relates to health care fraud.

(Section 456.072(1)(ll), F.S.)

(p) Violating 828.055, F.S.

1. Using drugs for animal euthanization for an improper purpose.

2. Failing to take reasonable precautions against misuse, theft, loss or diversion.

3. Failing to detect or to report a significant loss, theft, or inventory shortage of drugs.

4. Failing to follow the rules of the Board regarding proper storage and handling of drugs.

\$1,500 fine PRN evaluation and two years probation or compliance with PRN contract

Revocation

Suspension until successful completion or receipt of written confirmation of compliance with ongoing treatment and a fine of up to \$1,000.

Revocation

Revocation and a fine of \$10,000, or in the case of application for licensure, denial of license.

From a letter of concern to probation, and a fine of \$500 to \$5,000.

From a reprimand to revocation, and a fine of \$2,500 to \$5,000.

From a letter of concern to probation, and a fine of \$1,000 to \$5,000.

From a reprimand to revocation, and a fine of \$5,000 to \$10,000.

Revocation and a fine of \$10,000, or in the case of application for licensure, denial of license.

Reprimand and a fine of \$250

Revocation

Reprimand and a fine of \$250

Revocation
Revocation

Reprimand and a fine of \$250

Revocation

Reprimand and a fine of \$250

Revocation

5. Violating any provision of Section 828.055, Chapter 465, Chapter 499, F.S., or any rule adopted under those chapters.

Reprimand and a fine of \$250

Revocation

(3) The board shall be entitled to deviate from the above-mentioned guidelines upon a showing of aggravating or mitigating circumstances by clear and convincing evidence presented to the board prior to the imposition of a final penalty. The fact that an Administrative Law Judge of the Division of Administrative Hearings may or may not have been aware of the below-mentioned aggravating or mitigating circumstances prior to a recommendation of penalty in a Recommended Order shall not obviate the duty of the board to consider aggravating and mitigating circumstances brought to its attention prior to the issuance of a Final Order.

(a) Aggravating circumstances; circumstances which may justify deviating from the above set forth disciplinary guidelines and cause the enhancement of a penalty beyond the maximum level of discipline in the guidelines shall include but not be limited to the following:

1. History of previous violations of the practice act and the rules promulgated thereto.
2. In the case of negligent acts, the magnitude and scope of the damage or potential damage inflicted upon the patient or the general public by the licensee's misfeasance.
3. Evidence of violation of professional practice acts in other jurisdictions wherein the licensee has been disciplined by the appropriate regulatory authority.
4. Violation of the provision of the practice act wherein a letter of guidance as provided in Section 456.073(3), F.S., has previously been issued to the licensee.

(b) Mitigating circumstances; circumstances which may justify deviating from the above set forth disciplinary guidelines and cause the lessening of a penalty beyond the minimum level of discipline in the guidelines shall include but not be limited to the following:

1. In cases of negligent acts, the minor nature of the damage or potential damage to the patient's or the public's health, safety and welfare resulting from the licensee's misfeasance.
2. Lack of previous disciplinary history in this or any other jurisdiction wherein the licensee practices his profession.
3. Restitution of any monetary damage suffered by the patient.
4. The licensee's professional standing among his peers.
5. Steps taken by the licensee to insure the non-occurrence of similar violations in the future including continuing education.
6. The degree of financial hardship incurred by a licensee as a result of the imposition of fines or the suspension of his practice.

(4) All fines imposed by the Board shall be paid within a period of 90 days from the date of the final order entered by the Board. This time limitation may be modified by the Board for good cause shown in order to prevent undue hardship.

Rulemaking Authority 456.072, 456.079, 465.005 FS. Law Implemented 456.072, 456.079 FS. History—New 3-1-87, Amended 5-11-88, Formerly 21S-17.001, 21S-30.001, 61F10-30.001, Amended 6-26-95, 1-30-96, Formerly 59X-30.001, Amended 12-3-97, 11-15-98, 5-3-00, 1-2-02, 11-29-06, 9-26-12, 2-14-13.

64B16-30.002 Minor Violations.

(1) The Board sets forth the following guidelines for use by Department investigators when a licensee is in noncompliance of an initial offense of a minor violation. The Board deems the following violations, depending upon severity, to be consistent with Section 456.073(3), F.S.

- (a) Outdated pharmaceuticals – Rule 64B16-28.110, F.A.C.
- (b) Failure to meet regulation of daily operating hours – Rule 64B16-28.404, F.A.C.
- (c) Generic substitution sign not displayed – Section 465.025(7), F.S.
- (d) Information required on controlled substance prescriptions: practitioner's address, practitioner's DEA registration number, patient's address – Section 893.04, F.S.
- (e) Failure to have certified by dispensing pharmacists the daily hard-copy printout or daily log – paragraph 64B16-28.140(3)(c) or (e), F.A.C.
- (f) Failure to have pharmacy minimally equipped i.e. references, compounding equipment, and a current copy of the laws and rules governing the practice of pharmacy in the State of Florida – Rule 64B16-28.107, F.A.C.
- (g) Failure to properly identify pharmacy technicians – Rule 64B16-27.410, F.A.C.
- (h) Results of P&E quality assurance program not documented or available for inspection – paragraph 64B16-28.820(3)(d), F.A.C.
- (i) Improper storage of legend drugs – Rule 64B16-28.120, F.A.C.
- (j) Improper documentation of destruction of controlled substances – Rules 64B16-28.301, 64B16-28.303, F.A.C.
- (k) Consultant pharmacist's monthly reports not current or available for inspection – Rule 64B16-28.501, subsection 64B16-28.702(2), F.A.C.

(1) Controlled substance prescription labels lack transfer crime warning labeling – paragraph 64B16-28.502(2)(c), F.A.C.

(2) The Department's investigator may issue a Notice of Deficiencies when the above conditions occur and the requirements of Section 456.073(3), F.S., are met. In such cases licensees shall correct the violation and respond to the investigator on forms provided by the Department and with other evidence of compliance as may be necessary, within 30 days, to certify current compliance. Failure to do so shall subject the licensee to further proceedings.

Rulemaking Authority 456.073(3), 465.005 FS. Law Implemented 456.073(3) FS. History—New 11-12-90, Formerly 21S-17.002, 21S-30.002, 61F10-30.002, 59X-30.002, Amended 12-9-98, 8-26-02.

64B16-30.003 Citations.

(1) Pursuant to Section 456.077, F.S., the Board sets forth in subsection (3) of this rule those violations for which there is no substantial threat to the public health, safety and welfare; or, if there is a substantial threat to the public health, safety and welfare, such potential for harm has been removed prior to the issuance of the citation. Next to each violation is the fine to be imposed.

(2) Prior to issuance of the citation, the Department must confirm that the violation has been corrected or is in the process of being corrected. If the violation is a substantial threat to the public health, safety and welfare, such potential for harm must be removed prior to issuance of the citation.

STATE OF FLORIDA DEPARTMENT OF STATE

I, KEN DETZNER, Secretary of State of the State of Florida, do hereby certify that the above and foregoing is a true and correct copy of Rule 64B16-30.001, Florida Administrative Code, rules and regulations of the Department of Health, Board of Pharmacy, filed pursuant to Chapter 120, Florida Statutes, and was in full force and effect from January 1, 2011 until December 31, 2013, as shown by the records of this office.

Given under my hand and the
Great Seal of the State of Florida
at Tallahassee, the Capitol, this the
20th day of March, A.D., 2014.

Ken Detzner
Secretary of State



DSDE 99 (6/03)

If photocopied or chemically altered, the word "VOID" will appear.

"State of Florida" appears in small letters across the face of this 8 1/2 x 11" document.

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

DEPARTMENT OF HEALTH

Petitioner,

vs.

CHRISTOPHER STEPHEN SWITLYK,
R.Ph.,

DOAH CASE NO.
14-0883PL
DOH CASE NO.
2011-20634

Respondent.

2014 MAR 21 AM 8:32
PRACTITIONER REGULATION
LEGAL

TELEPHONIC DEPOSITION OF
RONALD B. SALEM, R.Ph.

Taken on Behalf of the Petitioner

DATE TAKEN: March 13, 2014
TIME: 10:00 a.m. - 12:10 p.m.
PLACE: PharMerica
7970 Bayberry Road, Suite 4
Jacksonville, Florida 32256

Examination of the witness taken before:

Elizabeth M. Masters, RPR
Statewide Reporting Service
233 East Bay Street, Suite 606
Jacksonville, Florida 32202
statewide606@bellsouth.net

STATEWIDE REPORTING SERVICE
(904) 353-7706 * * * Fax: (904) 353-2507

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EXHIBIT
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ORIGINAL

A P P E A R A N C E S

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APPEARANCES FOR THE PETITIONER
(BY TELEPHONE)

LUCAS L. MAY, ESQUIRE
Assistant General Counsel
YOLANDA GREEN, ESQUIRE
Assistant General Counsel
DOH Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, Florida 32399-3265

APPEARANCE FOR RESPONDENT
(BY TELEPHONE)

CHRISTOPHER STEPHEN SWITLYK, PRO SE
Register #53913-018, FCI Estill
Post Office Box 699
Estill, South Carolina, 29918-0699

I N D E X

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|---|-------------|
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1 10:26 a.m.

2 S T I P U L A T I O N

3 It was stipulated and agreed by and between
4 counsel for the respective parties, and the witness,
5 that the reading and signing of the deposition was not
6 waived.

7 - - -

8 WHEREUPON,

9 RONALD B. SALEM, R.PH.,

10 acknowledged having been duly sworn to tell the truth,
11 and testified upon his oath as follows:

12 THE WITNESS: I do.

13 DIRECT EXAMINATION

14 BY MR. MAY:

15 Q Good morning, Dr. Salem. As you know, I'm
16 Lucas May -- last name M-a-y -- an attorney with the
17 Department of Health. -- My co-counsel is Ms. Yolanda
18 Green -- and she said her last name is spelled
19 G-r-e-e-n -- and she's here with me today.

20 I'm here to take your deposition in lieu of
21 live testimony in the case of the Department of Health
22 versus Mr. Stephen Switlyk, Department of Health Case
23 Number 2011-20634, DOAH Case Number 14-0883PL. And, as
24 you know, the Department has hired you to render an
25 expert opinion on this matter.

1 Can you please identify the city and state in
2 which you are located?

3 A Jacksonville, Florida.

4 Q Okay. So since I'm taking your deposition, I
5 will ask my questions first. After I have finished my
6 direct examination, then Mr. Switlyk has a chance to
7 ask follow-up questions, which must be limited to the
8 scope of my questions. And then after he asks you
9 questions, then I have another opportunity to ask
10 follow-up questions, should there be any.

11 Before you answer a question, please make sure
12 you understand the question. If you need it to be
13 repeated or clarified, please ask. If you don't know
14 the answer, just say you don't know. It's not
15 necessary to speculate.

16 Please speak slowly so the court reporter can
17 accurately record the transcript; and please wait for
18 myself or Mr. Switlyk to finish the question before you
19 answer.

20 Also, in the deposition, there's no judge to
21 rule on objections, so myself; co-counsel, Yolanda
22 Green; and Mr. Switlyk are all allowed to object to
23 questions. However, you still must answer the
24 questions. The determination of whether an answer is
25 admissible would be litigated at a later point, if

1 necessary.

2 Also, especially since we're all doing this by
3 telephone, can you please refrain from saying "uh-huh"
4 and say yes or no.

5 So, first off, can you please state and spell
6 your name for the court reporter.

7 A Ronald, R-o-n-a-l-d, B. Salem, S-a-l-e-m.

8 Q Thank you.

9 Have you ever been deposed?

10 A Yes.

11 Q Okay. How many times and when were you
12 deposed?

13 A I can't tell you the number of times, but no
14 more than a couple of times more than 10 years ago.

15 Q Okay. What type of cases were you deposed in?
16 Were they medical malpractice cases, were they civil
17 cases?

18 A I don't recall.

19 Q Okay. Are you licensed as a pharmacist in the
20 state of Florida?

21 A Yes, I am.

22 Q Are you licensed in any other states?

23 A Yes.

24 Q What other states are you licensed in?

25 A Alabama.

1 Q Okay. Have any public complaints been made
2 against your license?

3 A No.

4 Q Have any medical malpractice claims been filed
5 against you?

6 A No.

7 Q Have you ever been disqualified from a
8 judicial proceeding?

9 A No.

10 Q Have you ever had a civil judgment entered
11 against you?

12 A No.

13 Q Have you ever been convicted of a felony or a
14 crime of moral turpitude?

15 A No.

16 Q What professional memberships, if relevant,
17 other than a pharmacist license do you maintain?

18 A None.

19 Q Okay. Can you please describe your
20 educational experience after high school?

21 A Yes. I obtained a bachelor of science in
22 pharmacy from the University of Florida in 1978, and I
23 obtained a doctorate of pharmacy from the University of
24 Florida in 1980.

25 Q Okay. Can you state your business address?

1 A 7970 Bayberry, B-a-y-b-e-r-r-y, Road, Suite
2 Number 4, Jacksonville 32256.

3 Q Okay. How many years have you actively
4 practiced pharmacy?

5 A 35.

6 Q Are you presently engaged in the practice of
7 pharmacy?

8 A Yes.

9 Q Can you briefly describe your professional
10 experience, to include positions held within the
11 practice of pharmacy?

12 A Yes. I spent two years in an academic
13 position at the University of Mississippi; I spent
14 approximately a year as the director of clinical
15 services at a mental retardation facility; I spent five
16 years as an assistant director of a hospital pharmacy;
17 I spent nine years as the director of pharmacy at a
18 for a for-profit pharmacy affiliated with a hospital
19 system; and I've spent the last 16 years as director of
20 pharmacy for PharMerica, P-h-a-r-M-e-r-i-c-a.

21 Q Okay. Can you please describe your day-to-day
22 activities at your current position?

23 A I am the director of pharmacy, so I'm in
24 charge of the entire operation for a pharmacy that
25 serves approximately 2,000 patients that reside in

1 nursing homes, assisted living facilities, mental
2 health -- or mental health facilities. And that
3 includes the receiving medication orders, filling them,
4 billing them, and marketing those facilities.

5 Q Okay. Have you received any relevant
6 professional honors or awards?

7 A I spent eight years as a member of the Board
8 of Pharmacy, originally appointed by Governor Bush, and
9 my second appointment was by Governor Crist. I served
10 as vice chair of the board in 2006, and I served as
11 chairman of the Board of Pharmacy in 2007 and 2009.

12 Q Okay.

13 A I also --

14 Q Other than --

15 A I'm sorry. I also served on the Pharmacy and
16 Therapeutics Committee with the state of Florida from
17 2001 through 2003, where I served as chairman.

18 Q Okay. Were there any other medical or
19 pharmacy related professional organizations that you've
20 been a part of?

21 A I have been a member of the Florida Pharmacy
22 Association in the past, but I am presently not a
23 member. I also was a member of the Florida Society of
24 Hospital Pharmacists in the past, but I'm currently not
25 a member.

1 Q Okay. Have you given any public presentations
2 relating to pharmacy?

3 A Yes, several.

4 Q Okay. Can you describe some of the
5 presentations you feel are most relevant?

6 A Well, I spent two years in academics, where I
7 was lecturing pretty continuously. And while I was
8 doing that I was also employed by various
9 pharmaceutical companies to lecture on specific drugs.
10 But I have not been involved in that practice in a
11 number of years.

12 Q Do you do any consulting?

13 A I do, yes.

14 Q What kind of work do you do? What does that
15 entail?

16 A Well, I currently possess a consultant
17 pharmacist's license which I've held since 1978, and I
18 consult to a -- to four mental health facilities, a
19 surgery center, and a jail.

20 Q Have you ever been an expert witness in a
21 legal proceeding?

22 A If I have, I don't recall. But, as I've
23 said, I did some expert testimony work well before my
24 -- my tenure on the Board of Pharmacy.

25 Q Okay. In this case, you're an expert witness

1 for the Department of Health, which is the prosecuting
2 body. Would you be opposed to testifying in the
3 defense of pharmacists in the future?

4 A No, I would not.

5 Q Okay. Do you have any specialties within the
6 practice of pharmacy?

7 A Well, when I was in academics, I had a
8 specialty in the neurology/psychiatry area. But with
9 my eight years on the Board of Pharmacy, I feel I am an
10 expert witness on Board of Pharmacy regulations,
11 discipline in regard to the Board of Pharmacy, and I've
12 spent a lot of -- part of my career working with
13 modified permits under the Board of Pharmacy.

14 Q Okay. Do you have a copy of your curriculum
15 vitae with you?

16 A Yes, I do.

17 Q Was that prepared by you or under your
18 supervision?

19 A Yes, it was.

20 Q Is it current and accurate?

21 A Yes, it is.

22 Q Okay.

23 MR. MAY: At this point I would like to tender
24 Dr. Ronald Salem, the Department of Health's, the
25 petitioner's, witness as an expert in community

1 pharmacy.

2 BY MR. MAY:

3 Q Did you receive a case file relating to this
4 case, Department of Health Case Number 2011-20634, DOAH
5 Case Number 14-0883PL?

6 A Yes, I did.

7 Q For the record, can you please confirm that
8 the file in your possession is that of Mr. Switlyk's?

9 A Yes, I can.

10 Q In fulfilling your responsibility as requested
11 by the Department of Health, did you review the entire
12 investigative file, which includes the criminal
13 indictment, the plea agreement, and the judgment,
14 before forming your opinion in this case?

15 A Yes.

16 MR. MAY: I would like to also take a step
17 back. In addition to tendering Dr. Salem as an
18 expert in community pharmacy, I would also like to
19 have his CV attached to the deposition as Exhibit

20 A.

21 (Whereupon, the document last-above referred
22 to was marked as Petitioner's Exhibit A for
23 identification.)

24 And then I'm asking Mr. Switlyk if he has an
25 objection to entering Mr. Ronald Salem as an expert

1 witness?

2 MR. SWITLYK: Hello? Hello?

3 MR. MAY: We can hear you, I can hear you.

4 MR. SWITLYK: Hey, this phone keeps cutting
5 out. Like I'm only catching every other word that
6 your expert witness is saying. Hello?

7 MR. MAY: Yes, we can hear you. Well, what
8 was the last thing you heard?

9 MR. SWITLYK: You know, like when he -- like
10 when he talks -- I can hear you, your whole -- I
11 can hear your questions, and then when he talks,
12 it just cuts in and out. Like every -- when he
13 says something, it will cut in and out every couple
14 of seconds. I can't hear every other thing he
15 says.

16 MR. MAY: All right. Well, I mean, then
17 there's something that -- do you know if -- Dr. ...
18 Salem, are you aware if there's any issue with your
19 phone?

20 THE WITNESS: No. I'm making every effort to
21 talk directly into the speaker loud enough so that
22 the court reporter can hear me as well. And she is
23 nodding yes, that she is watching what I'm doing
24 and is able to hear everything that I say.

25 MR. MAY: And is --

1 MR. SWITLYK: I heard that, I heard that. But
2 the other stuff you're -- you're saying are -- like
3 there's a blank -- like blank spaces, like empty --
4 empty air coming through on my line. Are you
5 there?

6 MS. GREEN: This is Yolanda Green. May I
7 propose that Mr. May will complete his question,
8 pause, and then, Dr. Salem, if you would provide
9 the answer, because there may be some over -- like
10 some interference in that way, because sometimes
11 that happens with phones.

12 I know that, Dr. Salem, we can hear you
13 clearly, and we want to make sure that Mr. Switlyk
14 can hear and understand, you know, your testimony
15 as well.

16 So that would be my proposal, if we could do
17 that.

18 MR. MAY: Yeah. I mean, I guess we can just
19 -- I guess, Dr. Salem, maybe try, I guess, speaking
20 really close to the phone and maybe we -- adding an
21 extra pause between my questions. Maybe there's
22 some sort of interference between -- in the
23 conference call.

24 But yes, my last question to you, Mr.
25 Switlyk, was I was asking if you had any objections

1 to the Department tendering Dr. Salem as an expert
2 witness in community pharmacy.

3 MR. SWITLYK: I mean, I have to state my
4 objections why?

5 MR. MAY: I mean, yes. I mean, if you object,
6 you have to state why.

7 MR. SWITLYK: I mean --

8 MR. MAY: I'm not saying you have to make an
9 objection, I'm just giving you an opportunity.

10 MR. SWITLYK: Yes, I understand. I mean,
11 it -- I guess the only reason I object is that, you
12 know, I mean, he hasn't -- in his background, he
13 hasn't really worked in any type of pharmacy that
14 would specialize in pain management or like caters
15 to pain management patients.

16 MR. MAY: Okay.

17 MR. SWITLYK: I mean, the vast -- the vast
18 majority of independent pharmacies in Florida, I
19 mean, a lot of them are -- I mean, the ones
20 especially I worked at, and even before I was on my
21 own, you know, a lot of them filled a lot of, you
22 know, pain medications.

23 MR. MAY: Yes. Okay. I'm going to -- just
24 one second.

25 BY MR. MAY:

1 Q So, Dr. Salem, do you have any firsthand
2 experience in the practice of pain management?

3 A I have worked in community pharmacies. My
4 present permit is a community pharmacy permit, and I
5 have worked in community pharmacies in the past.

6 In my practice presently, we dispense
7 approximately 50 to a hundred pain medication
8 prescriptions a day.

9 MR. SWITLYK: He keeps cutting out. Hello?

10 MR. MAY: Yes, we can hear you. Just one
11 second.

12 Yes, Mr. Switlyk, what kind of phone are you
13 calling in on? Are you calling in on a landline?

14 MR. SWITLYK: Yes, it's a landline phone.
15 It's in a jail. But like I can hear -- like when
16 you talk, I can hear your question, and then when
17 he starts talking, I can hear him for about two or
18 three seconds, and then it goes blank -- blank for
19 about two seconds, and then I can hear him come
20 back in for about two more seconds.

21 And it's been going on since you've been
22 talking. But, I mean, the other stuff isn't really
23 that important. I can catch most of it. But, I
24 mean, you know, if -- when you guys start talking,
25 I can't catch all of your conversation.

1 MR. MAY: Yes. I know, that doesn't make
2 sense.

3 THE WITNESS: Mr. May?

4 MR. MAY: I'm just trying to figure out --

5 THE WITNESS: Mr. May?

6 MR. MAY: -- figure out a solution to this
7 problem. Because on our end, we can hear everyone
8 fine.

9 THE WITNESS: Mr. May?

10 MR. MAY: Yes.

11 THE WITNESS: This is Dr. Salem. I have
12 picked up the receiver and have it on speaker.

13 MR. MAY: Okay.

14 THE WITNESS: So I'm wondering if this is a
15 better situation for Mr. Switlyk.

16 MR. MAY: Mr. Switlyk, can you hear him better
17 now?

18 MR. SWITLYK: I mean, right now -- right now
19 I heard what he just said. So, I mean -- okay, so
20 what he -- he said he fills pain medications?

21 MR. MAY: Yes. Dr. Salem, can you just repeat
22 that whole answer over again, and then we'll see if
23 Mr. Switlyk hears this one?

24 MR. SWITLYK: Let me see if I can catch it.

25 THE WITNESS: Okay. In my present practice,

1 we fill --

2 MR. SWITLYK: It keeps cutting out. It just
3 cut out again.

4 MS. GREEN: Mr. Switlyk, this is Yolanda
5 Green. I think there may be a problem with your
6 phone. Because I know when you tried to get on the
7 line earlier, it was going in and out, and then you
8 were on the phone.

9 Is there another phone that you can use?

10 MR. MAY: Yes, I would be open to taking a
11 short break, if everyone else is okay with it, and
12 see if we can get Mr. Switlyk a different phone.

13 Is that possible for you?

14 MR. SWITLYK: I don't -- I don't know. Let me
15 see. I mean, I could ask my counselor or -- or the
16 unit manager and see if there's another phone.
17 But, I mean, they're -- they're kind of bending the
18 rules already by letting me use this phone here.
19 So let me see what -- let me go ask her, okay?

20 MR. MAY: Okay. Why don't we -- why don't we
21 take a five-minute break and let Mr. Switlyk see if
22 he can --

23 MR. SWITLYK: Or she's there in the next room.
24 Let me -- just hold on. Let me -- let me see what
25 she says. Hold on.

1 MR. MAY: Okay.

2 (Off the record.)

3 MR. SWITLYK: Hello? Hello?

4 MR. MAY: Yes.

5 MR. SWITLYK: Ms. Carlson said that she's
6 going to let me try to use her office phone. So do
7 you want me to wait a couple minutes or just call
8 back now?

9 MR. MAY: Yes. No, we can wait.

10 MR. SWITLYK: I mean, it's up to you. I
11 mean --

12 MR. MAY: Yeah, I guess we can -- why don't we
13 take a few minutes, we can all take a bathroom
14 break, and then reconvene by calling back in to the
15 number.

16 MR. SWITLYK: Okay. All right. I'll have her
17 call back in a couple of minutes on the -- on her
18 phone.

19 THE WITNESS: Mr. May, do you want me to hang
20 up or just put the phone down?

21 MR. MAY: Yes, you and I can stay on the line,
22 and then he can hang up and call back in from a
23 different phone.

24 THE WITNESS: Okay.

25 MR. SWITLYK: All right. Sounds good.

1 THE WITNESS: I'm going to step away just for
2 a couple of minutes, okay?

3 MR. SWITLYK: Okay. Sounds good.

4 (Off the record.)

5 MR. MAY: Let me see if Mr. Switlyk can hear
6 you better. I will have you repeat the whole
7 answer you gave.

8 BY MR. MAY:

9 Q And I believe my question was whether you've
10 had any experience in pain management through your
11 career?

12 A Mr. May, I have worked in community pharmacies
13 and have supervised community pharmacies. In my
14 present practice, we fill approximately a hundred
15 prescriptions a day for various pain medications, so I
16 am very familiar with the prescription requirements for
17 pain medications.

18 Q Okay. What are some of those prescription
19 requirements?

20 A Name --

21 Q Like what --

22 A I'm sorry.

23 Q You can continue.

24 A The name, the address, the drug name,
25 strength, quantity, DEA -- signature of the physician,

1 DEA number, date, et cetera.

2 Q Can you explain the DEA number and all that?
3 Is that a privilege that's granted to pharmacists?

4 A No, that's a privilege granted to physicians.
5 A DEA number is required for a physician to prescribe
6 controlled substances.

7 Q Okay. But, correspondingly, there's also some
8 sort of privileges granted to pharmacists to be able to
9 interpret those scripts and then order the drugs?

10 A That is correct. You have to have a DEA --
11 you have to have a pharmacy license, obviously, and
12 then you must obtain a DEA permit in order to order
13 those medications. And the other --

14 Q Those are --

15 A I'm sorry. And the other part of this is
16 determining the appropriateness of the prescription to
17 make sure it is for a viable reason, in addition to the
18 paperwork requirements that I mentioned earlier.

19 Q Okay. So as a pharmacist, it's expected of
20 you to be able to analyze and interpret a prescription
21 to determine whether it's legitimate?

22 A That is correct.

23 Q What are some of the factors that go into
24 determining whether a prescription is illegitimate?

25 A Some of the factors that may be involved in

1 that include the appearance of the patient, the --
2 whether they're paying cash or check or credit, whether
3 they're local or not in the area or potentially out of
4 state, the physician that wrote it and whether in your
5 practice you're getting a large volume of controlled
6 substances from that particular physician, and is that
7 physician in the practice of pain management are just a
8 few of the more common issues involved in filling a
9 controlled substance prescription.

10 MR. SWITLYK: Hey, Mr. May? Hello?

11 MR. MAY: I'm here. I can hear you.

12 MR. SWITLYK: Yes. Hey, can I object to
13 things he answers to or can I interject and, you
14 know -- you know --

15 MR. MAY: Yes.

16 MR. SWITLYK: -- to things he says? Or how
17 does that work?

18 MR. MAY: So the way it works is, if you
19 believe that an answer is -- a question or an
20 answer is something objectionable, you can make an
21 objection at that point and argue why.

22 And -- but Dr. Salem -- since this isn't an
23 actual court proceeding, this is a deposition, Dr.
24 Salem still has to answer the question. And then
25 whether or not it's admitted into evidence, the

1 judge decides that later.

2 But if you have an objection, you need to make
3 the objection so it's preserved for the record so
4 the judge can see whether or not it's admissible as
5 evidence.

6 MR. SWITLYK: Okay. So -- so -- but what
7 about when he doesn't answer and, you know --

8 MR. MAY: Like if you just objected to what he
9 said, you can say you object to his answer, what he
10 answered.

11 MR. SWITLYK: Okay. I object to his answer.

12 MR. MAY: And do you -- can you provide a
13 reason for your objection? When you object, you
14 have to say why you're objecting so that way the
15 judge can know, you know -- so then the judge can
16 decide whether or not --

17 MR. SWITLYK: I mean -- I mean, as far as what
18 he's saying about the controlled substances, when
19 patients fill, you know, controlled substances, I
20 mean, he's -- the way he's saying his answer is
21 like anybody who paid cash or comes from a
22 different area or another pharmacy, he's pretty
23 much saying that they're not legitimate, or if
24 they're -- if they're high quantities.

25 I mean -- and, you know, the state of Florida

1 licenses thousands of pharmacies that the majority
2 of their operations are based on that.

3 MR. MAY: Okay. I understand your objection.
4 But also, when you make an objection, you can't --
5 you're introducing your own testimony, which is
6 fine at your hearing.

7 But right now, when you make an objection, you
8 have to just say "objection," and then say, you
9 know -- I mean, I can't tell you how to object.
10 But, you know, say like he has no personal
11 knowledge, he doesn't have enough knowledge on
12 this, or something. And then what you have
13 provided, later, you can say that at your hearing.
14 I don't know if that makes sense.

15 MR. SWITLYK: Okay. Well, I guess, objection,
16 he doesn't have enough personal knowledge in this
17 area. I mean, he hasn't worked at independent
18 pharmacies, you know, like the ones that -- or that
19 -- you know, plenty of them are, you know, licensed
20 and operating still to this day in Florida.

21 MR. MAY: Okay.

22 MR. SWITLYK: Hello?

23 MR. MAY: Yes, we're still here. I'm still
24 trying to form the next question.

25 BY MR. MAY:

1 Q Okay. So I am going to go back to my previous
2 line of questions then. Were the materials, Dr. Salem,
3 that you received from the Department of Health, were
4 they sufficient for you to perform an analysis and
5 render an opinion on this matter?

6 A Yes.

7 Q Did you review the Administrative Complaint
8 against Mr. Switlyk?

9 A Yes.

10 Q Generally, do you understand what the
11 Administrative Complaint alleges?

12 A Yes. I have seen hundreds of these -- of
13 these during my -- excuse me, let me get some -- I'm
14 out of water. I've seen -- excuse me again -- hundreds
15 of these during my tenure on the Board of Pharmacy.

16 Q Okay. Can you -- can you specifically provide
17 ---state what you reviewed in the case file?

18 A I reviewed --

19 Q What were some of the documents that were
20 provided to you?

21 A Most of the documents related to the criminal
22 complaint. It was a summary of exhibits.

23 MR. SWITLYK: Hey, he cut out. I'm sorry,
24 what did he say?

25 BY MR. MAY:

1 Q Can you repeat that, Dr. Salem?

2 A I said I --

3 MR. MAY: I don't know if he cut out or he
4 might have been taking a pause.

5 MR. SWITLYK: Okay.

6 MR. MAY: I think he --

7 THE WITNESS: Yes, I'm trying to talk fairly
8 slow for the benefit of the court reporter and to
9 make sure that there's no pause here.

10 Much of the material that I reviewed is the
11 type of material I would -- I would have reviewed
12 if I were still on the Board of Pharmacy.

13 It's the Department of Health's complaint
14 file. It's the voluntary relinquishment; proposal
15 for the Department of Health I reviewed, which
16 summarized much of the criminal complaint; and
17 other evidence.

18 BY MR. MAY:

19 Q Okay. So included in the criminal documents
20 there was -- you reviewed the indictment?

21 A Yes, I did.

22 Q You reviewed the plea agreement?

23 A Yes.

24 Q You reviewed the judgment?

25 A Yes.

1 Q Okay. Can you briefly describe the crimes and
2 the subsequent pleas that Mr. Switlyk entered?

3 A Well, Mr. Switlyk was involved in a criminal
4 enterprise where he was involved in several pain
5 clinics as well as pharmacies in the filling of
6 thousands of prescriptions for OxyContin that were
7 inappropriate prescriptions.

8 MR. SWITLYK: Hold on. I object. I don't
9 think in that plea agreement it said anything about
10 being involved in pain clinics, I think it just
11 said the pharmacy.

12 MR. MAY: Okay. And --

13 MR. SWITLYK: And that was hanging out between
14 the indictments and the plea. Because I didn't
15 have any involvement in those pain clinics. That,
16 you know, was part of the conspiracy.

17 BY MR. MAY:

18 Q And so specifically in the indictment --

19 MR. SWITLYK: I know that's what that
20 indictment said. But, I mean, I know that's -- I
21 know that's what -- that's not what my plea said.

22 BY MR. MAY:

23 Q Okay. In Mr. Switlyk's plea agreement, did he
24 plead guilty to the distribution -- or possession with
25 intent to distribute quantities of controlled

1 substances?

2 A Is that question to me?

3 Q Yes, that's to you.

4 A Yes.

5 Q Okay. And in your opinion as a community
6 pharmacist, is respect for the public trust essential
7 to the practice of pharmacy?

8 A Yes.

9 Q Is integrity essential to the ability to
10 practice pharmacy?

11 A Yes.

12 Q Okay. Have you personally rendered an opinion
13 regarding respondent?

14 A Yes, I have.

15 Q Do you have an opinion as to whether the
16 crimes to which respondent pleaded guilty to are
17 related to the practice of pharmacy?

18 A Yes, I believe they are.

19 Q Okay. What is your opinion?

20 A My opinion is that Mr. Switlyk violated the
21 public trust, and also placed many patients in harm's
22 way, and I don't believe he should be --

23 Q How is -- how is the distribution of
24 oxycodone, how does that place a patient's health in
25 harm's way?

1 A Well, you have a lot of patients who obtained
2 pain medication that were not legitimate pain patients.

3 Q Okay.

4 MR. SWITLYK: I object. How would he know
5 that they're not legitimate?

6 MR. MAY: Your objection is noted.

7 BY MR. MAY:

8 Q So going back to your review of the plea of
9 guilty. Is that related to -- is that related to the
10 practice of pharmacy?

11 A Yes.

12 Q Okay. And how did you reach your opinion?

13 A I reached my opinion based on the evidence
14 presented and my experience as a community pharmacist
15 as well as my experience on the Board of Pharmacy where
16 I saw similar cases.

17 Q Okay.

18 MR. SWITLYK: Hello?

19 MR. MAY: Yes, we're still here.

20 MR. SWITLYK: Oh.

21 BY MR. MAY:

22 Q Okay. So I interrupted you at one point when
23 you were explaining why you believed the guilty pleas
24 were related to the practice. Can you continue?

25 A Well, one of the primary objectives in holding

1 a pharmacy license is upholding the public trust, and I
2 believe that the public's trust was violated in this
3 case.

4 Q And you're basing that off of your experience
5 and reviewing the case file, which includes the guilty
6 pleas?

7 A That is correct.

8 Q Okay. And so you believe that the crimes that
9 the respondent pleaded guilty to breached the public
10 trust?

11 A Absolutely, yes.

12 Q Do you believe -- based on the criminal pleas,
13 what is your opinion of Mr. Switlyk's judgment as it
14 relates to the practice of pharmacy?

15 A I believe he used extremely poor judgment in
16 his practice.

17 Q Okay. Do you believe that the pleas he
18 entered bear any -- do they have any effect on his
19 integrity as a pharmacist?

20 A I think they clearly demonstrate -- put into
21 question his integrity in the practice of pharmacy.

22 Q Okay. Why is it important for patients to
23 have trust in their pharmacists? Why is it important
24 for a pharmacist to have integrity?

25 A Well, you're in the position of dealing with

1 very addictive drugs in your practice in terms of
2 controlling those and making sure they are dispensed to
3 appropriate patients for appropriate reasons, and it's
4 clear to me from this file that that trust was
5 violated.

6 Q Okay. As a pharmacist, is it possible for a
7 pharmacist to give out a controlled substance on an
8 illegitimate script on accident?

9 A On accident? Sure.

10 Q Is that feasible?

11 A Yes.

12 Q Okay. But based on the level of trafficking
13 that occurred in this particular case, is it, in your
14 opinion, an accident?

15 A I believe there was a clear intent in this
16 case well beyond any accident. With the volume and
17 number of prescriptions dispensed, there's no question
18 in my mind that there was a clear intent here to
19 dispense controlled substances in an inappropriate
20 manner.

21 Q And you can tell that by the money that was
22 derived from it?

23 A Well, you can derive that from the money, yes.
24 The money is one aspect of it.

25 Q Okay. Do you believe that Mr. Switlyk's

1 actions were dishonest?

2 A Yes.

3 MR. MAY: Okay. I don't have any other
4 questions.

5 Yolanda, do you have any questions you want to
6 ask?

7 Okay, my co-counsel has a couple of questions
8 she wants to ask.

9 MS. GREEN: Just a few moments.

10 (Off the record.)

11 MR. MAY: We're just going to ask three or
12 four more questions now.

13 BY MR. MAY:

14 Q All right. So, Dr. Salem, do you believe that
15 the plea entered on September 5th, 2012, in Case Number
16 8:10-cr-530-P33AEP, in the United States District Court
17 for the Middle District of Florida, wherein respondent
18 pled guilty to one count of attempting or conspiring to
19 commit any offense defined in this subchapter, a felony
20 in violation of 21 U.S.C. 846, do you believe that that
21 plea of guilty is related to the crime of -- that that
22 plea of guilty is related to the practice of pharmacy?

23 A Yes.

24 Q Also, on September 5th, 2012, do you believe
25 that the plea of guilty to two counts of knowingly

1 engaging in monetary transactions and affecting
2 interstate and foreign commerce and criminally derived
3 property of a value greater than \$10,000, that property
4 having been from a specified unlawful activity, namely,
5 conspiracy to traffic in controlled substances,
6 felonies in violation of 18 United States Code 1957, do
7 you believe that those guilty pleas are related to the
8 practice of pharmacy?

9 A Yes, I do.

10 MR. SWITLYK: I object. I don't -- I don't
11 see how that crime is related to pharmacy.

12 MR. MAY: Okay. Your objection is noted.

13 MR. SWITLYK: Okay.

14 BY MR. MAY:

15 Q And then, in summary, based on your experience
16 as a community pharmacist and your educational
17 background and your service on the Board of Pharmacy,
18 amongst other professional organizations, do you
19 believe that based from the case file and -- do you
20 believe from the case file that these crimes violated
21 the public trust and were -- and affected respondent's
22 integrity?

23 A Yes.

24 Q Okay.

25 MS. GREEN: And, Dr. Salem, just finally, I

1 just want to make sure the record is clear. So
2 basically, to sum up, it is your opinion that the
3 respondent's crimes are related to the practice of
4 pharmacy because they violate the public trust, and
5 it involved patient harm, and it involved his
6 ability to exercise sound judgment; is that
7 correct?

8 THE WITNESS: That is correct.

9 MS. GREEN: Thank you very much.

10 Mr. Switlyk, if you have any questions for the
11 witness, you can ask those right now.

12 MR. SWITLYK: Okay.

13 **CROSS-EXAMINATION**

14 BY MR. SWITLYK:

15 Q I'm sorry, how do you say your last name?
16 Salem?

17 A Salem (different pronunciation).

18 Q Salem. Okay. Okay, Mr. Salem.

19 So you reviewed, I guess, this case of
20 Department of Health. Were you -- I guess -- I'm sure
21 you were compensated, correct?

22 A I have not been compensated as of yet, but
23 there is a fee associated with this.

24 Q Okay. How much do you estimate the fee will
25 be at the end of this process?

1 A Less than \$1,000.

2 Q Okay. And you said you were -- you were on
3 the Board of Pharmacy for eight years?

4 A Yes, I was.

5 Q So you saw similar cases to this one?

6 A Yes, I did.

7 Q Great. Any cases that were -- that you can
8 think of off the top of your head that, you know -- and
9 you can remember what the punishments were as a result
10 of the cases as -- as far as their license went?

11 A Cases like this, through my experience,
12 resulted in revocation of their license.

13 Q Okay. But have any -- have any been allowed
14 to keep their license or been suspended for a certain
15 number of years?

16 A My recollection of any case approaching these
17 types of violations resulted in revocation of their
18 license, which is a permanent decision.

19 Q What -- what years were you on the Board of
20 Pharmacy?

21 A I was on the Board of Pharmacy from 2003 until
22 2011.

23 Q Were you a member of the Board of Pharmacy
24 when Andy Mobley had a complaint against him?

25 A I don't recall that name.

1 Q What about Brian Wheeler?

2 A I do not recall that name either.

3 Q Okay. I mean, these are just two pharmacists
4 that had similar cases where they were involved in
5 controlled substance infractions and they both were
6 allowed to keep their licenses. But I know it happened
7 within the last 10 to 15 years.

8 MR. MAY: And you're interjecting testimony in
9 there.

10 MR. SWITLYK: Okay. All right.

11 BY MR. SWITLYK:

12 Q You said you were never convicted of a felony.
13 Were you ever arrested before?

14 A No.

15 Q Okay.

16 MR. MAY: I'm going to object to that
17 question.

18 MR. SWITLYK: Okay. I mean, I know you asked
19 him all these other things, so --

20 MR. MAY: Yes. No, I'm objecting on
21 relevance.

22 MR. SWITLYK: Okay.

23 BY MR. SWITLYK:

24 Q You said you testified -- or testified for a
25 couple of cases in the past?

1 A Yes.

2 Q Okay. But you don't remember if -- you don't
3 remember what they were about?

4 A No, I do not. As I indicated, I did no expert
5 testimony work during my eight years on the Board of
6 Pharmacy. And for two years after you leave the board,
7 you're not allowed to appear before the Board of
8 Pharmacy and testify. So I waited -- so it's been at
9 least 10 years before I have -- since I've done
10 anything.

11 Q But none of the cases that you testified to, I
12 guess, more than 10 years ago, none of them had to do
13 with, I guess, controlled substance infractions?

14 A I do not recall.

15 Q You don't recall. Okay.

16 Can you explain how you feel that patients
17 were placed in harm's way by, I guess, you know,
18 controlled substances that were dispensed, you know,
19 to -- I guess during the conspiracy, the alleged
20 conspiracy?

21 MR. MAY: I'm going to object. He doesn't
22 have personal knowledge on this particular
23 conspiracy. But all other -- but maybe if you
24 could phrase the question as to --

25 MR. SWITLYK: Okay.

1 MR. MAY: -- patient harm in general from
2 conspiracy to traffic.

3 MR. SWITLYK: All right. I mean, he said that
4 -- he said that -- earlier, when you asked him a
5 question, he said something about how the public
6 trust was violated and many patients were placed in
7 harm's way.

8 MR. MAY: Yes. But my intent of that question
9 was a general question of whether patients are
10 harmed in a conspiracy to traffic. And then I know
11 he doesn't have any personal knowledge of the
12 patients in this particular case.

13 MR. SWITLYK: Okay.

14 MR. MAY: But Dr. Salem still needs to answer
15 the question.

16 MR. SWITLYK: Okay.

17 THE WITNESS: Could -- could you --

18 BY MR. SWITLYK:

19 Q I can repeat the question. Do you want me to
20 repeat it?

21 A Please.

22 Q Yes. Okay. So when you -- when you said
23 earlier about patients being placed in harm's way, how
24 are patients -- I guess, you know, he said -- I was
25 saying in my alleged conspiracy. But, I guess, in a

1 conspiracy similar to this, in general, how are
2 patients exactly placed in harm's way?

3 A If patients are getting controlled substances
4 for use -- for use where the use is not a -- an
5 appropriate diagnosis, there is great potential for
6 harm to occur to that patient, or, potentially, if they
7 are using those medications to provide to other
8 patients, then the potential harm is enormous.

9 Q But as far as my alleged conspiracy, the
10 patients that received controlled substances, you're
11 not aware of anybody being harmed by any of that,
12 correct?

13 A I have not interviewed --

14 MR. MAY: I'm going to object. In this
15 personal instance, he doesn't have -- he doesn't
16 have personal knowledge of your particular alleged
17 conspiracy.

18 MR. SWITLYK: Okay. But, I mean, there hasn't
19 been any documented evidence in my entire case of
20 anybody being placed in any harm.

21 MR. MAY: I mean, you're interjecting
22 testimony.

23 But, Dr. Salem, you need to answer his
24 question. You can answer his question.

25 BY MR. SWITLYK:

1 Q My question was, did you have any knowledge of
2 any particular patients being placed in harm's way as a
3 result of my alleged conspiracy?

4 A I am not aware of any personal harm to any of
5 the patients that were involved in your case. I've not
6 interviewed them at all.

7 Q All right. And also, as far as the amount of
8 prescription -- the amount of pills or what
9 prescriptions a patient receives and presents to the
10 pharmacist, doesn't that responsibility lie in the
11 doctor that's prescribing the medication, you know,
12 first and foremost?

13 A I could not disagree with that statement more.
14 A pharmacist has the responsibility of validating that
15 that is an appropriate prescription, which goes well
16 beyond the piece of paper that you're -- that you're
17 handed. You must determine is it being used for an
18 appropriate reason, is the physician -- is there a
19 patient-physician relationship, some of the things that
20 I mentioned earlier.

21 Just because a pharmacist is presented with a
22 piece of paper or a prescription that has all the
23 relevant information on it, it does not mean that it is
24 a legitimate prescription. And I cannot emphasize that
25 enough.

1 Q But if a patient went and saw a doctor and,
2 say, the doctor specializes in pain management and the
3 patient has a relationship with that doctor and then he
4 takes that prescription to a pharmacy, you know, why --
5 why wouldn't that -- why would the pharmacy object to
6 filling it?

7 A It would depend upon the circumstances of: Is
8 that -- is that physician involved in a legitimate
9 practice? What are the types of quantities that you're
10 receiving? What are the types of medications you're
11 receiving?

12 Q All right. Well, say, during the time period
13 of my alleged conspiracy, I mean, I'm sure you -- are
14 you aware of all the pain clinics that were open during
15 the time frame, right, in the state of Florida?

16 A I was on the Board of Pharmacy during the
17 heart of the pain clinics and patients coming from out
18 of state to get their narcotic prescriptions filled in
19 Florida. If you recall, I was on the board from 2003
20 through 2011.

21 Q Yes. And --

22 A I saw --

23 Q Oh.

24 A If I could finish my statement.

25 Q All right.

1 A I saw many cases related to this particular
2 problem very similar to this case.

3 Q Okay. And what kind of quantities, though --
4 well, since my conspiracy is dealing with oxycodone,
5 what kind of quantities of prescriptions, in general,
6 were being dispensed then by, you know -- or prescribed
7 and dispensed back then for each patient?

8 A I'm not sure what your question is.

9 Q Like what quantities of oxy- -- what quantity
10 tablets for each -- like on average on each
11 prescription? I mean, I'm not sure if you have
12 experience with that or not. But, you know, during
13 that time frame, say 2008, 2009, 2010, for, you know,
14 the majority of the oxycodone prescriptions, what kind
15 of quantities were they being written for back then?

16 A Are you talking about --

17 MR. MAY: I object to the lack of personal
18 knowledge. And also, the question is confusing.
19 I'm still not clear whether you're asking in
20 general or as to your particular case.

21 MR. SWITLYK: Well, I mean -- well, in
22 general, really. I mean, in general, in the state
23 of Florida, I mean, there is -- I mean, that's what
24 was kind of accepted. That's what I'm trying to
25 get at. Like it's kind of accepted where all these

1 pain clinics were writing prescriptions for, you
2 know, these quantities on a regular basis like --
3 you know, and the doctor is the one that was
4 determining, you know, what was -- what they felt
5 was right.

6 MR. MAY: Okay. Well, you're interjecting
7 testimony again. You know, my objection is noted,
8 and Dr. Salem can answer your question.

9 THE WITNESS: Can he repeat the question?

10 BY MR. SWITLYK:

11 Q About the quantities. Like, in general, do
12 you have any knowledge of the kind of quantities of
13 oxycodone that were being written by the doctors back
14 then and filled by the pharmacies back then on a
15 regular basis?

16 A Well, I'm sure the quantities varied from very
17 small quantities to very large quantities.

18 Q Well, I understand. But, I mean, do you have
19 any knowledge of the average -- of the average
20 quantities back then?

21 A I have not done any statistical work to know
22 the exact average quantity of a narcotic prescription
23 dispensed over a period of time.

24 Q Okay. One of the things you said was that,
25 based on the quantity of the oxycodone written on a

1 prescription, that you think that a pharmacist would be
2 able to determine if it's legitimate or not based on
3 the quantity. That's one of the main things you said,
4 correct?

5 A No, that's not what I said. I said that's one
6 factor that should be taken into consideration in
7 determining if that prescription is legitimate is the
8 quantity that it's written for. That's one factor.

9 Q So can you please clarify that? What type
10 of -- like can you please give me some numbers?

11 A I would say if it's over a hundred, or 50 to a
12 hundred, that would at least raise my concern of what
13 the patient was using it for.

14 Q 50 to a hundred pills per month?

15 A No. You asked the question, I believe, was if
16 you received a prescription.

17 Q Okay. Hello?

18 A Yes. And I gave you --

19 Q Yes.

20 A -- an answer.

21 Q Okay. When you fill prescriptions at your
22 pharmacy now, what -- do you fill prescriptions for
23 oxycodone?

24 A Yes, we do.

25 Q Okay. And on average, what are the quantities

1 per month for those prescriptions?

2 A Well, my practice, particularly in the nursing
3 home business, is a little bit different than a
4 traditional community practice in that we can partially
5 fill C2s in my practice, which is not allowed in the
6 typical community practice.

7 Q Okay. And so -- so what does that usually
8 come to, you know, per month or average out per day or
9 per week?

10 A If you could be more specific, Mr. Switlyk, I
11 would be happy to answer your question.

12 Q Yes. My question was, you know, how many
13 pills per month do these patients that you fill
14 oxycodone for usually get? What is the quantity?

15 A It varies from one or two a day to maybe four,
16 five, six a day depending on --

17 Q Okay.

18 A -- depending on the pain level of the patient.

19 Q So if -- so if a patient is in pain, you know,
20 you don't object to -- getting six pills a day of
21 oxycodone is unreasonable?

22 A If the patient has a legitimate medical
23 condition that warrants that type of use and is under
24 medical supervision, et cetera, I do not have an
25 objection of that.

1 Q Yeah. And, I mean, six a day comes to about
2 240 -- to 240 a month. And I'm not sure if -- I'm not
3 sure what information you were provided in my case, but
4 I don't know if you're aware -- but are you aware that
5 the quantities of the prescriptions that were filled
6 in --

7 MR. MAY: Objection, you're testifying again
8 in your questioning.

9 MR. SWITLYK: Okay.

10 BY MR. SWITLYK:

11 Q Are you aware that the average quantities of
12 the prescriptions filled at my pharmacy during this
13 time frame was about 240 a month? Or -- or do you have
14 any information on that, or were you given any
15 information about that?

16 A I was not.

17 Q Okay. All right. Let me see here. Were you
18 given any information about -- I mean, about any --
19 hold on a second. I'm trying to see how I want to
20 phrase that.

21 Were you given information about any alcohol
22 abuse I was -- while during this conspiracy by me?

23 A I was not.

24 MR. MAY: I'm going to object on relevancy.

25 MR. SWITLYK: Well, I'm not -- because,

1 remember, you talked about the mitigating factors
2 earlier?

3 MR. MAY: I said that, in your hearing, you'll
4 have an opportunity to present mitigating factors.
5 But the scope of your cross questions are limited
6 to what I asked Dr. Salem.

7 MR. SWITLYK: All right.

8 BY MR. SWITLYK:

9 Q You said that you thought money laundering
10 charges were related to the practice of pharmacy?

11 A I do.

12 Q Okay. Can you explain how you think a money
13 laundering charge would be related to pharmacy?

14 A Well, if the money laundering charge was
15 related to a pharmacy permit that someone owned and was
16 practicing pharmacy, I do believe that's relevant.

17 Q Does it say that in the documents that you
18 received?

19 A That was not your question.

20 Q But I understand that. But pertaining to my
21 case, pertaining to my case, does it say that?

22 A What is your question? Does it talk about in
23 the evidence that I was presented money laundering?
24 Yes, it does. The material I reviewed goes into quite
25 a bit of information about money laundering.

1 Q But the -- as far as the money, though, that
2 was earned by the pharmacy when it was opened, by my
3 pharmacy, there is no documentation proving that it was
4 all illegally earned that you were provided with, was
5 there?

6 A I do not have --

7 MR. MAY: I'm going to object to that
8 question.

9 MR. SWITLYK: Okay. I mean, does he have to
10 answer that, or no?

11 MR. MAY: I believe this is outside of the
12 scope of the direct examination. On direct
13 examination I asked him, you know, what were the
14 pleas entered, and then that was pretty much the
15 end of my question.

16 MR. SWITLYK: All right. Well, let me see if
17 I have any other questions or any notes I have.
18 Hold on.

19 MR. MAY: You're going into -- your questions
20 were going into the -- I'm objecting to the fact
21 that the questions were going to the underlying
22 facts of your case, your criminal case, and we're
23 not trying the criminal case. We don't --

24 MR. SWITLYK: No. Yes, I understand that. I
25 mean, it's just -- you know, it's kind of

1 unfortunate that like a lot of the information,
2 though, is really -- was left out and that he
3 doesn't have that. You know, he may have some
4 different opinions if he had some other information
5 provided to him, that's all.

6 MR. MAY: Okay. Well, I understand what
7 you're saying. But in terms of this experience and
8 things in the business is not relevant. But I'm
9 also -- you're also free to, you know, provide that
10 information at your hearing as you see fit.

11 MR. SWITLYK: All right. Well, I mean, let me
12 see if I can ask him this then.

13 BY MR. SWITLYK:

14 Q Were you provided any information about
15 co-defendants in my case and other people in my case
16 that -- who were threatening me and extorting me to
17 distribute and/or allow the continuing distribution of
18 illegal prescriptions?

19 A I was not.

20 Q Okay. And if that was brought to your
21 attention, would that change your opinions on any of
22 your earlier opinions you stated?

23 A That's very difficult to say. I can only base
24 my opinion based on the evidence that I was provided.

25 Q All right. What if -- what if, for instance,

1 a pharmacist was physically threatened or his family
2 was threatened if he did not comply with the demands of
3 his co-defendants, and -- and if he -- if he did not
4 comply, they threatened to turn him in as well and take
5 him down as well if he did not comply with their
6 demands, would that change your opinion at all?

7 A Again, I can only base my opinion based on the
8 material that was presented to me.

9 MS. GREEN: Dr. Salem, before you answer, I
10 would like to interject an objection on the basis
11 that this is an inappropriate hypothetical. I
12 mean, it does not encompass the facts that are at
13 issue in this case as to whether the crimes to
14 which Mr. Switlyk pled guilty are related to the
15 practice of pharmacy.

16 MR. SWITLYK: Well, I object. I think that is
17 relevant to the practice of pharmacy because it --
18 I mean, it -- I mean, it --

19 MS. GREEN: Well, my objection is that your
20 hypothetical was inappropriate because it did
21 not -- it did not encompass the actual facts in
22 this case.

23 MR. SWITLYK: Well, it does. I have -- I
24 actually have evidence of that.

25 MS. GREEN: The factual allegations in the

1 Administrative Complaint which are whether you
2 engaged and whether you pled guilty to a crime
3 related to the practice of pharmacy. The
4 underlying reasons for which you pled guilty are
5 not at issue here. The only thing -- the only
6 issue that we are able to address at this time, in
7 this proceeding, are related to the allegations of
8 the Administrative Complaint.

9 And, of course, as you indicated, you may want
10 to place that information on the record on the
11 26th, when we have the actual hearing. But right
12 now, I'm objecting to your inappropriate
13 hypothetical.

14 MR. SWITLYK: Well, I mean, the only reason I
15 asked that is because, if he's an expert witness
16 and his opinion might change based on the
17 circumstances --

18 MS. GREEN: Right. But my objection is on the
19 record. And you can go on.

20 THE WITNESS: As I have previously stated, I
21 can only base my recommendation on the evidence
22 that I have reviewed.

23 BY MR. SWITLYK:

24 Q Have you had any cases when you were working
25 as -- on the Board of Pharmacy where an individual in a

1 similar case had a substance abuse problem?

2 A If you --

3 MS. GREEN: Objection.

4 THE WITNESS: Should I go ahead and answer it?

5 MS. GREEN: You may answer, Dr. Salem.

6 THE WITNESS: It's difficult for me to recall
7 cases that at least are over two years old.

8 BY MR. SWITLYK:

9 Q Do you recall if -- any similar cases when you
10 worked for the Board of Pharmacy, if a person did have
11 a substance abuse problem, if the outcome or the
12 penalties were different?

13 A Well, there's not been a -- to my knowledge,
14 there's not been a disposition on your license as of
15 yet. Is that not correct?

16 Q Correct.

17 A So I can't -- I can't answer your question.

18 Q No. My question was, when you were working at
19 the Board of Pharmacy and you heard similar cases like
20 this represented to you, you know, about controlled
21 substances being distributed incorrectly, if the person
22 that was responsible who had the medical license, if
23 they -- if they had a substance abuse problem, did they
24 get different penalties or suspensions compared to if
25 they didn't when the, you know --

1 A Mr. Switlyk --

2 Q -- practice was going on?

3 A -- I think I can answer your question. In my
4 tenure on the board, I think I fairly consistently
5 ruled if -- if someone had a substance abuse problem
6 and they were diverting medications for their own
7 personal use and were enrolled in a PRN program, there
8 was a chance for rehabilitation and that person
9 maintaining their license. Personally I --

10 Q What --

11 A May I continue answering my question?

12 Q Yes. I'm sorry. Go ahead.

13 A However, I had no tolerance in my eight years
14 on the board where I saw diversion of controlled
15 substances which I thought were for profit or in
16 situations like this case and voted numerous times to
17 revoke pharmacy licenses and/or permits when in
18 situations like this one.

19 Q Are you aware that I actually went to PRN
20 shortly after this -- my pharmacy -- I voluntarily
21 closed my pharmacy?

22 A I am only -- I can only base what I read here,
23 and there's no -- there's nothing about PRN in this
24 documentation.

25 Q Okay.

1 A But as I've said, if the diversion was for
2 personal use and they -- and this case is much
3 different than that.

4 Q Have you had any cases where a person who was
5 in a situation like me cooperated against other
6 individuals who were still actively participating in
7 criminal activities related to controlled substances
8 who are still licensed under the Department of Health?

9 A Mr. Switlyk, it's very difficult for me to
10 recall specifics of cases that are at least two to two
11 and a half years old.

12 Q I'm not asking you to recall them, I'm just
13 saying in general. In general, have you had anybody
14 cooperate against other medical professionals in order
15 to, you know, lessen their penalties or anything like
16 that? While you were on the board for the whole eight
17 years, have you had anything -- anything like that that
18 went on?

19 A I feel certain there may have been cases like
20 that, but I cannot recall.

21 MR. SWITLYK: Okay. I don't think I have any
22 other questions really. Hello?

23 MR. MAY: Yes, we're still here. I think
24 we're going to do a few follow-up redirect
25 questions.

REDIRECT EXAMINATION

1

2 BY MR. MAY:

3 Q So in your time on the board, Dr. Salem,
4 approximately, you know, how many cases do you think
5 you saw? In terms of did you see more than 1,000, more
6 than 2,000, more than 3,000 cases? Or is it hundreds,
7 is it thousands?

8 A Thousands. I was just doing some quick
9 calculations. It would be in the thousands.

10 Q Okay. So, I mean, is it possible to remember
11 all of the names of those cases and all of their
12 underlying facts?

13 A No, it is virtually impossible.

14 Q Okay. But you spoke earlier that it's a -- do
15 you believe it's a pharmacist's -- part of a
16 pharmacist's ethics to review a prescription to see if
17 it's legitimate?

18 A Yes, I do.

19 Q Do you think it's the pharmacist's primary
20 role or do you think it's the doctor's? Who's more at
21 fault for -- in the situation? Is it the doctor
22 writing a bad script, or is it the pharmacist accepting
23 it, or is it equally?

24 A I think both are responsible to ensure the
25 prescription is legitimate.

1 Q You also said, in relating to Mr. Switlyk's
2 case, that you don't have any personal knowledge
3 relating to any patient harm in his particular case; is
4 that correct?

5 A I don't have any personal knowledge of patient
6 harm, that is correct.

7 Q But you did say that you believe there's a
8 potential for harm from -- based on the guilty pleas?

9 A Yes, I did.

10 Q Potential for patient harm -- well, is there a
11 potential for patient harm based on the guilty pleas?

12 A I think there's -- there was tremendous
13 potential for patient harm based on the quantities
14 dispensed, the out of state. The conspiracy involved
15 where many of these patients were from out of state and
16 taking these medications potentially back to their home
17 states and selling them, I think there was great
18 potential for patient harm.

19 Q Okay. And do you feel comfortable knowing
20 that if you don't have any personal knowledge of actual
21 patient harm but stating that there's a potential for
22 patient harm, are you -- do you feel comfortable making
23 an opinion on Mr. Switlyk's case based on that?

24 A Yes, because -- because patient harm is not
25 the overriding factor. It was the fact that

1 illegitimate prescriptions were filled.

2 Q And part of -- do you believe it's part of a
3 pharmacist's ethics to ensure -- to minimize potential
4 patient harm?

5 A Yes. It's just not my opinion that the -- if
6 you read the Board of Pharmacy regulations, you are
7 required to go through this process to make sure the
8 prescription is legitimate.

9 MR. MAY: Okay. Can I have one minute?

10 MR. SWITLYK: Hey, can I ask one quick
11 question as well?

12 MR. MAY: Well, right now, we're asking him
13 questions.

14 MR. SWITLYK: Oh, okay. I'm sorry, I thought
15 you were done. Okay. No problem.

16 MR. MAY: When we're done, you can do a
17 recross of him.

18 MR. SWITLYK: Oh, okay. No problem.

19 THE WITNESS: Mr. May?

20 MR. MAY: Yes.

21 THE WITNESS: Can I step away for about 30
22 seconds to a minute?

23 MR. MAY: Yeah, sure. That sounds good.

24 THE WITNESS: I'll be right back.

25 (Short break.)

1 MR. MAY: We don't have any more questions.
2 Mr. Switlyk can do a recross. But I would just
3 like to note that his recross is limited to the --
4 to the scope of the questions I asked on my
5 redirect.

6 MR. SWITLYK: I can't ask any questions that
7 don't have to do with your questions, the last
8 questions?

9 MR. MAY: They have to be related to them,
10 yes. And you can ask your question, and if I don't
11 think --

12 MR. SWITLYK: I mean, I'm going to ask: Have
13 you ever worked for an independent retail pharmacy?
14 Is that --

15 MR. MAY: That's fine.

16 THE WITNESS: Yes.

17 **RECROSS-EXAMINATION**

18 BY MR. SWITLYK:

19 Q Okay. When you worked at an independent
20 retail pharmacy, have you ever denied filling a
21 prescription for a patient who brought it in for
22 oxycodone?

23 A In that independent community practice?

24 Q My question is, has a patient ever brought a
25 prescription for oxycodone in to you and you felt it

1 was not legitimate in some way or another and you
2 denied filling it or returned it or didn't want to fill
3 it for one reason or another?

4 A Yes.

5 Q Okay. Do you believe that prescription that
6 you denied filling was, you know, likely filled by
7 another retail pharmacy in the area?

8 MS. GREEN: Mr. Switlyk, I'm going to object
9 to that. That's very far outside of the redirect
10 that Mr. May conducted just a few moments ago. If
11 you would like to ask questions within the scope of
12 that redirect, you can continue.

13 MR. SWITLYK: What -- I'm sorry, what were
14 your -- your redirect questions were just about the
15 patient harm. What were the other things?

16 MR. MAY: Potential patient harm and his
17 experience on the board --

18 MR. SWITLYK: Oh.

19 MR. MAY: -- and how many cases he had seen
20 like that.

21 MR. SWITLYK: Well, I mean, it's somewhat
22 related. I mean, I was just going to ask about if
23 -- if the patient filled the prescription that he
24 thought may have been legit -- illegitimate at
25 another pharmacy where another pharmacy filled it

1 and they thought it was legitimate and that patient
2 was harmed or not by getting it filled at another
3 pharmacy. That's what I was going to ask.

4 MS. GREEN: Well, your question is going
5 outside of the redirect.

6 MR. SWITLYK: All right. Well, okay.

7 BY MR. SWITLYK:

8 Q Do you -- Mr. Salem, do you think it's safer
9 for a patient with this type of substance abuse
10 problem, if they're taking oxycodone, do you think it's
11 safer for them to take oxycodone or take heroin?

12 A Is that a relevant --

13 MR. MAY: I'm not sure how this relates to the
14 redirect. And it seems speculative. But he can
15 answer it.

16 THE WITNESS: Without knowing the specifics of
17 the patient, it would be a very difficult question
18 to answer.

19 BY MR. SWITLYK:

20 Q But, I mean, as far as -- as far as drugs,
21 would it be safer for a patient to -- you know, if they
22 could not get their oxycodone because it's been so
23 restricted the last couple of years and they've been
24 taking it for a couple of years and if they're not --
25 it's unavailable to them, if they're able to get heroin

1 to, you know, get the same effects, what do you think
2 would be safer, in your opinion?

3 A I would never suggest a patient take heroin.
4 That's an illegal substance. I would probably urge
5 them to get -- to get treatment under those
6 circumstances.

7 Q Okay. So -- so you agree that heroin is not
8 as safe as taking oxycodone?

9 A Well, clearly, the federal government has
10 ruled that heroin is an illegal substance.

11 Q But -- okay. But isn't oxycodone a derivative
12 of the same type of plant that heroin comes from?

13 MS. GREEN: Again, Doctor -- I mean, Mr.
14 Switlyk, your questions are well outside of the
15 redirect and well outside of the knowledge and
16 experience of this particular expert witness.

17 BY MR. SWITLYK:

18 Q Okay. Are you -- are you aware that the
19 heroin problem in the United States has increased
20 eight-fold in the last three years because of the
21 severe restrictions placed on oxycodone in the past
22 couple of years?

23 MS. GREEN: And objection to the line of
24 questioning.

25 MR. SWITLYK: All right.

1 MR. MAY: I think you're -- you know, I think
2 you're going to the path that you want to introduce
3 testimony. And unless you have any questions that
4 are relating directly to the questions I asked on
5 redirect, I would --

6 MR. SWITLYK: Well, I mean -- I mean, I was
7 just -- the reason I thought it was relevant or
8 kind of to the redirect is because you -- I mean,
9 you keep focusing on how these patients could have
10 been potentially harmed by getting these pain
11 pills. And my point was that the pain pills are a
12 lot safer than what they're doing now, which a lot
13 of them are switching to heroin.

14 MS. GREEN: Objection.

15 MR. SWITLYK: All right. Well, I mean,
16 that's all -- I mean, I don't really have any other
17 questions then. I mean, I just -- I just read an
18 article in the Washington Post about it the other
19 day, and that's why I thought of it.

20 MS. GREEN: The appropriate time for that
21 evidence would be at the hearing on the 26th. It
22 would be outside of the scope of the -- the
23 question that you presented was outside of the
24 scope of the redirect of this witness.

25 MR. SWITLYK: Okay.

1 MR. MAY: Okay. Well, I mean, I think that
2 concludes the -- I mean, yes, as far as I can tell
3 that concludes the deposition in terms of
4 substantive matters.

5 This question is directed to the court
6 reporter. How fast is an expedited transcript with
7 your company? How fast can it be typed up?

8 THE REPORTER: Would you like to have it
9 Monday?

10 MR. MAY: Well, I mean, that would be great,
11 yes.

12 THE REPORTER: Okay. I'll have it to you on
13 Monday, how about by e-mail, and then I'll also put
14 it in the mail on that day. You should definitely
15 have the hard copy by Tuesday.

16 MR. MAY: Okay.

17 THE REPORTER: But I will have it to you
18 Monday by e-mail, if that works for you.

19 MR. MAY: Okay. Well, first, Dr. Salem would
20 have to waive the right to read through the
21 deposition and make any corrections to it.

22 MS. GREEN: But more to the question would be,
23 Dr. Salem, you do have the opportunity to review
24 the deposition transcript to make sure that all of
25 the -- all of your testimony is correct. Do you

1 wish to read your transcript or waive that right?

2 THE WITNESS: I'd like to read it. She's
3 indicated she will e-mail that to me as well. And
4 she has my card and will e-mail it to me as well.
5 But I would like to review it before it becomes
6 final.

7 MR. MAY: Okay. And then, Mr. Switlyk, are
8 you requesting a copy of the transcript?

9 MR. SWITLYK: I mean, I -- yes, actually, I
10 would like a copy of it.

11 MS. GREEN: And then for the court reporter, I
12 guess what you would do is if -- have a discussion
13 with Mr. Switlyk as to what would be required for
14 him to get a copy of the transcript.

15 THE REPORTER: Having never been in this
16 position before, I don't quite know what the
17 procedure is.

18 MS. GREEN: Okay. Is it my understanding that
19 both parties can order their own copies of the
20 transcript?

21 THE REPORTER: Exactly, exactly. I just don't
22 know --

23 MR. SWITLYK: The reporter, if she e-mails it,
24 can I have her e-mail it to like a family member or
25 a friend and they can just put it in the mail to

1 me?

2 THE REPORTER: That would be fine. But there
3 is a cost involved, and I'm not sure how you would
4 want to handle that.

5 MR. SWITLYK: Well, what does it cost to have
6 it e-mailed?

7 THE REPORTER: The cost of the transcript for
8 a copy would, approximately, be \$100.

9 MR. SWITLYK: All right. Well, I don't know
10 how to -- how to proceed. If I -- I'm not sure if
11 I really need it or not. But, I mean, that's
12 e-mail, right? That's not printing it out?

13 MR. MAY: My co-counsel just brought up a
14 point. We'll be entering it as an exhibit, and so
15 we would need to provide it to the opposition -- in
16 this case, Mr. Switlyk -- anyway.

17 THE REPORTER: We will go about it that way.
18 That would just be easier.

19 MR. MAY: That would probably be the best way
20 to do it.

21 THE REPORTER: Yes.

22 (Mr. May conferring with Mr. Switlyk off the
23 record.)

24 MR. MAY: So unless Dr. Salem or the court
25 reporter have any other questions, we can call it a

1 day.

(Witness excused.)

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3 (The deposition was concluded at 12:10 p.m.)
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CERTIFICATE OF OATH

STATE OF FLORIDA)

COUNTY OF DUVAL)

I, ELIZABETH M. MASTERS, certify that RONALD B. SALEM, R.Ph. personally appeared before me and was duly sworn.

WITNESS my hand and official seal this 17th day of March, 2014.

Elizabeth M. Masters
ELIZABETH M. MASTERS, RPR,
Notary Public
State of Florida at Large.



C E R T I F I C A T E


1 STATE OF FLORIDA)

2 COUNTY OF DUVAL)
3
4

5 I, ELIZABETH M. MASTERS, Registered
6 Professional Reporter, and a Notary Public, State of
7 Florida at Large, certify that I was authorized to and
8 did stenographically report the deposition of RONALD B.
9 SALEM, R.Ph.; that a review of the transcript was
10 requested; and that the transcript is a true and
11 complete record of my stenographic notes.

12 I further certify that I am not a relative,
13 employee, attorney or counsel of any of the parties,
14 nor am I a relative or employee of any of the parties'
15 attorney or counsel connected with the action, nor am I
16 financially interested in the action.

17 Dated this 17th day of March, 2014.
18

19 
20 ELIZABETH M. MASTERS, RPR,
21 Notary Public, State of
22 Florida at Large
23
24
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March 17, 2014

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Witness: RONALD B. SALEM, R.Ph.

RE: Department of Health vs. Christopher Switlyk

Dear Dr. Salem:

Please find attached a complimentary copy of your deposition given on March 13, 2014, in the above-styled case. Also attached is the original Errata Sheet.

Would you please read your deposition, making any corrections or additions to the original Errata Sheet, and then forward that page to me at bmasters24@yahoo.com. Any change in form or substance must show the reason for that change.

Due to the upcoming hearing date, please perform this task as quickly as possible. If you have any questions, please do not hesitate to e-mail me. Thank you for your assistance in this matter.

Best regards,

Elizabeth M. Masters
Court Reporter

Enclosure

cc: Lucas May, Esquire
Yolanda Green, Esquire

RONALD B. SALEM
3935 Buckskin Trail East
Jacksonville, Florida 32277
904-744-6895 H 904-733-6099 O

BACKGROUND SUMMARY

Strong leader with specific experience in healthcare, government and education. Comfortable in an environment that requires interactions with clients, vendors, and regulatory agencies. Ability to recognize cost containment opportunities and increase profits.

Specific areas of expertise include:

- New Programs Initiatives
- Financial Management
- Public Relations
- * Cost Containment
- * Business Restructurings
- * Personnel Management
- * Vendor Relations
- * Negotiations
- * Sales Presentations

SIGNIFICANT ACCOMPLISHMENTS

- Awarded Pharmacy of the Year for overall operational success. (2003)
- Awarded Best Annual Growth for southeast region in first year of operation for PharMerica. (1998)
- Completely reorganized St. Vincent's home care agency by reducing the number of case managers from seven to four without compromising quality of service. Additionally, increased number of home visits by 30% in 1993 and 42% in 1994 increasing annual profits by \$200,000.
- Increased revenue of Consolidated Pharmacy Services from \$600,000 to \$3,500,000 over a five-year period. Net profits also increased from \$60,000 to over \$600,000 during the same period. These efforts were accomplished by increasing the number of facilities served from 1 to 18.
- Managed the JCAHO accreditation process for three home care companies that became fully accredited in 1994.
- Implemented a software system for dispatch and billing for a transportation company. Efforts reduced accounts receivable by 42% and increased cash flow by 35%. Additionally, a flat rate per hour payment system was implemented eliminating most benefit costs.



PROFESSIONAL EXPERIENCE

PharMerica, Jacksonville, Florida **1997-Present**
Director

Currently directs the day to day operations of a pharmacy that serves approximately 25 nursing homes and related facilities in North Florida. Activities include preparation of budget, hiring, marketing, and compliance with state/federal regulations.

City of Jacksonville, Jacksonville, Florida **1996 - 1997**
Director, Neighborhood and Community Programs

Directed the day to day activities of the Mayor's Matching Grants program. Facilitated the Citizen Planning Advisory Committee's conducted in six locations throughout the city. Steered conversations to focus on such important items as crime, education, and land use. Interacted with all elected officials as well as city hall representatives and the public at large. Additionally, served as a conduit for communication going to and from the mayor's office.

Baptist/ St. Vincent's Health System, Jacksonville, Florida **1987 - 1996**
Executive Director, Consolidated Health Services

Directed the daily activities of several for profit corporations and the Consolidated Pharmacy of the combined Baptist/ St. Vincent's organization. Managed the activities required to achieve and maintain accreditation. Conducted marketing presentations with potential customers within the local area establishing rapport based on win/win scenarios. Additionally, maintained strong relationships with existing clientele in order to identify and respond to competitor encroachments. Specifically, worked diligently to resolve client issues thus ensuring continued repeat business. Approved hiring decisions of sub-ordinate managers as well as assisted in the positive development of individual employees. Evaluated risk associated with the determination of conducting business affairs. Determined the need for obtaining professional collectors for significantly past due accounts and monitored their efforts to ensure that a positive image was maintained throughout the community. Finally, negotiated numerous contracts with health insurance carriers in order to ensure optimal pricing arrangements were made.

Executive Director St. Vincent's - Consolidated Health Care Services

Managed the daily activities of eight departments servicing the Northeast Florida area with up to 125 employees. Identified opportunities to increase efficiencies and specifically managed the improved automated processes of all department functions.

Provided training support for employees in order to resolve customer complaints in a more expeditious manner as well as improve inter-departmental coordination.
Initiated operations of new services within the health system determining staffing needs as well as reporting relationships.

EDUCATION & PROFESSIONAL TRAINING

Doctor of Pharmacy
University of Florida, Gainesville, Florida

Bachelor's of Science in Pharmacy
University of Florida, Gainesville, Florida

HONORS AND MEMBERSHIPS IN ORGANIZATIONS

Honors

- 2007-2008 Member, University of North Florida Division I Self-Study Steering committee, Appointed by President John Delaney
- 2007 Member, Stormwater Advisory Committee,
Appointed by Mayor John Peyton
Chair, Subcommittee for Adjustments and Credits
- 2003-2011 Member, Board of Pharmacy, Appointed by Governor Jeb Bush
2006 Vice Chairman, Board of Pharmacy
2007/2009 Chairman, Board of Pharmacy
- 2003 Chairman, Neighborhood Transition Team, Appointed by Mayor John Peyton
- 2001- 2003 Chairman, Pharmacy and Therapeutics Committee, Appointed by Governor Jeb Bush
- 2001-Present Chairman, Citizens Advisory Committee for Better Jacksonville Plan,
Appointed by Mayor John Delaney
- 2000 Chairman, Citizens for Better Jacksonville, Appointed by Mayor John Delaney
- 1996 Member, Growth Management Task Force, Appointed by Mayor John Delaney
- 1995 Member, Transition Team for Department of Recreation, Appointed by Mayor John Delaney
- 1987 Outstanding Young Men of America
- 1986 President's Award, Florida Society of Hospital Pharmacists
- 1980 Terrence Flynn Award (Outstanding Graduate, Pharm. D. Class, 1980)
- 1979 Florida Blue Key Honorary Leadership Fraternity
- 1978 Omicron Delta Kappa National Honorary Society

HONORS AND MEMBERSHIPS ON ORGANIZATIONS

Memberships in Organizations

| | |
|---|---|
| Ramallah American Club of Jacksonville Member, Board of Directors | 1995-Present 1996 |
| Young Mens Christian Association Member, Board of Directors | 1988-Present 1995-1996 & 1999-2001 |
| Merrill Road Elementary Parent Teacher's Association President | 1990-2002 1994-1995 |
| Greater Arlington Citizens Planning and Advisory Committee Chairman | 1994-1999 1995-1996 |
| Jacksonville Community Council, Inc. (JCCI) Member, Board of Directors Member, Three Previous Studies Chairman, Implementation Committee, Public Services Study | 1991-2007 1996-1997 1994-1998 |
| Greater Arlington Civic Council | 1990-1998 |
| Northeast Florida Society of Hospital Pharmacists President President - Elect Chairman, Interhospital Relations Committee Member, Resolutions Committee Member, House of Delegates, Annual Meeting | 1983-1987 1985 1984 1983-1984 1983-1986 |
| Colony Cove Civic Association President Vice President | 1983-Present 1992-1993 1991-1992 |
| Florida Society of Hospital Pharmacists Member, Board of Directors Chairman, Clinical Services Committee | 1983-1997 1985-1987 1983-1984 |
| Jacksonville Sports and Entertainment Board Vice Chairman Chairman | 1999-Present 1999-2000 2000-2001 2003-2004 |

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Salem, R.B., and Muniz, C.E.: Treatment of Propoxyphene Dependence with Thioridazine: Report of a Case, Journal of Clinical Psychiatry, 5:179-181, 1980.

Stewart, R.B., Salem, R.B., and Springer, P.K.: Lorazepam Withdrawal: Report of a Case, American Journal of Psychiatry, 137:1113-1114, 1980.

Salem, R.B., Director, K.L., and Muniz, C.E.: Ataxia as the Primary Symptom of Lithium Toxicity: Report of Two Cases, Drug Intelligence and Clinical Pharmacy, 14:622-623, 1980.

Salem, R.B., Wilder, B.J., Yost, R.L., Doering, P.L., and Lee, C.: Rapid Phenytoin Infusion for Administration of Loading Doses, American Journal of Hospital Pharmacy, 38:354-357, 1981.

Gotz, V. and Salem, R.B.: Bullae Associated with Allopurinol, Drug Intelligence and Clinical Pharmacy, 15:490-491, 1981.

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Muniz, C.E., Salem, R.B., Director, K.L.: Case Report: Hair Loss in a Patient Receiving Lithium, Psychosomatics, 23:312-313, 1982.

Salem, R.B.: A Pharmacist's Guide to Lithium Drug-Drug Interactions, Drug Intelligence and Clinical Pharmacy, 16:745-747, 1982.

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Page -2-

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- Salem, R.B., and Stewart, R.B.: Depression from Beta Adrenergic Blocking Drugs, Drug Intelligence and Clinical Pharmacy, 18:741-742, 1984.
- Salem, R.B., Keane, T.M., and Williams, J.G.: Drug Related Admissions to a Veterans Administration Psychiatric Unit, Drug Intelligence and Clinical Pharmacy, 18:74-76, 1984.
- Salem, R.B.: Lithium Intoxication: Case Report and Treatment Review, Florida Journal of Hospital Pharmacy, 2:30-46, 1984.
- Salem, R.B., Doering, P.L.: Clinical Pharmacy Services in Florida Hospitals, the Need for Self-Assessment, Florida Journal of Hospital Pharmacy, 5:37-43, 1985.
- Flint, N., Lopez, L., Robinson, J.D., Williams, C., Salem, R.B.: Comparison of Eight Phenytoin Dosing Methods in Institutionalized Patients, Therapeutic Drug Monitoring, 7:74-80, 1985.
- Sands, C.D., Robinson, J.D., Salem, R.B., Stewart, R.B., and Muniz, C.: Effect of Thioridazine on Phenytoin Serum Concentration: A Retrospective Study, Drug Intelligence and Clinical Pharmacy, 21:267-72, 1987.
- Salem, R.B.: Other interactions Published in Depression and Mania Modern Lithium Therapy, Edited by F. Neil Johnson. IRL Press 1987.

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- Salem, R.B.: The Effect of Sodium Hydroxide on Phenytoin Crystallization (Letter to the Editor), Canadian Medical Association Journal, 125:1212, 1981.
- Salem, R.B., and Lee, C.: Phenytoin Pharmacokinetics - A Clarification, American Journal of Hospital Pharmacy, 39:41-43, 1982.

May, Lucas

From: Troupe, Victor R.
Sent: Friday, April 11, 2014 9:25 AM
To: May, Lucas
Cc: Agett, Babette
Subject: FW: public record request-inmate handbook
Attachments: 2011 Inmate Handbook.pdf

Mr. May

Attached is the inmate handbook

From: Sivik, Sherri [mailto:ssivik@pcsonet.com]
Sent: Friday, April 11, 2014 7:47 AM
To: Troupe, Victor R.
Subject: public record request-inmate handbook

Mr. Troupe:

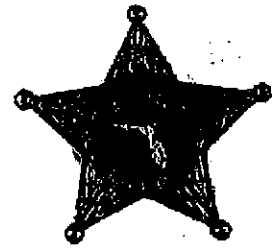
Please find the attached records responsive regarding your public record request April 2, 2014. Please note that the inmate handbook was not updated until 2013, therefore the 2011 handbook is being sent as this was still in effect for 2012. These records were produced without any information excised, exempt or withheld pursuant to Ch. 119. Thanks.

Sherri Sivik, Clerk V
Public Records Processing Unit
Pinellas County Sheriff's Office

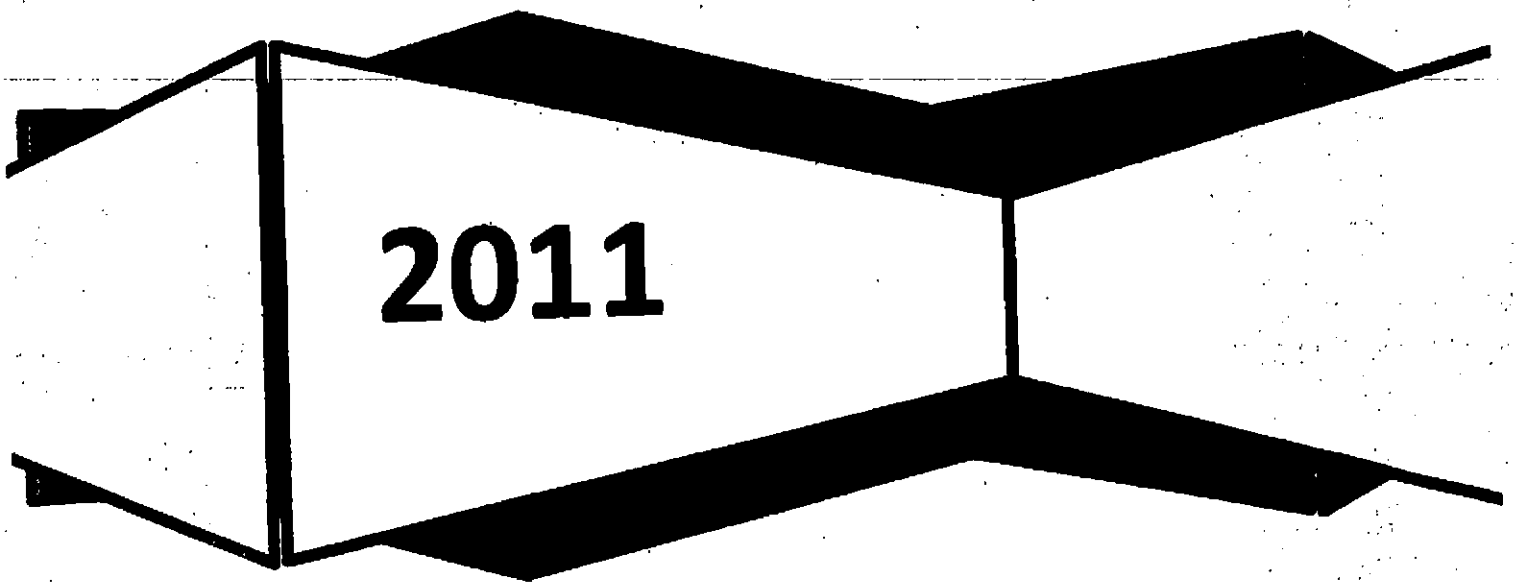
Petitioner's
Exhibit 6

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**Pinellas County Sheriff's Office
Detention and Corrections Bureau**



Inmate Handbook



Revised March 2011



Sheriff Jim Coats

Pinellas County Sheriff's Office

"Leading The Way For A Safer Pinellas"

To The Inmate:

The Florida Legislature has established administrative and operational requirements to be maintained by all county detention facilities. Additionally, the State Jail Standards Committee has established specific operational standards. In Pinellas County, the Sheriff is charged with the responsibility of maintaining the county's jail facilities.

It is my policy that the Pinellas County Jail system shall operate in full compliance with all State Laws and the Florida Model Jail Standards.

The maintenance of a jail that provides safe, secure and sanitary conditions requires the cooperation of all confined persons. Every effort will be made to provide you with adequate confinement and nutrition while you are in jail. Your courtesy and attention to the rights of your fellow inmates will help make your stay in jail less complicated. You are encouraged to take advantage of the library, religious, social and education programs offered to all inmates.

Whether your time here is long or short, I sincerely hope this is your last stay in the Pinellas County Jail.

A handwritten signature in cursive script that reads "Jim Coats".

JIM COATS, Sheriff
Pinellas County, Florida

JC:ds



Sheriff Jim Coats
Pinellas County Sheriff's Office
"Leading The Way For A Safer Pinellas"

To The Inmate:

This Inmate Handbook is provided so you may have a better understanding of the operations, programs and services of the Pinellas County Jail.

It is our objective to provide a secure, safe and sanitary jail. You are expected to assist in this effort by keeping yourself and your living area clean at all times. It is also expected you will respect the rights of your fellow inmates and obey staff charged with your supervision.

Sheriff Jim Coats provides a number of opportunities for inmates to use their time productively. A variety of religious programs and recreational activities are available. In addition, those individuals who can meet the necessary qualifications can use various education and / or training opportunities.

During your confinement in the Pinellas County Jail, the same laws that exist in our society will govern you. Any violation of federal, state or municipal ordinance will result in prosecution of those involved. Any violation of the rules and regulations of the jail will be dealt with appropriately. It is our hope when you leave the Pinellas County Jail system, you will be a better person. It is up to you.

Daniel G. Simovich, Jr., Major
Detention and Corrections Bureau Commander

**PINELLAS COUNTY SHERIFF'S OFFICE
DETENTION AND CORRECTIONS BUREAU
INMATE ORIENTATION HANDBOOK AND RULES**

I. Introduction

- A. The Pinellas County Jail Complex contains several buildings. Each building of the complex has the same mailing address: 14400 49th Street North, Clearwater, FL 33762-2877, Phone (727) 464-6415.
- B. The various housing divisions within the complex house a wide array of inmates, including but not limited to, felons, misdemeanants, females and sentenced inmates. No individual shall be discriminated against because of race, color, national origin, gender or disability. Inmates shall have equal access to all programs and privileges unless deemed to be a threat to the safety of staff, other inmates or the security of the facility. Reasonable accommodations are provided for persons with a disability.
- C. All rules and staff direction must be obeyed. The housing deputies shall direct and control all housing unit activities. Inmates must conduct themselves in an orderly manner at all times with respect to the rights of other inmates and staff.
- D. Emergencies or safety drills can occur that may require inmates to evacuate or relocate to another area. It is important to remain calm and listen to the instructions given by detention personnel. Not following instructions may lead to disciplinary action.

E. SMOKING AND TOBACCO PRODUCTS ARE PROHIBITED.

- F. Searches are necessary to control the introduction of contraband and to prevent escapes. Inmates must comply with the search of their person and personal property at any time. Inmates do not have to be present while staff is conducting a search of their cell area and/or belongings. Inmates will cooperate with deputies to expedite this process.
- G. Each person incarcerated at the Pinellas County Jail must have a photograph and fingerprints taken. Each inmate will be provided with an identification card to wear at all times on the chest area (not on the sleeve), with the photograph showing.
- H. Anytime there is a call for a headcount appearance, inmates are to proceed to their cell location immediately. Inmates are to remain quiet until the count is complete and they are excused. Inmate counts will be at the discretion of the deputies.

II. Booking Process

- A. All non-federal inmates booked into the Pinellas County Jail will be charged an Inmate Subsistence Fee to cover administrative costs.
- B. If an inmate's cash account balance is not sufficient to cover this charge, a lien will be placed against the inmate's cash account. The balance owed will be deducted from any deposits received. The debit balance will be carried for a period of three years from date of release.
- C. The subsistence fee will be refunded to the inmate if he/she produces proof of No Information, Nolle Prose or a "Not Guilty" verdict for the docket number the subsistence fee was collected on. Reimbursement may only be requested provided the inmate has no other cases under that docket number that are pending or adjudicated.
- D. Upon arrival, inmates receive a medical screening. Please inform staff of any special medical or emotional needs during this process. If you have an emergency medical problem, please contact a deputy immediately. He or she will contact the proper medical person to handle your medical problem. For your safety, do not remove your identification card.
- E. At the time of booking, all money in an inmate's possession will be credited to his/her personal inmate account, except for foreign coins and/or foreign paper money which will be placed in his/her personal property. No inmate will keep in his/her possession any money, checks, money orders or any other legal tender. Any unauthorized funds discovered are forwarded to the inmate welfare fund.

- F. During the booking process you will be screened by a nurse, interviewed by classification staff, photographed, fingerprinted and issued a jail identification badge. Identification badges are required to be worn and properly displayed on the chest at all times after issued.
- G. If you are not released on your own recognizance or do not bond out and are assigned housing at the jail, personal clothing will be exchanged and an inmate uniform or alternative clothing will be issued. Make no alterations to clothing. Inmates will be expected to reimburse the facility for intentional damage or loss to clothing.
- H. Bed linens, towels, one drinking cup, soap, one toothbrush, one toothpaste, one comb and footwear (if needed) will be issued. Feminine hygiene items will be provided. Razors will be provided and exchanged daily in accordance with Bureau directives.
- I. A replacement cost will be charged for missing, destroyed or damaged jail issued property or any jail property. It is in your best interest to keep the issued items in good condition.
- J. **Posting Bond/Purging Child Support Payments**

How to post a bond for a Pinellas County Jail Inmate:

If a Pinellas County Jail inmate's charges have a bond amount, the inmate can post a bond or have someone else post the bond to facilitate his/her release.

How to post an inmate's bond using a credit or debit card:

The Pinellas County Jail is now accepting bond payments through the GovPayNow program. Check with a deputy to find out the limit that may be charged. The limit is on a per charge basis, and not applicable to any charge with a bond over the allowed limit. Be advised a non-refundable service fee to GovPayNow will be added to all transactions.

How to purge an inmate's child support payment:

If a Pinellas County Jail inmate has been arrested for failure to pay child support, the inmate can purge the child support payment or have someone else purge the child support payment in order to facilitate the release of the inmate.

How to purge an inmate's overdue child support payment using a credit or debit card:

The Pinellas County Jail is now accepting payment for child support purges through the GovPayNow program. Payments are accepted for the full amount of the purge.

Make sure to have the inmate's information ready before proceeding to www.GovPayNow.com:

This information is available in the "Who's in Jail" function on the Sheriff's Office website, or through the Clerk of the Circuit Court.

- The defendant's name
- The defendant's docket number
- The case number

The Pay Location code is 6343 for inmate bond payments.
The Pay Location code is 6143 for inmate child support purges.

There are three ways to pay with a credit or debit card:

- Online at www.GovPayNow.com (Click on link)
- By phone at 1-877-EZBAILS
- In person at the Pinellas County Jail Bond Counter

Other bond payments accepted:

Bonds of any amount can be paid using the following payment options:

1. **Surety Bonds** are accepted from registered bonding agents. A list of registered bonding agents is located in the enclosed case just outside of the Public Lobby area. You may also refer to the

telephone book or internet. The Pinellas County Sheriff's Office cannot and will not recommend a bonding agent.

2. **Cash bonds** are accepted in the full amount of the bond. In order to post a cash bond, you will need to present a valid photo I.D. All bank checks, travelers' checks and money orders must be made payable to the **Clerk of the Circuit Court**. No personal checks will be accepted. This payment must be on a separate check or money order if more than one bond is being posted at the same time.

Important Notice

F.S. 903.286 requires the Clerk of the Court to withhold from the return of a cash bond posted on behalf of a criminal defendant by a person other than a bail bond agent, sufficient funds to pay any unpaid court fees, court costs, and criminal penalties. This means that if the defendant for whom you are posting bond owes costs and penalties, those fees will be taken out of the bond money you posted. You may receive only a portion or none of the posted bond money even though the defendant makes all timely court appearances. F.S. 903.28(2)(b) states that if a defendant fails to appear at the time, date and place of required appearance, the bond money will be forfeited.

III. Medical Services

- A. Upon arrival, inmates shall receive a medical and mental health screening. Please inform the nurse of any special medical or emotional needs during this process.
- B. All inmates have the opportunity to request health care on a daily basis. If you wish to see a qualified healthcare provider regarding a medical or mental health concern, please submit a Medical Request (Form 82) to the nurse on duty.
- C. Non-emergency requests will be triaged and scheduled for the next available sick call by a qualified healthcare professional.
- D. **How to Inform Staff of a Medical Emergency** - If you have an emergency medical problem, please contact the floor deputy on duty immediately. He or she will contact a qualified healthcare provider to handle your medical problem.
- E. **No inmate will be refused medical treatment.** Please inform medical staff of any special medical or emotional needs you may have.

IV. Indigent Inmate Supplies

- A. Indigent inmates are defined as inmates who are without funds or who have \$1.00 or less at time of admittance. These individuals may receive necessary health, hygiene and writing materials after 14 days of indigent status.
- B. Once such an individual establishes an inmate account and has sufficient money posted to the account (more than \$1.00), they will not be considered indigent again until their account remains at \$1.00 or less for a period of 14 days from the date of the last entry.
- C. Indigent items are distributed in an Indigent Kit. The Indigent Kits contain the following:

Standard Indigent Kit:

1. One (1) 8 1/2 x 11 legal pad
2. One (1) black ink pen
3. Four (4) stamped post cards
4. One 1.5 oz tube of toothpaste
5. One 1.5 oz deodorant
6. One (1) toothbrush

Clothing Indigent Kit:

Male

1. Two (2) t-shirts
2. Two (2) boxer shorts

Female

1. Two (2) bras
2. Two (2) panties

Note: Indigent kits, both the Standard and the Clothing, will only be ordered and distributed as a full kit, no half kits or variations thereof will be given.

- D. Inmates shall request a Pinellas County Detention Facility Indigent Kit order form from detention staff. The inmate will complete the form and return it to detention staff on the morning prior to their respective divisions' commissary receiving day. Detention staff shall forward the order forms to Inmate Accounting for verification of indigent status.
1. If the inmate qualifies as indigent, Inmate Accounting will forward the order form for processing.
 2. If the inmate does not qualify for indigent supplies, Inmate Accounting will note such on the Indigent Kit order form. The form will be returned by the Commissary vendor.
- E. Eligible indigent inmates may request and receive the Standard Indigent Kit once every 30 days. Eligible indigent inmates may request and receive the Clothing Indigent Kit only one (1) time each 365 days.
- F. Any inmate in need of footwear shall submit an Inmate Request Form to the appropriate floor deputy. The floor deputy shall assess each individual situation, process the Inmate Request Form accordingly, and provide shower slides as needed.
- G. Indigent inmates will be continuously furnished with soap/shampoo, as will all general population inmates.
- H. If an indigent inmate needs legal envelopes to mail legal/privileged correspondence, he/she will submit an inmate Request Form to the law library. The law library clerk will verify the inmate's indigent status by checking the Cactas computer system. Once verified, the law library clerk will process the request in Cactas and distribute the envelopes. The indigent legal mail will be forwarded back to the law library for indigent status confirmation/verification and logging prior to being sent to the mail room. Each qualified indigent inmate may request up to four legal envelopes every 30 days.

V. Dress Code and Personal Hygiene

- A. An issued uniform will be required anytime an inmate exits his/her housing area, to include visitations, religious services, medical services, social services, educational classes and attorney visits, etc.
- B. All inmates will maintain a high degree of personal cleanliness. Showers and toiletry items are available. Each division schedules haircuts; ask the housing deputy about the schedule. Inmates with upcoming court appearances have priority.
- C. All inmates will be given the opportunity to shower/bathe daily, but are required to bathe at least twice weekly. Housing unit deputies will require inmates to be neat and clean before work.
- D. Linen exchange is once per week. Issued uniform exchange is twice per week. Inmates are responsible for any linen and uniform issued. Personal laundry is on a twice per week schedule. Inmates assigned to jobs within the jail will receive clean clothes each day they work. The laundry services are under the supervision of the staff; a laundry schedule will be available based on cell and unit assignment.

VI. Replacement of Hygiene Items

- A. Housing area deputies will replenish or exchange bath soap, razors and feminine hygiene items.
- B. Items issued such as toothbrushes, toothpaste and combs must be purchased through commissary at the inmate's expense when replacements are needed. Indigent inmates will be given personal hygiene items once every 30 days.
- C. Inmates are not permitted to hoard Bureau issued personal hygiene items.

VII. General Housekeeping

- A. Inmates are responsible for keeping their cell and the immediate area around the cell clean and neat at all times.
- B. Beds will be made anytime they are not in use.
- C. Inmates are responsible for damages to their cell, which are a result of negligence or malicious destruction.
- D. Trash will be placed in the containers provided and is removed daily from living quarters. No trash bags are allowed except as needed to line the inside of the receptacles.
- E. Inmates cannot place personal items, clothing or linen on the bars, windows, bunks or vents.
- F. Do not post or attach anything to walls, mirrors, windows, bunks or on lights.
- G. Inmates cannot write, draw or mark on walls, ceilings, tables, chairs, bunks or any other facility owned property.
- H. Immediately report any inoperative equipment (such as light, sink, toilet, etc.) to a deputy.
- I. When there are too many flammable materials such as paper and plastics, a fire hazard exists. Excess items are to be discarded or they will be confiscated by detention staff as a safety precaution. The facility is inspected regularly and adheres to all state fire safety codes.

VIII. Meals

- A. The jail offers three meals a day; there are no extra helpings or trays. Inmates must eat the meals at mealtimes. No food from your tray can be saved, given, traded or sold to other inmates.
- B. Inmates will have the opportunity to exchange or clean his/her drinking cup daily.
- C. Only food items purchased through commissary may remain in the housing unit.
- D. If, for medical reasons, an inmate requires a special diet, medical will review the request and advise if approved or denied. If approved, medical will notify the food service provider to provide the required diet.
- E. If an inmate requires a religious diet, he/she must complete an Inmate Request Form to the Bureau Chaplain stating the name of the religion and the type of diet. The chaplain will review the request and advise of the approval or disapproval of the request.

IX. Inmate Accounts and Commissary

- A. Only other facility's checks, certified checks, cashier's checks or money orders of at least \$1.00 are acceptable for deposit into the inmate's account. No cash will be accepted from visitors for deposit into an inmate's account. Any deposit received containing damaged or unreadable money orders, personal checks or cash will be returned to the sender if the name and address has been provided.
- B. An automated online deposit system (Access Corrections) is anticipated to be available to the general public during the summer of 2011. This system allows individuals, in the general public, the ability to electronically deposit money directly into each inmate account. The website is <http://www.accesscorrections.com>. In addition, kiosks will also become available to the general public at the jail's visitation center and public lobby.
- C. No inmate will keep in his or her possession any money, checks, money orders or any other legal tender. Any unauthorized funds discovered are forwarded to inmate accounting for processing.
- D. An inmate may transfer or release funds from his/her account to the public by completing the "Inmate's Permission for Money Release Form." Any other requests will be at the discretion of the Division Commander.
- E. The commissary is a privilege provided for the exclusive use and benefit of all inmates. Inmates may use money in his/her inmate account to purchase commissary items. The commissary provider deducts

purchases from the Inmate account. A list of items available from the commissary is in each housing unit or a list may be requested from a deputy.

- F. Inmates may place orders to the commissary twice weekly.
- G. Each order may be no more than \$100.00 combined clothing and food.
- H. Inmates may go over the \$100.00 limit in order to purchase a radio.
- I. Inmates' family and friends may order commissary items online via Secure Pak. These items will be delivered during normal commissary distribution. Items can be ordered at www.fipackages.com.
- J. Damages or shortages must be identified upon delivery to you. By signing, you acknowledge and understand the terms of commissary orders and authorize funds to be deducted from your trust fund account to pay for the order. Once the order is accepted it is a final sale! All inmates have 60 days from purchase to request any information regarding a commissary sale or credit. For nutritional information write to the following address: Keefe Commissary Network, P.O. Box 23353, St. Petersburg, FL 33742.

X. Notary Public Services

The Pinellas County Jail will make a Notary Public available when requested by an inmate. Contact the shift sergeant or social worker for a Notary Public.

XI. Good Time/Gain Time

- A. Good Time awards are granted to all sentenced inmates. Any discrepancies should be addressed on an Inmate Request Form to Inmate Records. Good Time awards are not to exceed five (5) days per month.
 - 1. Good Time is awarded at the time of sentence verification. Records of Adjusted Release Dates are in all housing areas containing county-sentenced inmates. No inmate release will take place until verification is completed.
 - 2. Good time is calculated on the balance of the sentence after deducting gain time and credit for time served as determined by the courts. Good time is calculated at the time of sentence verification.
 - 3. If an inmate fails to comply with established facility rules and regulations and is disciplined, including transfer to another facility offering a more secure environment, the inmate can also lose good time, receive time in detention or a combination of actions.
 - 4. Inmates whose offense dates are prior to November 1, 2001 (when the five days per month good time policy was implemented), will have good time calculated according to the days worked. This calculation will be one day off of the sentence for every day of work completed.
- B. Gain Time - county sentenced prisoners earn Gain Time at a rate of five days for every 30 days of sentence.
 - 1. Gain time is not allowed for any sentence of 29 days or less.
 - 2. The Inmate Records Section computes gain time at the time they receive notification of sentencing.
- C. Certain county inmates are not eligible to receive either good or gain time. Included in these categories are the following: Inmates incarcerated on Civil Contempt of Court Orders, inmates sentenced to a specific time period and those inmates stipulated by the sentencing judge not to receive good time awards.
- D. Any part of good or gain time shall be subject to forfeiture for any violation of law, rule, or regulation of the institution.

XII. Mail

Inmates may write and receive unlimited correspondence. However, if the inmate is under any restrictions or disciplinary actions, mail may be limited with the exception of legal mail.

- A. Mail is delivered and picked up once a day, except on weekends and postal holidays.
- B. All incoming mail must have the inmate's full name, docket number, housing location and a return address or it will be returned to the Post Office.
- C. Incoming and outgoing inmate mail will be monitored by the staff for security reasons. Staff will inspect incoming mail to intercept cash, checks, money orders or contraband. Any monies found will be placed

in your money account. If contraband is found in the correspondence, the entire letter or package will be returned to the sender or handled according to policy or statutory law. Inmates will be notified in writing of the rejected correspondence.

D. Any legal or privileged mail received will be opened in the presence of the inmate to confirm it is legal or privileged mail. If the mail is not legal mail, it becomes contraband and is handled appropriately.

E. All outgoing mail must include a return address as follows:

Full name, identification number, housing assignment
Pinellas County Jail
14400 49th Street North
Clearwater, Florida 33762-2877

F. Detention staff will not interfere with outgoing mail except to open and inspect it to determine if it contains contraband or interferes with the security and orderly operation of the facility.

G. Publications:

1. Inmates may receive printed material and publications (books, magazines, newspapers, etc.) he/she purchases from, and are mailed by, the publisher or established book retailer. Book clubs are not considered an established book retailer.
2. Materials that may affect the order, security and safety of the facility are not allowed. The Pinellas County Jail does not forward subscriptions upon release or transfer of the inmate.
3. There is a limit of three books, three magazines and three days of newspapers at one time. Excessive items are put with the inmate's property or seized and disposed of as contraband.
4. The receiving mail clerk will forward any unacceptable publications or material to the Bureau Commander for review and disposition.

XIII. Telephones

A. Three-way calling is not permitted and is a violation of inmate conduct. Your telephone calls may be recorded.

B. The Pinellas County Jail provides telephones for inmate convenience as a means to contact attorneys, bondsmen and family. All calls are on a "collect call" basis.

C. Inmates can purchase pre-paid phone cards that will enable them to make local and long distance calls. The deputy on duty can provide information on how to purchase one.

D. Criminal charges or disciplinary action may be placed against persons found destroying, altering or damaging telephones and/or making obscene, threatening or harassing telephone calls.

E. Inmates may not charge calls to a credit card or other number. Fraudulent long distance calls will result in prosecution.

F. T.D.D. Machines are available for the hearing impaired, upon request.

G. Inmates are encouraged to use either an Inmate Request Form or the US Mail if there is a need for communication within the Pinellas County Sheriff's Office. If there is an absolute necessity to contact any agency or a section of the Sheriff's Office by telephone, a request should be made with a detention supervisor or a member of the Detention Investigations Unit (D.I.U.)

H. There are enough telephones to accommodate the number of inmates housed in each area. However, during times of high demand, be aware other inmates need to use the phone. No continuous calling is allowed during these times.

I. If an inmate feels he/she needs to make an emergency phone call, an Inmate Request Form addressed to the counselor is to be completed.

XIV. Disciplinary Procedure

A. When an infraction of the rules is alleged to have occurred the following will happen:

1. A disciplinary report will be processed.

2. The incident will be investigated and the inmate will be provided written notice of the charges against him/her at least 24 hours prior to a hearing.
3. A deputy will speak with the affected inmate, notify him/her of his/her rights, take a statement concerning the violation and answer any questions the inmate may have.
4. A hearing will be held as soon as possible.
5. The inmate will receive a copy of the committee's written decisions.

A detention supervisor may place an individual in an administrative confinement cell for the safety of the inmate or the security of the facility, pending an investigation or disciplinary hearing.

- B. **Appeals** - If an inmate disagrees with the disciplinary action rendered by the committee, he/she has the right to file an appeal to the Bureau Commander. To do this, make a Request for an "Administrative Remedy Form." This form must be filed within five calendar days from the date of the notification of the Disciplinary Committee's decision. The Bureau Commander will review all appeals and the ruling will be binding.

XV. Prohibited Conduct and Penalties

Inmates are responsible for adhering to all policies, rules and regulation of the Pinellas County Jail, as well as Federal, State and Local laws. The following infractions carry a maximum penalty of 30 days. The Disciplinary Committee or Hearing Officer may elect to impose a lesser penalty.

1. Adulteration of any food or drink.
2. Assault and/or battery on any person.
3. Attempting or planning escape.
4. Conduct that disrupts or interferes with the security or orderly running of the institution.
5. Correspondence or conduct with a visitor in violation of posted regulations.
6. Counterfeiting, forging or unauthorized reproduction of any document, article of identification, money, security or official paper.
7. Destroying, altering or damaging government property or the property of another person.
8. Encouraging others to refuse to work.
9. Encouraging others to riot.
10. Engaging in, or encouraging a group demonstration.
11. Engaging in sexual acts with others.
12. Escape.
13. Extortion, blackmail, protection, demanding or receiving money or anything of value in return for protection against others to avoid bodily harm, or under threat of informing.
14. Falling to properly stand count.
15. Fighting with another person.
16. Giving or accepting anything of value from another inmate, a member of his/her family, or his/her friend.
17. Giving or offering any official or staff member a bribe or anything of value.
18. Inappropriate conduct (i.e. gestures, language, comments and noises) directed at staff or other inmates.
19. Indecent exposure.
20. Interfering with the taking of a count.
21. Loaning of property or anything of value for profit or increased return.
22. Making sexual proposals or threats to another.
23. Making intoxicants or being intoxicated.
24. Malingering, feigning an illness.
25. Manipulating housing.
26. Misuse of authorized medication.
27. Possession of contraband as defined.
28. Possession or introduction of any explosive or ammunition.
29. Rioting.
30. Setting a fire.
31. Smoking or tobacco use.
32. Stealing (theft).
33. Tampering with or blocking any locking device.
34. Threatening another with bodily harm or any offense against his/her person or his or her property.
35. Violation of Work Release.
36. Wearing a disguise or mask.
37. Mutilating or altering issued clothing.
38. Possession of anything not authorized for retention or receipt by the inmate and not issued to him through regular Bureau channels.
39. Failing to perform work as instructed by a supervisor.

40. Gambling, preparing or conducting a gambling pool, possession of gambling paraphernalia.
41. Lying or providing a false statement to a staff member.
42. Tattooing or self-mutilation.
43. Unauthorized contacts with the public.
44. Being in an unauthorized area, including the marked areas of any recreation area.
45. Being unsanitary or untidy, failing to keep one's person and one's quarters in accordance with posted standards.
46. Failure to follow safety or sanitation regulations.
47. Refusing to obey an order of any staff member.
48. Refusing to work or participating in work stoppage.
49. The exchanging or tampering with any part of an inmate identification card. Inmates may also be charged with the replacement cost of his or her identification card.
 - a. First Infraction - 15 Days
 - b. Second Infraction - 30 Days
50. Unauthorized use of mail or telephone.
51. Using any equipment or machinery contrary to the instructions or posted safety standards.
52. Using abusive or obscene language.
53. Participating in an unauthorized meeting or gathering.
54. Absence from work or any assignment without approval.

Indecent Exposure Sanction:

1. First Offense will include, at a minimum:
 - a. Thirty days mandatory disciplinary confinement (such as loss of all privileges, recreation reduced to three days per week, loss of social visitation and phone calls, etc.).
 - b. During the 30 days of mandatory disciplinary confinement, all personal clothing (including shoes) will be placed in property.
 - c. Additionally, during confinement, all pictures and reading material will be placed in property.
2. Second Offense will include at a minimum:
 - a. Thirty days mandatory disciplinary confinement (i.e. loss of all privileges, recreation reduced to three days per week, loss of social visitation and phone calls, etc.).
 - b. During the 30 days of mandatory confinement, all personal clothing (including shoes) will be placed in property.
 - c. Additionally, during disciplinary confinement, all pictures and reading material will be placed in property.
 - d. Upon completion of Disciplinary Confinement, notification will be made to Classification and the inmate will be placed on "Close Custody" status.
3. Third or Subsequent Offense will include at a minimum:
 - a. Notification will be made to D.I.U. to initiate a formal criminal complaint.
 - b. Thirty days mandatory disciplinary confinement (i.e. loss of all privileges, recreation reduced to three days per week, loss of social visitation and phone calls, etc.).
 - c. All personal clothing (including shoes), pictures and reading material will be placed in property for the duration of the disciplinary confinement.
 - d. Upon completion of Disciplinary Confinement, notification will be made to Classification and the inmate will be returned to "Close Custody" status.
 - e. Permanent loss of commissary except for health and comfort items.

XVI. Contraband

Searches are necessary to control the introduction of contraband and to prevent escapes. Inmates must comply with the search of their person and personal property at any time. Inmates do not have to be present in the cell at time of a search. Inmates will cooperate with deputies to expedite this process.

Included below is a list of items that can be considered contraband. Items not listed here may be considered contraband at the discretion of staff.

- A. Any item or article not issued or sold to an inmate, or is found to be altered or used for a purpose other than what it was intended for. These items will be removed and destroyed.
- B. Any item detailing weapons or explosive manufacturing, or gives information that could aid in planning or making an escape or producing any item which could injure another.

- C. Gang symbols or related items such as drawings, literature, etc., which relate to gangs.
- D. Pornographic photographs, magazines, centerfolds, etc. shall be considered contraband.
- E. Food left over from meals.
- F. Laundry lines or hangers.
- G. Non-Bureau issued phone cards.
- H. Credit cards.
- I. Maps, catalogs, travel brochures or calendars.
- J. Cleaning equipment or materials.
- K. Tape recorders or tape machines.

XVII. Inmate Identification Badges

- A. Identification badges are required to be worn and properly displayed on the chest area at all times with the photo facing out. Inmates without their identification badges will be returned to their housing units and face disciplinary action. Identification badges are to be turned in at the Release Desk for destruction at the time of the inmate's release.
- B. Lost, stolen or damaged identification badges will result in formal disciplinary action and a monetary charge for the I.D. replacement will be deducted from the inmate's money account.

XVIII. Programs and Services

There are various comprehensive educational and vocational programs provided.

- A. Program participation is voluntary except for work assignments, programs required by State Statute or as court ordered. Monthly program schedules are posted in each housing area.
- B. Some of the programs and services offered include basic education-GED classes, weekly services for various faith groups, crisis intervention counseling, HIV/AIDS education, juvenile education, vocational programs and recreation.
- C. Televisions are equipped with closed caption for the hearing impaired. If closed caption is required, contact the administrative staff via an Inmate Request Form to activate this function.

XIX. Visitation

- A. All visitors are required to schedule their visits and may do so up to one week in advance. Reservations are made by calling (727) 464-6842.
- B. Inmates are allowed seven 40 minute visits per week. The hours of visitation are Sunday - Saturday 11:30am - 7:40pm.
- C. Three individuals may visit: one adult with two children or two adults with one child. No more than two adult visitors at any one time.
- D. All visitors must present a valid photo identification card (driver's license or state-issued identification card) for admittance to visitation.
- E. All visitors at the height of 36" or above will be required to have their facial images screened via Facial Recognition Screening prior to their scheduled visit.
- F. Regulations concerning dress and conduct for all visitors are on display.
- G. All visitors must comply with these regulations or face the possibility of terminating their visit.
- H. Attorneys may visit their clients at any time. However, they are encouraged to conduct their visits during the regular work week at normal business hours.

- I. Behavior problems involving children will not be tolerated. If such problems occur, the children and the accompanying adult will be asked to leave the area.
- J. Funds are accepted during visitation hours; only certified check, money order or cashier's check is accepted. The funds will be deposited in the inmate's personal account on the next business day (Monday through Friday).
- K. When a conflict in scheduling exists between a scheduled visit and other programs, the inmate shall have the option of attending the program or visitation. Inmates choosing to attend a program over visitation shall not be removed from the program to attend their visit.

XX. Library Services

A. Law Library

1. To receive information from the Law Library, an inmate must submit a request to the Law Librarian. The requested material will then be delivered within three days (excluding weekends and holidays).
2. There is a fee of 10 cents per page for the copies; the cost will be deducted from the inmate's money account. Indigent inmates may receive up to 50 copies per month, free of charge.
3. The Law Library keeps 10 copies of the Florida Model Jail Standards and inmates may review them by using the request form.
4. Information concerning immigration law and legal services is available by request.

B. Physical Access to Law Library

1. Only inmate who are Pro-Se in their criminal case and who comply with all other facility rules, regulations and requirements will be considered for physical access to the law library.
2. Approved Pro-Se inmates will make their request to gain physical access to the Law Library on an Inmate Request Form; the request will be forwarded to the law library.
3. The law library clerk shall construct a daily list of inmates wishing to physically access the Law Library from the Inmate Request Form.
4. Prior to an inmate's first physical visit to the law library, he/she will receive an orientation to include familiarization of all rules and regulations pertaining to such access; the inmate will be required to sign an acknowledgment of their receipt and understanding of the orientation.
5. Pro-Se inmates will be provided a reasonable amount of time in the library. The division commander or designee may approve additional time or priority time.
6. No more than eight inmates may physically access the law library at the same time.
7. Pro-Se status inmates will be given up to three green storage boxes for legal material. No additional storage boxes are permitted in the housing area; any additional boxes will be placed in Inmate Property.
8. In the event a Pro-Se inmate is deemed a security risk for any reason, or otherwise fails to comply with the facility rules, regulations and requirements, he/she will not be permitted physical access to the law library. However, the Pro-Se inmate will still receive access to legal materials by completing an Inmate Request Form. A law library clerk will process the request and deliver requested items to the inmate cell side.
9. Any inmate found intentionally damaging, defacing or removing legal materials or supplies shall be disciplined to include limiting continued access to legal materials for a set period of time.

C. Recreational Reading

1. Any inmate desiring books or periodicals from the library must submit an Inmate Request Form stating the type of books or periodicals desired. This form should be given to a floor deputy.
2. Any books or periodicals requested that are not available will be substituted with a similar selection.
3. There is a limit of three books and three magazines at one time per inmate. Return previously distributed books and/or magazines before distribution of additional books and/or magazines.

- D. Upon release, turn in all jail issued books and periodicals.

- E. Inmates may request Bibles, Qurans or other Holy Scriptures from the library or chaplain's office. They are provided for your use as available.

XXI. Property

- A. Inmates will be held accountable for the deliberate destruction or damage of issued jail property.
- B. Inmates are prohibited from giving or exchanging issued inmate clothing or linens to another inmate.
- C. Personal property, as listed below, will be permitted in cells if it does not pose a threat to the health and safety of the inmate or the security of the facility.
1. Authorized hygiene items such as soap, toothbrush and toothpaste, comb and razor (when issued).
 2. One plastic bowl with lid purchased through the commissary (not available through Secure Pak).
 3. Clothing items received from the Indigent Inmate Program or purchased through the commissary in the amounts listed:
 - a. Male - Five pairs of under shorts, five white tee shirts (without logo or design), five pairs of socks, and one pair of thermal underwear, solid white, cream or beige in color.
 - b. Female - Three bras or sports bras (no under-wire bras), five pairs of panties, five white tee shirts (crew neck only) and one pair of thermal underwear, solid white, cream or beige in color.
 4. Prescription eyeglasses, contact lenses, eye prosthesis and dentures. No dark tinted eyeglass or sunglasses allowed unless medically needed and a member of the medical staff verifies the need. These items are your responsibility and you must maintain them in an appropriate manner. Do not place them in a container that may be considered contraband, such as a styrofoam cup or trash bag.
 5. Medically necessary lotions and soaps will be in new, unopened containers when brought to the jail complex. A member of the medical staff must authorize these items before they will be released to you.
 6. You may have and/or display up to three family pictures, in good taste, no larger than 3" x 5". No Polaroid™ photographs are permitted through the mail.
 7. Limit of three each: books, magazines and newspapers.
 8. Magazines and books must be sent directly from the publisher or an authorized bookstore. If any other method is used, the books and/or magazines will be considered contraband and the complete package will be returned to the sender. The mailroom staff will label these books with your name and docket number.
 9. Newspapers are by subscription only. The publisher sends newspapers by third class mail so several days' worth may arrive at one time. However, stockpiling newspapers can create a fire hazard therefore, after you read each newspaper, throw the newspaper away.
 10. If detention staff feels there is an excessive amount of newspapers, they will remove all but the three most recent days and throw them away as trash.
 11. One radio, one pair of headphones and only the number of batteries needed to operate the radio plus a replacement set, per inmate are allowed. All items must be purchased from commissary and are not available through Secure Pak. Staff will confiscate as contraband any altered radio and/or headphone.
 12. Addresses and telephone numbers.
 13. Pencils, paper, stamped envelopes, pens and colored pencils purchased through the commissary or received through the Indigent Program are permitted. Any of these items sent through the mail will be considered contraband and will be returned to the sender.
 14. Legal materials, papers and letters. Pro-Se status inmates will be given up to three green storage boxes for legal materials. Any additional storage boxes will be at the discretion of the Division.

Commander. Only three boxes at one time are permitted in the housing area; any additional boxes will be placed in inmate property.

- D. Court Clothes – Inmates will be allowed to retain one set of personal clothing in the Property Room for court appearances and/or for use upon discharge.
- E. Court Attendance – Inmates attending court are not permitted to have any personal or jail issued property in their possession with the exception of legal materials. All inmates are subject to a search and any contraband found will be disposed of per policy.
- F. Bulk Property
 - 1. Any Item that will not fit through the inmate property release pass-through box will be transported to the Property and Evidence Section by the arresting officer.
 - 2. Any weapons, bicycles or tools determined to be a potential safety or security risk by the Division Commander, or any unusually cumbersome items that may have been taken by the arresting officer will be stored at the Pinellas County Sheriff's Office, Property and Evidence Section, 4707 145th Avenue North, Clearwater, FL 33762-2877, Phone 727-464-8391.
 - a. Bulk property stored at the Inmate Property Section of the Pinellas County Jail will only be kept in inventory for 30 days after the date you are transferred to another facility or released.
 - b. Bulk property stored at the Property and Evidence Section will only be kept in inventory for 30 days after the date of your incarceration.

G. Procedure for Release of Property

- 1. Pickup From Jail by Outside Person
 - a. Inmates must complete, in ink, an "Inmate's Permission for Property Release Form." Any form not completed in ink or filled out properly will be returned to the inmate.
 - b. The person designated by an inmate to receive his/her property must present a valid photo identification (Drivers License, Florida I.D. card, etc) before any property will be released to them.
- 2. By Mail
 - a. Inmates may request property be shipped via US Mail either during their incarceration or within 30 days of their release/transfer from the Pinellas County Jail.
 - b. A completed "Inmate's Permission for Property Release Form" and pre-paid postage (at the inmate's or recipient's expense) must be received by the Property Section prior to shipment of the property.
 - c. Property shipping information must include name, street address and phone number of accepting party.

Note – When property is released, the inmate must release everything (excluding clothing) located in the Property Section. Partial items may not be released. The exception to this is the release of a single credit card. Clothing may be released to an outside party only if sentenced to prison.

H. Personal Property Accepted at State Facilities:

Inmates sentenced to State Prison will be transported with only those items authorized by the State. This regulation is strictly enforced. State prisons will destroy excess items in accordance with State Statutes. Inmates are limited to taking only that property which will fit in an 8" x 11" x 12" box. If an inmate has unauthorized items, he/she must arrange for them to be released by mail or picked up by an outside person as outlined above.

1. Central Florida Reception Center – Only the following will be accepted:

- a. One Address Book (wallet size).
- b. Prostheses (Dentures are included) – final approval by Medical Staff.
- c. One Bible or one related religious tract.
- d. One calendar (wallet size).
- e. Fifty plain white envelopes.
- f. One pair prescription eyeglasses.
- g. Legal material – active cases only.
- h. Fifty sheets of notebook paper lined or unlined.

- i. Four pencils, wooden, non-mechanical (no Papermate-type rolling or mechanical-type ink pens).
- j. Ten personal letters.
- k. Fifty photographs, wallet size, no nudity.
- l. One book (or equivalent) of postage stamps.

2. Lowell Reception Center – Only the following will be accepted:

- a. One wallet sized address book.
- b. One pair of eyeglasses w/case (prescription only).
- c. Fifty personal photographs (no nudity or obscenities).
- d. Fifty envelopes.
- e. One book of postage stamps.
- f. Four pencils.
- g. Fifty sheets of white notebook paper lined or unlined.
- h. Legal material.
- i. Bible.
- j. Engagement ring (not exceeding \$100.00 in value).
- k. Wedding band (not exceeding \$100.00 in value).
- l. Watch (not exceeding \$50.00 in value).
- m. Religious medallion w/chain (not exceeding \$50.00 in value).
- n. Four pens (non-refillable, non-retractable).
- o. Personal Hygiene items, one each (brand new and unopened).
 - Shampoo
 - Conditioner
 - Deodorant
 - Bar of soap and case
 - Toothbrush and case (no caps)
- p. No body piercing jewelry of any kind is permissible.
- q. Hair styles including braids, piats, extensions or hair weaves, should be removed prior to being transferred to Lowell CI.

All property in excess of the specified above limits will be disposed of upon arrival at these facilities. These items shall be discarded, mailed out at inmate's expense or picked up by a family member.

I. Transported Before Release of Property

If an inmate is transported to another facility before completing an "Inmate's Permission for Property Release Form", the inmate must mail a notarized letter authorizing all of his/her remaining property be released to the designated person. This letter must give a list of the items to be released, the name, complete address and relationship of the person authorized to receive the property. *(It is the Inmate's responsibility to notify the person designated to claim the property).* Mail the letter to Pinellas County Jail, Property Section, 14400 49th Street North, Clearwater FL 33762-2877.

The person designated to receive the property must present a valid photo identification (drivers license, Florida I.D. card, etc.) before any property will be released to them. The notarized authorization letter will be kept on file in the Property Section. This process must be completed within 30 days from the date of transfer to another facility.

J. Personal Property Upon Transfer to Federal Custody

- 1. Inmates may not take any property (e.g., legal materials, personal property, etc.) with them when being transferred to Federal custody.
- 2. It is the Inmate's responsibility to arrange the release of his/her property utilizing the "Inmate's Permission for Property Release Form" or shipment of the property within 30 days from the date of transfer.
- 3. Items of property at Pinellas County Jail not released after 30 days from the date of transfer to Federal custody are considered abandoned and will be disposed of in accordance with agency policy.

K. Release of Money Upon Transfer

- 1. State Facility: Money will be mailed within 7-10 business days from the date of transfer.
- 2. County Facility: A check is written for cash funds on-hand at the time of transfer and given to the Transport Officer for delivery to the receiving facility.
- 3. Federal facilities: Checks are provided to the U.S. Marshal Service.

XXII. Inmate Grievance Procedures

Most grievances can be taken care of quickly and efficiently by voicing the complaint to any deputy. Inmates are encouraged to use this method before filing a formal complaint.

- A. If unable to resolve the grievance in this matter, submit an Inmate Request Form to the Shift Commander or Shift Supervisor asking for a "Request for Administrative Remedy Form." "The Request for Administrative Remedy Form" must be filed within three business days from the date of the incident, unless it is not feasible to file within such a period.
- B. The concerned supervisor will have up to five days from receipt of the complaint to act on the matter and provide a written response.
- C. If the complaint is of an emergency nature and threatens immediate health or welfare, a reply must be made no later than 48 hours of receipt of the complaint.
- D. If dissatisfied with the response given to a complaint, the inmate may file an appeal to the Bureau Commander using a Request for Administrative Remedy Form within three business days of receipt of the response. The Bureau Commander will forward a receipt and reply within five days from receipt. The appeal should be attached to the response of the original grievance.

XXIII. Religion

The Pinellas County Detention and Corrections Bureau provides inmates of all faith groups with reasonable and equitable opportunities to pursue religious beliefs and practices, within the constraints of budgetary limitations and consistent with the security and operational concerns of the facility. Because of security reasons, any inmate transferred from a state or federal institution will be required to place all religious items in property. The Bureau Chaplain must approve all religious paraphernalia to ensure it meets Pinellas County Jail criteria for safety and security. If the item(s) does not meet the criteria, the Chaplain's office will issue approved required items as available. If any religious concerns arise, contact the Chaplain utilizing an Inmate Request Form for information or guidance. The ability to attend worship or a group study conducted by a religious volunteer is contingent upon behavior. Violations will be dealt with according to established disciplinary procedures.

A. The following items are authorized, if they meet the Pinellas County Jail criteria:

1. **Rosary and prayer beads** are for praying and are not an essential need in the religious sense. Therefore, inmates may have a single rosary or string of beads of the approved breakaway style in their possession for their personal use. Inmates may not wear a rosary or prayer beads around the neck or wrist at any time. Rosary or prayer beads worn around the neck or wrist will be considered jewelry and will be taken as contraband. Inmates must keep their rosary or prayer beads in the housing unit and properly stored unless attending religious services; they are not to be taken to court. No metal beads and/or medallions are permitted. If the rosary or prayer beads are altered in any manner, they become contraband and will be confiscated.
2. **Headgear** must follow these restrictions:
 - a. **Koofi Cap** - If worn for everyday use, it must be made of white cloth that is either plain or crocheted. Inmates may wear Koofi caps only when attending the Jumah prayer service (not to and from), during the Quranic study (not to and from) and in their assigned housing area.
 - b. **Yarmulke** - If worn for everyday use, it must be made of black cloth. Inmates may wear Yarmulkes in their assigned housing area or for religious services (not to and from).
 - c. **Scarves or shawls** worn by female inmates may not be larger than 24 x 24 inches and may not cover the face. Inmates may wear these head coverings in their assigned housing area or for religious services (not to and from).
3. **Prayer rugs** - The Chaplain's Office will provide a piece of a blanket or a durable cloth to use when the inmate's faith practice requires it. This facility does not allow ornate colorful cloths or rugs designated for this practice. If one is in an inmate's possession, it will be placed in Property. Do not take towels and blankets used for bedding to the chapel or otherwise use them for prayer rugs.
4. **Bibles, Qurans or other Holy Scriptures** may be requested from the Chaplain's office and provided for use as available.

B. The following items are not authorized:

1. No inmate may possess scented oil, holy water or ashes. Chapel leaders and religious volunteers may receive authorization from the Bureau Commander to use these substances for the anointing of inmates during services or while visiting.
2. No open flame candles or battery powered candles. Only paper facsimiles are authorized.

XIV. Alternative Sentencing Programs

Assignment into an Alternative Sentencing Program is based on an inmate meeting the qualification criteria. If not prohibited by the judge at the time of sentencing. For additional information, contact the Alternative Sentencing Unit Supervisor via an Inmate Request Form.

- A. **Electronic Monitoring Program** - This program allows selected, low risk, offenders to be fitted with an ankle bracelet and monitored while completing the terms of their sentence. It provides a more positive transition back into the community and reduces the cost of incarceration to the County. Inmates must meet the qualification criteria to be considered for the program. If not eligible or, if once on the program, the inmate violates the conditions, he/she will be returned to jail to serve the remainder of the sentence on straight time.
- B. **Day Reporting Program** - This jail diversion program targets low risk, non-violent county sentenced offenders to perform community services at various governmental and non-profit agencies in Pinellas County. This is with the community service agency's approval and is in lieu of serving jail time. Inmates must meet the qualification criteria to be considered for the program. If not eligible or, if once on the program, the inmate violates the conditions, he/she will be returned to jail to serve the remainder of the sentence on straight time.

XV. Inmate Marriages

The Bureau Commander retains final authority on all inmate marriage requests. The following is a list of steps for inmates interested in the procedure for marriage while housed in the Pinellas County Jail.

- A. All inmate marriage requests will be directed to the Bureau Commander via an Inmate Request Form. Such requests will be liberally allowed. However, the Bureau Commander may deny a marriage request if there is information the marriage will cause a threat to security, order or public safety.
- B. If allowed, the petitioner must obtain a marriage license from the Clerk of Courts' office by following their license procedures.
- C. All inmate marriages shall be conducted through video visitation. Once the marriage license has been obtained, the requestor should contact the Pinellas County Jail's Video Visitation Center to make arrangements with a date and time for the marriage ceremony.
- D. The requestor must provide a Notary Public or a clergy member who can legally perform the marriage ceremony.
- E. A social worker will assist the requestor in obtaining any necessary signatures.

XVI. Reports of Sexual Abuse/Assault

The Pinellas County Sheriff's Office is committed to upholding the Eighth Amendment Rights of all detainees as required by the Prison Rape Elimination Act of 2003 (117 STAT. 972 PUBLIC LAW 108-79, September 4, 2003).

- A. Any sexual activity involving inmates, including consensual acts, is strictly prohibited and no individual has the right to pressure another to engage in sexual acts. Involvement or knowledge of such acts should be reported immediately.
- B. Following these tips will not guarantee you are not attacked, but may help decrease risk.
 1. Carry yourself in a confident manner.
 2. Remain alert and be aware of your surroundings.
 3. Avoid isolated areas whenever possible.
 4. Do not project fear or anxiety around other inmates.

5. Do not accept an offer from another inmate to be your protector.
 6. Involve yourself in positive activities (educational, self-help, religious programs, etc.)
 7. Trust your instincts; if you feel unsafe, voice concerns to a staff member.
- C. Violations of sexual abuse and/or sexual assault will be investigated and prosecuted to the fullest extent of the law, including administrative sanctions and/or criminal prosecution.
 - D. Reporting – Any incidence of sexual abuse or sexual assault while in custody should be reported immediately. A report of sexual assault can be made directly to a staff member or via an Inmate Request Form; to speak with a detention supervisor, chaplain or social worker or, use a Form 82 to speak with healthcare staff.
 - E. Confidentiality - If an inmate reports sexual abuse or assault, confidentiality will be maintained with regard to all information obtained during the course of the investigation. Only those with a legitimate "need to know" will be provided facts for investigation and prevention purposes.
 - F. Protecting the Victim – Every effort will be made to protect the victim from further harm. If he/she cannot, or will not identify the individual(s) involved in the sexual assault, he/she does not give up the right to receive protection from the assailant(s).
 - G. Medical Assistance - Sexual abuse/assault victims will be evaluated and provided medical treatment and follow-up care, as appropriate.
 - H. Counseling - Most people need help recovering from the emotional effects of a sexual assault. A qualified mental health professional will provide crisis intervention counseling and coping skills and will monitor for the necessity of long term support. Any inmate at risk for, or having a history of victimization or sexually aggressive behavior, and is interested in self-initiated counseling may contact any staff member or complete an Inmate Request Form.
 - I. False Accusations - Pursuant to Florida Statute, it is unlawful to falsely accuse any person of sexual assault/rape and is punishable by law.

XVII. Release Preparation

Upon Release From:

- A. Housing Area – Gather all belongings when called for release. Inmates are responsible to remove all of his/her belongings, personal as well as jail issued. The released inmate will be taken to a dress-out area and his/her property will be returned; money will be returned at a separate location.
- B. Court – If an inmate goes to advisory court and is released by the judge, he/she will return to their assigned housing area to gather belongings and wait for the Inmate Records Section to complete the proper clearance of paperwork. This process could take several hours. To be eligible for the "release from court" process, the "Application for Release Pending Not Guilty Verdict" form must be completed. This form will be sent to Inmate Records for processing prior to your court date. When a judge has ordered the release at the conclusion of the court proceeding, the bailiff will initiate the release process. Upon approval and proper clearance for release, the bailiff will affect the release from the court room. EXCEPTION: If the inmate is in jail-issued clothing, he/she will return for normal release procedures.
- C. Social workers are available to discuss pertinent outside agency admission criteria and referral procedures for inmates upon release.
- D. Helpline Information and Referral Telephone (24 hours a day, 7 days a week): 211 (Tampa Bay Cares, Inc.) provides information regarding housing, shelter and many other services for released offenders.
- E. In accordance with Florida Statutes, a released inmate may be required to provide a DNA sample prior to release from jail.

Board of Pharmacy



BOP-2122-2729673

Board of Pharmacy / FULL BOARD / 08/13/2014

- Wednesday, August 13, 2014 - 9:00a.m.
 - TAB 4: DISCIPLINARY CASES - Jeff Mesaros, PharmD, & Yolonda Green, Assistant General Counsel
 - RECOMMENDED ORDER
 - RO-1 Christopher S. Switlyk, R.Ph., Case No. 2011-20634 - YYG/LLM
 - United States District Court Middle District of Florida Tampa Division

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

-vs-

Case No. 8:10-CR-530-VMC-AEP
21 February 2013
Tampa, Florida
2:40 p.m.

CHRISTOPHER SWITLYK,

Defendant.

-----/
TRANSCRIPT OF SENTENCING HEARING
BEFORE THE HONORABLE VIRGINIA M. HERNANDEZ-COVINGTON,
UNITED STATES DISTRICT COURT JUDGE

APPEARANCES:

For the Government: KATHY PELUSO, ESQUIRE
Assistant United States Attorney
United States Attorney's Office
400 North Tampa Street, Suite 3200
Tampa, Florida 33602
(813) 274-6000

For the Defendant: JEFFREY GELDERT BROWN, ESQUIRE
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Clearwater, Florida 34621
(727) 786-8686

FOR THE PROBATION DEPT.: DIANE TREMMEL

Reported By: PAUL K. SPANGLER, RPR,
Official Court Reporter
Certificates of Merit and
Proficiency, Notary Public
(813) 301-5898

STENOGRAPHICALLY RECORDED
COMPUTER-AIDED TRANSCRIPTION
BY ECLIPSE

PAUL K. SPANGLER, RMR
OFFICIAL UNITED STATES COURT REPORTER

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EXHIBIT

2

PAUL K. SPANGLER, RMR
OFFICIAL UNITED STATES COURT REPORTER

1 THE PROBATION OFFICER: Yes, Your Honor.

2 THE COURT: -- supervised release. Okay.

3 All right. Ms. Peluso, do you know of any reason
4 why this Court should not now proceed with imposition of
5 sentence?

6 MS. PELUSO: No, ma'am.

7 THE COURT: Do you wish to make a statement with
8 respect to what an appropriate sentence for this gentleman
9 would be, recognizing the guidelines call for 108 to 135
10 months, and also recognizing that down the road you intend
11 to, if everything plays out the way you think it will, to
12 ask for a Rule 35 on his behalf?

13 And I also have the sentences that I've imposed to
14 the co-defendants, which are Fernandez, Jr. 24 months,
15 Fernandez, III 63 months, Beltran 188 months and Curtis 48
16 months is what I have.

17 Okay. I'll hear you now.

18 MS. PELUSO: Yes, ma'am. I believe there's a
19 low-end provision in the plea agreement, so we have to abide
20 by that.

21 THE COURT: Okay. So that's your recommendation
22 then to 108 months?

23 MS. PELUSO: Yes, ma'am.

24 THE COURT: Okay.

25 All right. Thank you.

1 All right, Mr. Brown, do you know of any reason
2 why this Court should not now proceed with imposition of
3 sentence?

4 MR. BROWN: Yes, Your Honor. I have a -- I think
5 I filed a sentencing memorandum containing some grounds for
6 departure.

7 THE COURT: Yes, sir. And thank you. I read it
8 when you filed it, and I re-read it today, so I do have
9 that. And that's been filed under seal.

10 I also have the letters that have been submitted
11 on his behalf. I don't remember. Are those under seal or
12 no?

13 MR. BROWN: No, the letters were not, Your Honor.

14 THE COURT: Okay.

15 So I have several letters here. And I thank his
16 friends that have come forward and written those letters on
17 his behalf.

18 And I'm happy to hear from -- from anybody, or any
19 other arguments you'd like to make, Mr. Brown.

20 And Mr. Switlyk, you also have the right to
21 address the Court. You don't have to, but I wanted to make
22 certain that you understand that you have that right. Do
23 you understand that, Mr. Switlyk?

24 THE DEFENDANT: Yes. I wrote up a little speech I
25 was going to say.

1 THE COURT: Okay. Well, I'll get to you in just a
2 moment. Let's see what Mr. Brown wants to do.

3 MR. BROWN: Judge, can I see if there's people
4 that still intend to testify one second?

5 THE COURT: Okay. Of course. I'm happy to hear
6 them.

7 (Pause.) (3:15 p.m.)

8 MR. BROWN: Introduce yourself to the Court.

9 MS. BARROR-LEVINE: Okay.

10 Hi, Your Honor. My name is
11 Jennifer Barror-Levine, and I'm a psychologist working here
12 in Tampa. And I was asked by Mr. Switlyk and his friend to,
13 uh, complete an evaluation of him and, if necessary, provide
14 treatment to him, which I did do.

15 I began seeing Mr. Switlyk -- or a complete
16 evaluation in September of 2012, and I have seen him
17 consistently up until last Friday.

18 So, uh, originally when I saw Mr. Switlyk, uh, my
19 original evaluation was three to four hours. And it became
20 very clear and apparent after really getting a very
21 substantial history from him that he did endure some trauma
22 as a child and was not able to really kind of bond with his
23 parents. I'm sure you're familiar with all that since
24 you've read it.

25 THE COURT: I read that.

1 M.S. BARROR-LEVINE: So I really did feel that he
2 had some psychological factors that were impeding his
3 ability to really act within the certain character. And
4 because of those historical events, he did have that
5 impaired judgment behavior, uh, and just was not competent
6 to make sound decisions. And that was also, you know, seen
7 and demonstrated in relationships that he was having, just
8 making poor choices.

9 As a result of all this, he, uh, really was
10 self-medicating through different substances, and that only
11 exacerbated his problems significantly.

12 So throughout the course of treatment I will say
13 he has made substantial improvements in really gaining
14 insight into how his history has really impacted him, his
15 medical, uh, you know, psychiatric diagnosis -- diagnoses
16 that do really affect him and impede his ability to make
17 sound decisions.

18 And he's gained significant insight and he's been
19 able to, uh, acknowledge where some of his faults are,
20 accept responsibility and really try to move forward in a
21 very proactive manner, which is what he's doing with this,
22 uh, cooperation.

23 And we've really worked together on what is he
24 going to do in the future and how is he going to be able to
25 make sound decisions.

1 He's engaged in a very healthy relationship with
2 Cairo -- Carol Delo [sic], excuse me, and it's -- it's
3 really quite healthy. I've met with her as well.

4 And I do feel that Mr. Switlyk now does understand
5 how the substance abuse, uh, and use does affect his ability
6 to make those decisions. And he is being very proactive.

7 And he was being proactive before I saw him. He
8 was seeing Dr. Egger. And I do have some of Dr. Egger's,
9 uh, reports and progress notes that was showing that he was
10 really, uh, independently trying to move forward in that
11 direction.

12 So I can state that I do feel like he is making
13 progress. And without doubt he's going to need continued
14 care, uh, continued, you know, psychotherapy and medication
15 management. But with that, I do feel like he can, uh,
16 remain stable, which will allow him to sort of carry on and
17 be a productive member of society and make better choices
18 and decisions.

19 THE COURT: Well, thank you. That was very
20 helpful. I appreciate it.

21 MS. BARROR-LEVINE: Thank you.

22 THE COURT: You're welcome.

23 Mr. Brown.

24 MR. BROWN: Thank you, Your Honor.

25 Your Honor, as the Presentence Report indicates, I

1 think it's reflective of the fact that nobody from his
2 immediate family is here. His mother I don't think agreed
3 to participate with Probation, uh, wouldn't even come to the
4 defense of the son. The father would have nothing to do
5 with him, brothers who should -- one's a lawyer who knows
6 the importance of coming to court. Nobody is here from his
7 family.

8 But on the whole back row is his adopted family.
9 It's his girlfriend, her sister, the mother and other
10 friends of the family that I think have -- have done a lot
11 to bring him to where he is.

12 I know the Court read my sentencing memorandum
13 where I outlined where he began to cooperate and then hired
14 lawyers. And there was some conflict of interest. I have
15 the transcript that was held in front of Judge Jenkins.

16 And then I will say that when I got hired by the
17 family to come on board this case, they've done a tremendous
18 job bringing Chris back to probably where he was at one
19 point. And I'm confident that he can become a productive
20 member of society when he's out on supervised release.

21 Uh, but I think it is illustrative that he did
22 suffer the abuse and then not one member of his immediate
23 family is here, which is very sad.

24 But I would like to inform the Court of some good
25 news that he has been cooperating since I've been on this

1 case since June. I think he's done over 4,000 hours worth
2 of cooperation with various agents. I know one of the
3 agents, Agent Harris, is here. There's a lot of agents that
4 he's working with.

5 The reason he can do this work is he had a video
6 set up at the pharmacy because he wasn't there during the
7 days. He had pharmacists that were doing this. As you
8 know, Mr. Beltran was working there, Kim Curtis was working
9 there.

10 But everything was on video. It was not something
11 that he was watching at the time, and -- and should have
12 been, but now he's had the ability to go over these videos
13 and see the different transactions that were occurring. And
14 these are what he's been working with with the agents.

15 He's able to identify -- agents are able to
16 identify individuals that were coming in buying these
17 controlled substances. Uh, they were able to see other
18 people that were involved such as another pharmacist who
19 they may be indicting that was working there during the day
20 not doing her job.

21 So he has begun to cooperate and he's done some
22 extensive work, so I think we'll -- we will hopefully be
23 back here on a Rule 35.

24 But at the time, I have the sentencing memorandum,
25 I know the Court's read it, I've been with this Court .

1 before, so I know that I can rely upon the Court and the
2 motions.

3 As you know, there's a grounds for a departure for
4 a conflict of interest. There's one for the ineffective
5 assistance of counsel.

6 Uh, as you know, the two Louis' [sic] in this case
7 got 10 -- I said -- I think I said 10 and seven. That was
8 incorrect. It was 10 levels and 10 levels. They were able
9 to make a lot of cases.

10 Mr. Switlyk could have made just as many cases.
11 Unfortunately no agent -- no lawyer told Agent Shearer that
12 at the time, so...

13 THE COURT: You know, there are a couple of issues
14 here, Mr. Brown. First of all, I don't think I've ever seen
15 such a substantial reduction in sentence as I have for
16 the --

17 MR. BROWN: Two Louis'?

18 THE COURT: The Fernandezes I think is who it was,
19 the Fernandezes. Just a very, very significant reduction in
20 sentence. And they're not finished yet because they're also
21 looking at a Rule 35. But I know what the Government wants
22 their sentenced reduced by because I think that's what was
23 initially filed. So I know what the Government's looking
24 at.

25 But as you know, our system depends on that. I

1 mean, I think it's -- it's extraordinary the reduction that
2 I've seen. I've -- you know, in the eight years now, I've
3 been a District Court Judge going on eight years I think,
4 I've not seen anything that substantial.

5 So I basically trust the Government that they are
6 doing it appropriately. As I've always said, they are the
7 ones that have the -- the strongest vested interest in
8 making certain that these reductions are handled fairly and
9 appropriately, and I tend to trust them. It would be very
10 unusual for me not to go with what they've said.

11 So obviously the Fernandezes have given
12 substantial and profound cooperation. What you're asking me
13 to do here is -- is a leap, Mr. Brown.

14 MR. BROWN: Pardon me?

15 THE COURT: It's a leap. You're asking me to
16 leap, and I'm really not prepared to do that at this
17 juncture. Doesn't mean that down the road I won't consider
18 this.

19 You've raised some very serious concerns in your
20 in camera filing. That's the only way I'll put it, just
21 some very serious concerns. And certainly I think that
22 it -- to really flush out those issues requires more than
23 what you filed.

24 What you've given me is part of the story, and
25 obviously there's another part of that story. And I think

1 to be fair to your client and to be fair to the other people
2 who are mentioned in that, I would be very hesitant to do
3 anything on that without the benefit of some type of
4 hearing.

5 And there are ways of doing those hearings so
6 that, you know, everybody's reputation, everybody is
7 protected. I mean, I'm hesitant to hold hearings in camera
8 because courts are open proceedings, and we don't like to do
9 that. But I think that something like this, maybe there's a
10 way of doing it.

11 But I'm very hesitant with -- I feel like I have
12 half the story. Maybe the rest of the story is consistent
13 with what you've told me, but I think in all fairness to
14 everybody, I need to hear the whole story.

15 MR. BROWN: Your Honor, a lot of that came from
16 the transcript of the hearing that was in front of
17 Judge Jenkins. It's been transcribed. And a lot of that
18 was from that. There was a hearing.

19 I was not the lawyer at the time, but there was a
20 lawyer representing Mr. Switlyk. And a lot of this came
21 from that hearing in front of Judge Jenkins. I think that
22 transcript is filed. I can certainly provide that to the
23 Court. I'd be more than happy to do that.

24 THE COURT: Well, and I know that there were
25 several lawyers who represented him. I mean, I remember

1 going through the statutes.

2 MR. BROWN: But the issues that I raised regarding
3 conflict of interest came from that transcript.

4 THE COURT: Just that. I understand from --

5 MR. BROWN: That was all flushed out then.

6 THE COURT: I understand that.

7 MR. BROWN: Okay.

8 THE COURT: But you're asking me to factor that in
9 and to reduce his sentence the way it would have been had he
10 been given the opportunity from day one to cooperate.
11 That's a leap that I'm really not prepared to take. Doesn't
12 mean that I won't consider it.

13 I'll tell you what, I will look at that
14 transcript.

15 MR. BROWN: Okay.

16 THE COURT: In all fairness to your client, I'll
17 look at that transcript, but -- but it's asking me almost to
18 give him credit for the cooperation that you're representing
19 to me today he would have been willing to do, but didn't
20 really -- but didn't do because you say he wasn't given the
21 opportunity. That's -- that's what you're asking me. I --
22 I -- I think that that is -- as I said, it's too much of a
23 leap.

24 MR. BROWN: Okay.

25 THE COURT: But I'll -- I'll look -- I'll look at

1 that transcript and I'll consider it when we look at his
2 Rule 35.

3 MR. BROWN: Okay.

4 THE COURT: But I'm not prepared to do that today.

5 MR. BROWN: Okay.

6 I think the only other issue that I had on the
7 sentencing memorandum was what basically Ms. Levine just
8 spoke to you about. I think it was all of the diminished
9 capacity.

10 THE COURT: Oh, yes. No, I -- I saw that. He --
11 he's obviously -- and I don't think he'll mind me saying
12 this. He's very bright. From everything that I've seen, he
13 has -- from what the reports say, he's somebody who's very
14 good with numbers and is probably very good with science
15 too. He just obviously had a very difficult upbringing,
16 which has very profound impact --

17 MR. BROWN: Thank you for --

18 THE COURT: -- on him down the road. I completely
19 understand that. And some separate issues that probably
20 don't necessarily have anything to do with his upbringing,
21 independent issues, so I -- I know that he has had a -- a
22 rough road there. I -- I recognize that.

23 MR. BROWN: Thank you, Your Honor. (3:28 p.m.)

24 THE COURT: All right. Anything else?

25 Mr. Switlyk, do you wish to address the Court?

1 THE DEFENDANT: Yes, I do.

2 THE COURT: You can just sit down and speak into
3 that microphone. That's perfectly fine.

4 THE DEFENDANT: I wrote this, and I'll just read
5 it.

6 I am sorry for -- oh, that's loud. Sorry.

7 I am sorry for participating and profiting from
8 this drug conspiracy, and I take full responsibility for my
9 part in it. I was a very careless business owner who did
10 not have my priorities in order at the time.

11 I have cooperated with the Government from day one
12 of this investigation. I immediately turned every penny I
13 had over to them voluntarily. I was also one of the first
14 people in the proffer. I also voluntarily closed my
15 pharmacy and turned over all my medications to them nearly
16 three years ago now.

17 Since then I lost those three years of my life
18 meeting with attorneys and following their ineffective
19 advice and never being able to keep up with their mass of
20 legal fees.

21 I lost everything I had because of the bad choices
22 I made while I owned that pharmacy. Everything I owned,
23 including my house, my cars, my savings is all gone. I
24 still owe wholesalers several hundred thousands of dollars
25 and have to cope with being in serious debt now as well.

1 I also lost the six years of my life I spent
2 working hard and studying even harder to get through
3 pharmacy college for a career that is now gone. Worst of
4 all, I lost -- I lost the love and support of my family and
5 my freedom, which is more important to me than anything else
6 in this world.

7 Operating that pharmacy the way I did was a big
8 mistake that I definitely learned from. I do not want my
9 life to be judged by the poor choices I made during the
10 short time I owned it.

11 Over a year ago now I personally sought out
12 counseling because I wanted to better my life and learn how
13 my history has affected my poor decision-making. Through
14 therapy with Dr. Egger and Dr. Levine I was able to gain
15 more insight and awareness and learn how to be proactive and
16 conduct myself in a productive manner.

17 I have maintained my relationship with my
18 girlfriend, Carol Delo, even though I have been in jail for
19 the past 10 months now. She has continued to support me
20 throughout this extremely difficult time in my life. Carol
21 has been the stable force that I've never had in my life
22 before meeting her in 2011.

23 I plan to associate and surround myself with only
24 quality individuals like her from now on. I now know what
25 is truly important in life and what really matters to me. I

1 now know how to prevent myself from getting into a similar
2 situation like this ever again. From now on my top -- from
3 now on my top priority will be to always obey all laws and
4 never again put my freedom in jeopardy for anyone or
5 anything.

6 I intend to positively contribute to society
7 any way I can in my future. I sincerely apologize for my
8 actions which led me to be here in front of you today. I
9 hope you'll consider giving me a chance to become the asset
10 to society I know I can be and will be for the rest of my
11 life.

12 Thank you.

13 THE COURT: Thank you.

14 And I notice also that your girlfriend's father
15 wrote a nice letter on your behalf. There aren't all that
16 many people that would be willing to stick their neck out on
17 the line, and he did. So I agree that's a very nice
18 supportive family standing behind --

19 THE DEFENDANT: They're a lot more supportive than
20 my own family.

21 THE COURT: Well, you know, sometimes adoptive
22 families are just as good, if not better.

23 THE DEFENDANT: I've written my dad and mom eight
24 letters since I've been in jail the past 10 months, and they
25 haven't written back once. And my girlfriend, she -- she

1 called my mom to wish her Mother's Day when I first got in
2 there. And she said, oh, thank you. I got to go. And then
3 she just hung up. It's probably on the recorded phone calls
4 if you want to listen to it.

5 THE COURT: Well, that's pretty bad, I agree.
6 That's pretty unfortunate.

7 THE DEFENDANT: And none of them have come to see
8 me. I actually had a friend from New York I haven't seen in
9 years. He flew down and seen me in jail.

10 THE COURT: Well, a lot of people as I said, they
11 form their own families whether it's an adoptive family like
12 you have here or friends become their families. And that's
13 a --

14 THE DEFENDANT: And also just because I may have
15 mentioned to the Probation, Diane that I may apply for my
16 license in 10 years, that doesn't mean I'm going to get it.
17 The chances are probably slim to none I'll get reinstated
18 anyways.

19 THE COURT: Well, I know. You have that right,
20 though. That's something that, you know, if they contact me
21 10 years from now, I'll say what I think, but the --

22 THE DEFENDANT: I mean, I worked as a pharmacist
23 for 10 years before I had this pharmacy. I never got in any
24 trouble and never misfilled a prescription, you know.

25 I mean, I always helped all the customers and

1 answered any of the questions they had for me as best I
2 could and -- and always went out of my way to print out, you
3 know, documentation for any of the side effects or, you
4 know, uh, drug interactions that -- you know, any questions
5 pertaining to any of that stuff.

6 I always, you know, would go out of my way and I'd
7 go out -- even when I worked at Walgreens, I'd always go out
8 and show people where all the stuff was for the
9 over-the-counter supplements. And, you know, I -- I mean, I
10 was always a good pharmacist when I -- when I worked at
11 other companies.

12 THE COURT: Well, that'll be something that'll be
13 looked at down the road. The Government didn't forfeit it,
14 so it's all -- it's all a moot point right now.

15 All right. Any -- anything else before I
16 pronounce sentence? Because I am ready to do it.

17 Anything else from the Government?

18 MS. PELUSO: No, Your Honor.

19 THE COURT: All right.

20 Anything else from the defendant?

21 MR. BROWN: No, Your Honor.

22 THE COURT: Okay.

23 Anything from Probation to add at this juncture?

24 THE PROBATION OFFICER: No, Your Honor.

25 THE COURT: Thank you.

1 The Court has asked the defendant why judgment
2 should not now be pronounced, and after hearing the
3 defendant's response, the Court has found no cause to the
4 contrary.

5 The parties have made statements in their behalf
6 or have waived the opportunity to do so, and the Court has
7 reviewed the Presentence Report.

8 Pursuant to Title 18, United States Code, Sections
9 3551 and 3553, it is the judgment of the Court that the
10 defendant, Christopher Switlyk, is hereby committed to the
11 custody of the Bureau of Prisons to be imprisoned for a term
12 of 108 months.

13 This term consists of terms of 108 months on Count
14 One and 108 months on each of Counts Five and Six, all such
15 terms to run concurrently.

16 Upon release from imprisonment, you shall serve a
17 three-year term of supervised release. This term consists
18 of a three-year term as to Counts One, Five and Six, all
19 such terms to run concurrently. While on supervised
20 release, you shall comply with the standard conditions
21 adopted by the Court in the Middle District of Florida.

22 In addition, you shall comply with the following
23 special conditions:

24 You shall participate in an alcohol abuse program,
25 outpatient and/or inpatient, and follow the Probation

1 Officer's instructions regarding the implementation of this
2 Court directive.

3 Further, you shall contribute to the costs of
4 these services not to exceed an amount determined reasonable
5 by the Probation Office's sliding scale for substance abuse
6 treatment services. During and upon the completion of this
7 program, you are directed to submit to random drug testing.

8 You shall participate in a mental health treatment
9 program, outpatient and/or inpatient, and follow the
10 probation officer's instructions regarding the
11 implementation of this Court directive.

12 Further, you shall contribute to the costs of
13 these services not to exceed an amount determined reasonable
14 by the Probation Office's sliding scale for mental health
15 treatment services.

16 You shall refrain from engaging in any employment
17 relating to dispensing prescription drugs either in a
18 pharmacy, pain clinic or other medical environment.

19 The defendant having been convicted of a
20 qualifying felony shall cooperate in the collection of DNA
21 as directed by the Probation Officer.

22 The mandatory drug testing requirements of the
23 Violent Crime Control Act are imposed. The Court orders the
24 defendant to submit to random drug testing not to exceed 104
25 tests per year.

1 Based on the financial status of the defendant,
2 the Court waives imposition of a fine.

3 The Court orders that the defendant forfeit to the
4 United States immediately and voluntarily any and all assets
5 previously identified in the final judgment of forfeiture
6 for specific assets filed on February 5th, 2013.

7 It is further ordered that the defendant shall pay
8 to the United States special assessments totaling \$300,
9 which shall be due immediately.

10 After considering the advisory guidelines and all
11 of the factors identified in Title 18, United States Code,
12 Sections 3553(a)(1) through (7), the Court finds that the
13 sentence imposed is sufficient but not greater than
14 necessary to comply with the statutory purposes of
15 sentencing.

16 The Court has accepted the plea agreement because
17 it is satisfied that the agreement adequately reflects the
18 seriousness of the actual offense behavior, and that
19 accepting the plea agreement will not undermine the
20 statutory purposes of sentencing.

21 Under the plea agreement the defendant has entered
22 a guilty plea to Counts One, Five and Six in return for the
23 dismissal of Counts Two, Three and Four.

24 Is that correct, Ms. Peluso, Counts Two, Three and
25 Four of the Indictment should be dismissed?

1 MS. PELUSO: Yes, ma'am.

2 THE COURT: Okay. So I'll go ahead and do that.

3 Mr. Switlyk, first of all, you will have an
4 opportunity if your cooperation continues to have an
5 additional reduction in sentence, so that's something that
6 is available to you. And I will also revisit those other
7 matters that Mr. Brown and I have discussed and which is the
8 subject of his in camera filing.

9 You know, I understand you had a rough time,
10 there's no doubt. Reading about this, somebody who grows up
11 as the child of two doctors, right? Your mother was --

12 THE DEFENDANT: Yeah, my --

13 THE COURT: -- an internal medicine --

14 THE DEFENDANT: My parents are both doctors and so
15 are my aunt and uncle. They all went to Albany Medical
16 College.

17 THE COURT: You should have had every opportunity
18 available to you. And it really is tragic what I have read
19 in this report. It's certainly very sad.

20 But, you know, you certainly have the brain power
21 there. You're a smart fellow. And that counts for a lot.
22 And so you need to, you know, just use that brain power to
23 try to, you know, get ahead.

24 When you're going to serve your time in prison and
25 you're released and whatever it is that you do when you're

1 released, you have a college degree, which is better than a
2 lot of people have, and you have an education in a field
3 that's not easy to get a degree in. So you certainly have
4 that.

5 And it really is true. You know, the
6 United States, we're -- we're a forgiving country here. You
7 have people who have committed really bad crimes concerning,
8 for instance, violation of public trust. And you know what,
9 they bounce back. They bounce back. And there's no reason
10 why you can't be that way too. You can certainly bounce
11 back.

12 And I'm glad to see that you're getting the
13 professional help that you need. I'm also glad that you
14 have a nice girlfriend. I think that that really counts for
15 a lot. And the fact that you have a nice family, your
16 girlfriend's family is supporting you, that obviously counts
17 for a lot.

18 Now, I will tell you what I've discarded. There
19 is some information here about when you were out on pretrial
20 release. I think the U.S. Attorney's Office had filed some
21 charges -- or were thinking about filing some charges; is
22 that right, Ms. Peluso?

23 MS. PELUSO: Yes, ma'am.

24 THE COURT: All right. So eventually they didn't
25 file the charge or they didn't move forward with those

1 charges, so I basically discounted that.

2 But let that just be a word to the wise. When
3 you're out on supervised release, you don't do any of those
4 things. I mean, you just stay on the straight and narrow,
5 okay? And by that, I mean no traffic tickets. The things
6 that you might ordinarily think are not a big deal are a big
7 deal when you're on supervised release. Do you understand
8 that?

9 THE DEFENDANT: Yeah, I understand. I haven't had
10 a traffic ticket in probably six or seven years, I think.

11 THE COURT: All right. Well, good. Well, I just
12 used that as an example --

13 THE DEFENDANT: Yeah.

14 THE COURT: -- because that's the most benign
15 infraction. I'm talking about using drugs.

16 THE DEFENDANT: I got you.

17 THE COURT: Don't do any of that stuff because
18 apparently something happened there. I don't know what it
19 was. I didn't factor it in. As far as I'm concerned, it's
20 not exactly a nonissue, but I didn't use it in terms of
21 determining what an appropriate sentence is. It's just -- I
22 would just say it's a little red flag.

23 So I'm just telling you, word to the wise, you
24 need to be on your best behavior when you're released from
25 prison and you're on supervised release, particularly during

1 that time. All right?

2 THE DEFENDANT: Yeah, I -- yes, I understand,
3 Your Honor.

4 THE COURT: Okay. All right. But basically I've
5 given you the benefit of the doubt, bottom of the guidelines
6 here. And you'll have another opportunity to be here later
7 on for a reduction in sentence, if appropriate.

8 The Court having pronounced sentence, does counsel
9 for the defendant or Government have any objections to the
10 sentence or to the manner in which the Court pronounced
11 sentence, other than those previously stated for the record?

12 Ms. Peluso?

13 MS. PELUSO: No, ma'am.

14 THE COURT: Mr. Brown?

15 MR. BROWN: No, Your Honor.

16 THE COURT: Okay.

17 The defendant is remanded to the custody of the
18 United States Marshal to await designation by the
19 Bureau of Prisons.

20 Where would you like me to recommend that you be
21 housed?

22 MR. BROWN: Judge, he would ask that you recommend
23 Coleman. And also if you could recommend the 500 hours of
24 intensive drug treatment.

25 THE COURT: All right.

1 Any problem with that? Any objection to that from
2 Probation, the 500-hour intensive drug treatment program, or
3 the U.S.?

4 THE PROBATION OFFICER: No, Your Honor.

5 THE COURT: Okay.

6 I recommend that you be housed in Coleman so that
7 your family and friends are able to visit you. I recommend
8 that you be evaluated for the intensive 500-hour drug
9 treatment program.

10 What other recommendations, Mr. Brown? He has a
11 college degree. At least for a period of time he's not
12 going to be able to work as a pharmacist, so he's going to
13 have to do something else. What would you like me to
14 recommend in terms of training?

15 MR. BROWN: Any other type of training?

16 THE DEFENDANT: I mean, I know a lot about
17 computers.

18 MR. BROWN: Computers would be great. He has the
19 ability to actually take a whole computer apart and put it
20 right back together.

21 THE DEFENDANT: Computers.

22 THE COURT: I saw that. He fixed the girlfriend's
23 computer from a distance as opposed to the people at her
24 office or somebody. I forgot who it was. But he fixed her
25 computer.

1 That's fine. I recommend that you take computer
2 classes so that you can receive whatever certification is
3 appropriate in that type of work.

4 Anything else that you want me to recommend? I
5 think that's a real good one.

6 MR. BROWN: In culinary arts, Your Honor.

7 THE COURT: Pardon me?

8 MR. BROWN: Culinary arts.

9 THE COURT: Culinary arts. Okay. That's good
10 too.

11 I recommend that you be -- you receive training,
12 if that is available, in culinary arts, but I think
13 computers would provide a really good livelihood to him. So
14 I certainly recommend both of those.

15 All right. You have the right of appeal from the
16 judgment and sentence within 14 days from this date.
17 Failure to appeal within the 14-day period shall be a waiver
18 of your right to appeal. The Government may file an appeal
19 from this sentence.

20 You are also advised that you are entitled to
21 assistance of counsel in taking an appeal. And if you are
22 unable to afford a lawyer, one will be provided for you.

23 If you are unable to afford the filing fee, the
24 Clerk of the Court will be directed to accept the notice of
25 appeal without such fee.

1 All right. We're in recess.

2 I do just want to talk to Ms. Peluso and Mr. Brown
3 on that matter that we were discussing, that in camera
4 issue. So I know you've got your client -- your client's
5 family there. If they can just be patient, I would like to
6 talk to you.

7 And I can't let you have any contact, Mr. Switlyk,
8 with the people who are here. That's for security reasons.
9 So I'll just tell you rather than having you ask me or the
10 Marshal Service having to tell you, we can't permit it
11 because of security concerns. All right?

12 THE DEFENDANT: I understand.

13 THE COURT: Okay. Thank you.

14 This doesn't have to be on the record. It's not
15 on the record.

16 (Thereupon, there was an off-the-record in camera
17 discussion at the bench.)

18 THE COURT: All right. We're in recess. Thank
19 you, everybody.

20 (Thereupon, hearing was concluded at 3:50 p.m.)
21
22
23
24
25

1

2 STATE OF FLORIDA)

3 COUNTY OF HILLSBOROUGH)

4

5

6

7 I, PAUL K. SPANGLER, Official Court Reporter for
8 the United States District Court, Middle District, Tampa
9 Division,

10 DO HEREBY CERTIFY, that I was authorized to and
11 did, through use of Computer Aided Transcription, report
12 in shorthand the proceedings and evidence in the
13 above-styled cause, as stated in the caption hereto, and
14 that the foregoing pages numbered 1 to 52, inclusive,
15 constitute a true and correct transcription of my
16 shorthand report of said proceedings and evidence.

17 IN WITNESS WHEREOF I have hereunto set my hand
18 in the City of Tampa, County of Hillsborough, State of
19 Florida, this 12th day of December, 2013.

20

21 S/PAUL K. SPANGLER

22

PAUL K. SPANGLER, Official Court Reporter

23

24

25

EVALUATION

PATIENT'S NAME: Christopher Switlyk

DATE: 06-18-2010

The *Millon Clinical Multiaxial Inventory-III* showed that on the basis of the test data, and assuming denial is not present, it may be reasonable to assume that Christopher is exhibiting psychological dysfunction of mild to moderate severity. It appears that Christopher fits the following Axis II classifications best: Depressive Personality Traits, Dependent Personality Traits, Avoidant Personality Features, and Antisocial Personality Features. The major complaints expressed by Christopher take the form of distinct Axis I clinical syndromes in the areas of Major Depression (recurrent, severe, without psychotic features), Generalized Anxiety Disorder, and Alcohol Abuse.

CRITERIA FOR DEPENDENCE: In the last year, he has shown alcohol abuse issues with increased tolerance to alcohol and continued use after legal consequences.

DIAGNOSIS:

- Axis I: Alcohol Abuse, R/O Dependence
Compulsive Behavior which includes gambling and sexual issues
R/O Major Depressive Disorder by history
R/O Anxiety Disorder by history
- Axis II: R/O Personality Disorder, NOS
- Axis III: Acne
- Axis IV: License, job and financial issues-severe
- Axis V: GAF < 60

This information has been disclosed to you from records protected by Federal confidentiality rules (42 CFR 2). The Federal rules prohibit you from making any further disclosure of this information unless further disclosure is expressly permitted by 42 CFR 2. A general authorization for the release of medical or other information is NOT sufficient for this purpose. The Federal rules restrict any use of the information to criminally investigate or prosecute any alcohol or drug abuse patient.

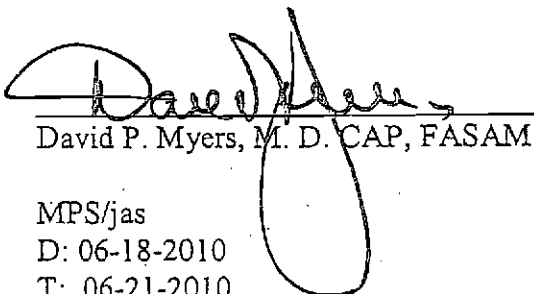
ASAM DIMENSIONS:

1. Acute Intoxication and/or Withdrawal Potential: low
2. Biomedical Conditions and Complications: none
3. Emotional, Behavioral, or Cognitive Conditions and Complications: unstable
4. Readiness to Change: willing
5. Relapse/Continued Use, Continued Problem Potential: not available
6. Recovery Environment: fair to poor

DISCUSSION: It appears at this time there is abuse vs. dependence as well as several legal issues involved in Christopher's case at this time, which complicates his case. In regard to his dependency and compulsive behaviors that include gambling and sex, and alcohol abuse R/O dependence, it would be difficult to make a formal diagnosis at this time.

It is recommended that Christopher enter into a 7-day inpatient evaluation at a facility that is

recommended for medical professionals and approved by PRN, the goal being to make definitive recommendations in regard to his Alcohol Abuse, R/O Dependence and Compulsive Behaviors with Sex and Gambling. Also further psychiatric and psychological evaluations should be performed to determine whether there are Axis II issues as well to be addressed.



David P. Myers, M. D. CAP, FASAM

MPS/jas
D: 06-18-2010
T: 06-21-2010
cc: PRN

This information has been disclosed to you from records protected by Federal confidentiality rules (42 CFR 2). The Federal rules prohibit you from making any further disclosure of this information unless further disclosure is expressly permitted by 42 CFR 2. A general authorization for the release of medical or other information is NOT sufficient for this purpose. The Federal rules restrict any use of the information to criminally investigate or prosecute any alcohol or drug abuse patient.

DONALD R. TAYLOR, Jr., M.D.
Forensic Psychiatry

Exhibit 3B

15310 Amberly Drive
Suite 250

Tampa, Florida 33647

January 23, 2012

Telephone: (813) 514-2892
Facsimile: (813) 514-2891

REVISED

FORENSIC PSYCHIATRIC EVALUATION

NAME: Christopher Switlyk
CASE NO.: 8:10-cr-00530-VMC-AEP
DATE OF EVALUATION: December 14, 2011

IDENTIFYING INFORMATION: This thirty-three year old, single, white male was seen in my office on December 14, 2011. He and others are charged in federal court with Conspiracy to Possess, Dispense and Distribute Oxycodone, to use a Registration Number Issued to Another Person and to Obtain Possession of Controlled Substances by Misrepresentation, Fraud, Forgery, Deception or Subterfuge as a result of events which occurred from 2005 to 2010. The defendant and one of the other co-defendants are also charged with Conspiracy to Conduct Financial Transactions involving the Proceeds of an Unlawful Activity and to Engage in Monetary Transactions for Property Derived from an Unlawful Activity. The defendant and the same co-defendant are also charged with Engaging in Monetary Transactions for Property Derived from an Unlawful Activity as a result of events which occurred from April 21 to April 30, 2010. He was referred for psychiatric evaluation by his attorney, Gregory W. Kehoe. The purpose of the evaluation was to render an opinion regarding the defendant's mental condition and need for treatment. He was informed of the purpose of the evaluation and that a report would be forwarded to Mr. Kehoe which may be introduced as evidence in his case. He was informed that this examiner may testify in deposition or in court regarding the results of the evaluation. He understood and agreed to cooperate.

Diplomate in Psychiatry of American Board of Psychiatry and Neurology
Added Qualifications in Forensic Psychiatry

Christopher Switl (continued)
Case No.: 8:10-cr-00530-VMC-AEP
Date of Evaluation: December 14, 2011

advantage of or mistreated by others. Feelings of bitterness and resentment were indicated. Individuals with similar profiles tend to lack insight into their problems, externalize responsibility and fail to learn from experience.

DIAGNOSIS:

- Axis I - 1. Bipolar II Disorder, Most Recent Episode
Hypomanic
2. Possible Alcohol Abuse
- Axis II - Deferred
- Axis III - 1. Hypothyroidism
2. Hyperlipidemia
3. Tachycardia
4. Gastroesophageal reflux disease
5. Allergic rhinitis
6. S/P head, neck and left shoulder injuries 2002
with left shoulder arthroscopy 2003
- Axis IV - Psychosocial Stressors: criminal charges, financial
problems, estrangement from family of origin
- Axis V - Current GAF: 50

OPINION: The defendant's history is consistent with that of a mood disorder characterized by hypomanic episodes and at least one major depressive episode. The documentation provided indicates that during hypomanic episodes he has been irritable and hyperverbal with psychomotor agitation and decreased need for sleep. Individuals experiencing hypomanic episodes tend to be impulsive and display poor judgment. This often results in interpersonal conflicts, occupational problems and/or violations of the law unless there is adequate mental health intervention. It is probable that his history of interpersonal conflicts, occupational problems and legal problems have been at least partially caused by his mental condition.

During this interview the defendant presented with symptoms of hypomania. He also has a strong undercurrent of depressive symptoms which if untreated puts him at risk for suicide. He was advised to begin outpatient mental health treatment with a psychiatrist and was provided with the names of psychiatrists with offices near his residence. It is my opinion that he would

Christopher Switl (continued)
Case No.: 8:10-cr-00530-VMC-AEP
Date of Evaluation: December 14, 2011

benefit from treatment with psychotropic medication. He was also advised to decrease or discontinue his alcohol consumption and caffeine intake as these substances can have adverse effects on mood. I would also recommend that he comply with established medical treatment rather than rely on supplements for medical conditions such as hypothyroidism and hyperlipidemia. It is my opinion that if he complies with these recommendations his risk of future violations of the law would probably be reduced.

Donald R Taylor, Jr., M.D.

DONALD R. TAYLOR, JR., M.D.

DRTJr/cbm

*James R. Edgar, M.D., P.A.
South Tampa Medical Center
508 South Habana Avenue, Suite 310
Tampa, Florida 33609-4144
813-872-6061
813-872-6969 (fax)
edgar1@tampabay.rr.com*

May 2, 2012

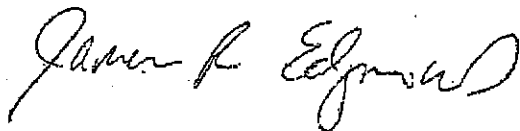
Stephen Crawford, Esq.
610 West Bay Street
Tampa, Florida 33606

Re: Chris Switlyk (DOB 11/05/78)

Dear Mr. Crawford:

This is to certify that Chris Switlyk has been seeing me for psychiatric care and in my opinion has a diagnosis of bipolar disorder. I have prescribed for him Trazadone 50 mgm two tablets a day and Xanax 0.5 mgm one tablet every six hours as needed. In my professional opinion these medications are medically necessary. Attached are copies of earlier prescriptions. Since the original prescription of Trazadone we had increased his dosage to two tablets per day.

Sincerely,



James R. Edgar, M.D.

James R. Edgar, M.D., P.A.
 South Tampa Medical Center
 5095 South Harbour Avenue, Suite 310
 Tampa, Florida 33609-4142
 813-872-6081
 813-872-8869 (fax)
 edgar1@tampabay.com
 ME # 34360

DEA # AE8961813

NAME

ADDRESS: *SWIFT/lyk*

DATE: *3/12/02*

Rx

WORLD
de sp # 60 tabs
WORLD

Refill NR

WORLD
 (Signature)
 MFT310Z000120

In order for brand name printed for the dispensing pharmacist must write brand name on the front of the prescription.

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 South Tampa Medical Center
 5095 South Harbour Avenue, Suite 310
 Tampa, Florida 33609-4142
 813-872-6081
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813-872-6969 (fax)
edgar1@tampabay.rr.com

June 13, 2012

Jeffrey G. Brown, Esq.
Castille at Carillon
450 Carillon Parkway, Suite 120
St. Petersburg, Florida 33716

CONFIDENTIAL

Re: Christopher Switlyk

Dear Mr. Brown:

Disclaimer: The results of this assessment are based on the information provided by Christopher Switlyk and collateral sources. I have not attempted to assure the accuracy of the information obtained or provided. Christopher Switlyk was given the opportunity to provide me with any information he felt relevant and helpful in order for me to conduct an objective assessment. The referring parties were provided with the same opportunity.

My opinions, conclusions and recommendations are based on this database and are stated with a reasonable degree of medical certainty, unless otherwise indicated. Information not disclosed could significantly alter the assessment results. I reserve the right to amend my report in such situations.

I am a Psychiatrist licensed to practice in the State of Florida. I am authorized by the Department of Health, the Florida Board of Bar Examiners, the Physicians' Recovery Network and the Intervention Project for Nurses to evaluate attorneys and health care providers whose ability to practice with reasonable skill and safety is questioned by some event relating to either their mental health status and/or suspected abuse of alcohol or drugs. At your request I interviewed Mr. Switlyk today at the Pinellas County jail medical facility. I also talked via telephone with Carol Ann Delo about her perception of how he came to be placed in the medical facility. I have not had an opportunity to review the letter that Mr. Switlyk wrote to his father nor to talk with any medical personnel at the jail facility. Thus my opinion is based entirely on this material, my prior knowledge of Mr. Switlyk and my clinical interview with him today.

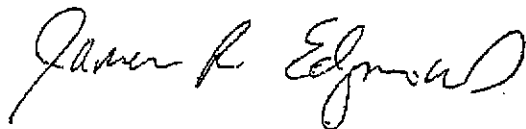
June 13, 2012

I have known Mr. Switlyk since January 2012 and have seen him approximately thirty times from January through April of this year. During that time he was seeing me for psychiatric care and in my opinion has a diagnosis of bipolar disorder. I prescribed for him Trazadone 50 mgm two tablets a day and Xanax 0.5 mgm one tablet every six hours as needed.

He is currently in the medical/psychiatric wing in a solitary room under more or less constant surveillance because of concerns for his suicidal potential. He says he is allowed out three times per week to shower and has no contact with other inmates, no canteen privileges, no activity time and no other privileges. He has been there fourteen days and is now taking Zoloft 100 mgm per day. He tells me this is because of a fourteen page letter he wrote to his father in which he expressed that he would just as soon be dead as be in prison the rest of his life and mention twice possible suicidal ideas. He tells me this was to try to motivate his father to help him financially with his legal problems. The letter also contained a history his treatment by former attorneys which he feels is partially responsible for his current situation. He also says he mentioned a new girlfriend Carol who was helping him to get new legal representation. He feels the letter was misinterpreted by the jail personnel and too much was made of his talk of "rather be dead", that this was not an active suicidal intent but an attempt to motivate his father. He also says that since then he has new representation and feels more positive about his future. He says he is not suicidal and feels he does not need to be in solitary confinement or under constant surveillance.

Today he appeared to have lost weight but to be alert and oriented to all spheres. He was cooperative with me in the interview and appeared appropriately depressed but not suicidal. There was no indication of psychotic thought processes. In short I feel he is not a suicide risk and there is no clinical indication for solitary confinement. If anything except for the medication he is now receiving I believe his current placement in the jail medical facility would make his psychological state worse and not help it. Bearing in mind the above disclaimer I feel he should be returned to his previous situation in jail.

Sincerely,



James R. Edgar, M.D.
Enclosures

CHRISTOPHER SWITLYK

August 24, 2012

INDEPTH NEUROPSYCHIATRIC EVALUATION**HISTORY**

Mr. Switlyk was evaluated on August 24, 2012, at the Pinellas County Jail. The evaluation occurred over three-and-a-half hours.

This is the first evaluation for this 33-year-old single white male, who was evaluated at the Pinellas County Jail. He is currently being charged with conspiring to distribute and possess with intent to distribute quantities of controlled substances, primarily Oxycodone, and money laundering.

Sources of information that were used as part of this evaluation are 3.5 hour interview of the defendant on 08/24/12; two hours of psychometric testing, completed on 08/31/12; report of scoring and interpretation of psychological testing on 09/01/12; notes from psychiatrist, Dr. Marguerite Pinard, from 08/16/07; medical records from Age Management Optimal Wellness Center dated 11/16/11; blood work obtained by Quest Diagnostics on 08/18/11; a letter from Dr. Michael Gamache dated 10/01/08; a medical report from Dr. James Edgar dated 06/13/12; a letter from Dr. Richard Brown dated 01/10/12; and a letter from Dr. James Edgar dated 05/02/12; copy of the plea agreement.

Review of medical records from Dr. Edgar indicated that Dr. Edgar was treating Mr. Switlyk and he had prescribed Trazodone 50mg to be taken two tablets a day and Xanax 0.5mg to be taken one time every six hours as needed. Dr. Edgar feels that these medications are medically necessary and did attach copies of the medications prescribed. Dr. Edgar also indicated that he had been working with Mr. Switlyk from January of 2012 through April of 2012 for psychiatric care for a diagnosis of bipolar disorder. On 06/13/12, he apparently evaluated Mr. Switlyk, as he was pending the medical psychiatric wing in the solitary room at the Pinellas County Jail. Dr. Edgar stated that he was not having contact with other inmates, no canteen privileges, and no activity or privileges were allowed to Mr. Switlyk. He had been there for 14 days and was taking Zoloft 100mg. Mr. Switlyk indicated to Dr. Edgar that he wrote a 14 page letter to his father, expressing his emotional thoughts and feelings, although he was trying to help motivate his father to help him. He felt

that his letter was misinterpreted by the jail personnel and that he was not actively suicidal, but rather trying to convince and motivate his father to help him. When Dr. Edgar evaluated him for this situation, he indicated that he had appeared to have lost weight, but was alert and oriented to all spheres. He was cooperative and no indication of psychotic thought processing views were noted. He did not feel that he was a suicide risk and no clinical indication for solitary confinement. Dr. Edgar did feel that the solitary confinement under the psychiatric wing would actually make his psychological state worse and that he should be returned to his current jail situation.

A letter from Dr. Gamache dated 10/01/08, indicated that Dr. Gamache did have a psychological assessment with Mr. Switlyk and felt like Mr. Switlyk's participation in 10-12 sessions of individual psychotherapy to address the issues that were discovered during the psychological assessment would be in his best interest. Dr. Gamache did not feel comfortable doing the individual psychotherapy, as he had been asked to evaluate Mr. Switlyk and he did refer him to find independent treatment provider. He gave him 60 days to commence the treatment and report back to him. Dr. Gamache would at that point reevaluate the situation and terminate the supervision after 24 months, as permitted by the terms of the agreement.

Medical records reviewed by Dr. Pinard stated that he was diagnosed with anxiety versus hypermania and felt his GAF score was 55-60.

The forensics psychiatric evaluation by Dr. Donald Taylor gives a history of identifying information, psychosocial history, medical history, legal history, psychiatric history, family history, employment history, educational history, marital history, mental status exam, psychometric testing, diagnosis, and his opinion. The mental status exam did show his mood was generally anxious and irritable; affect was congruent, although tearful during the interview; speech spontaneous, coherent and relevant, but was hyperverbal at times. He was oriented to all spheres. He was able to recall the Capital and the Governor of Florida, name the Nation's Capital and past two presidents. He spelled the word "world" forward and in reverse. He was able to

repeat five digits forward and four in reverse, and recall three objects after a delay. He correctly performed Serial 7s and multiplied 96 by 2. His interpretation of two plural verbs was equivocal and correctly interpreted to similarities. His insight and judgment were impaired. He denied current suicidal and homicidal thoughts and endorsed no delusional beliefs or hallucinations. The MPI showed he was motivated to exaggerate or fabricate psychological problems. The profile portrayed him as having significant problems with depression and anxiety, and indicated paranoid or suspicious features that may result in him feeling like he has been taken advantage of or mistreated by others. Additionally, this showed that similar profiles tend to lack insight into their problems, externalize responsibility, and fail to learn from experience. He diagnosed Mr. Switlyk with bipolar II disorder, most recent episode hypermanic and possible alcohol abuse. He rated his current GAF of 50 and he felt that the defendant's history was consistent with that of a mood disorder, characterized by hypermanic episodes with at least one major depressive episode. People with this symptomatology and experiencing hypermanic episodes tend to be impulsive and display poor judgment, and results in interpersonal conflict, occupational problems, and/or violations of the law, unless there is adequate mental health intervention. He did feel that there is some correlation with the fact that his history of interpersonal conflicts, occupational problems, and legal problems may have at least been partially caused by his mental condition. He was advised to begin outpatient mental health treatment with a psychiatrist and provided with the name of psychiatrists as well. Dr. Taylor felt that he would benefit from treatment with psychotropic medication and was advised to decrease or discontinue the alcohol consumption and caffeine intake. He also recommended that Mr. Switlyk comply with the established medical treatment rather than rely on supplements for his medical condition, such as hyperthyroidism and hyperlipidemia. Dr. Taylor felt that if he complied with those recommendations, his risk of future violations of the law would probably be reduced.

There is a medical letter dated 01/10/12 from Dr. Richard Brown, which indicated that Mr. Switlyk attended 10 counseling sessions with him in 2009. The visits were part of a legal agreement and no formal or in-depth assessment was conducted, no formal notes

taken, and no diagnosis was requested. He did not state or appear to be a danger to himself or others and seemed to be in adequate reality contact. He was compliant with treatment and discussed how he became entangled in the legal situation that led to him having to have the session agreement.

DIAGNOSES

Axis I: 1. Bipolar II disorder, with a recent episode of depression
2. PTSD
3. History of alcohol abuse.

Axis II: Deferred.

Axis III: Allergic rhinitis, hyperthyroidism, hyperlipidemia, tachycardia, gastroesophageal reflux disease.

Axis IV: Psychosocial stressors, criminal charges, imprisonment, estrangement from biological family, estrangement from friends, financial problems, and social isolation.

Current GAF is 50.

SOCIAL/FAMILY HISTORY

Mr. Switlyk was born on November 5, 1978, in Albany, New York. He was the second child of four children born to his biological parents. His father, age 63, currently works as a dermatologist in Sarasota. His mother, age 61, was also a doctor working as an internist, although she has retired from practicing. She is currently helping her husband run his practice and works as his medical assistant. His 35-year-old brother currently works at his father's medical office in Bradenton, Florida. Mr. Switlyk indicated they have had no contact for the last two years. Mr. Switlyk has a 31-year-old brother as well who lives in St. Pete and works as an attorney. Mr. Switlyk has some limited communication with him. Mr. Switlyk has a 27-year-old sister who lives in Bradenton and he has an "okay" relationship with her. Mr. Switlyk indicates that he last saw him family last November and since then, he has had very limited contact with

them. Mr. Switlyk does not feel like they are supportive of him and he feels "abandoned." Mr. states that he currently has very few friends. He is currently dating, but that he has a "bad history of relationships." Mr. Switlyk did attend many schools during his academic career. He attended kindergarten, first, and second grade at St. Catherine's in New York; and he attended third, fourth, and fifth grade at PS19. He attended sixth grade at Guilderland Farnsworth, seventh grade at Albany Academy, which is a military school, eighth grade at Hackett Middle School, and ninth, 10th, and 12th grades at Bethlehem Central High School. Mr. Switlyk said that he did skip the 11th grade due to his academic proficiency. Mr. Switlyk indicated that his elementary and middle school years were very difficult for him. He was not social and stated he was always the "smallest kid in the class." He did graduate high school at the age of 16 and started college at that point. Mr. Switlyk refrained from attending any type of sporting event, extracurricular event, or any type of social event at school. He felt very uncomfortable going to any type of prom, party, or teen event, and was very shy with everybody in school. He notes one example where he was dropped off with his brother to attend some type of homecoming event. Instead of going to the dance, he went to the track and walked the track for hours and then returned back so his mother could pick him up. Mr. Switlyk stated that he was not good with meeting people or engaging with them socially, especially since he went to so many different schools. He did start SUNY Albany College in 1995 when he was 16 years old for accounting. He did graduate college. He does have a Bachelor's in Science and Pharmacy. Mr. Switlyk did enjoy his academic career once in college, but up until that point it was very difficult for him. Mr. Switlyk worked as a pharmacy tech starting when he was 17 years old, when he was interning at the pharmacy. He then did an externship at another pharmacy and in 2002, began working for chain pharmacies and has worked since that time for various pharmacies. Mr. Switlyk stated that he has enjoyed his career as a pharmacist and is very scientifically oriented. Mr. Switlyk discussed his childhood as very "traumatic" for him. He stated that there was significant physical abuse by his father which ended him up in the hospital several times. Mr. Switlyk stated that his father would physically abuse him by "punching and kicking me," and at one point "threw me down the stairs." There was a DCF investigation by some type of social worker

which led to him being sent to his grandmother's house for the summer because his mother "feared the abuse would get worse" during the summer. Mr. Switlyk is open about his experiences during childhood, although he did appear very upset and shaken when discussing these situations and events. Mr. Switlyk indicates that there is significant family history of mental illness and substance abuse. He is unaware if anybody has been diagnosed or is being treated with medication currently. Mr. Switlyk moved to Florida in January 2002 when his parents retired here and moved to Longboat Key, Florida. Mr. Switlyk has lived in Florida since. Mr. Switlyk has had a variety of unhealthy relationships. He stated his last long term relationship with "Tiffany" was very unhealthy but felt she was "the only person I had." He gave me many examples of how she took advantage of him, which he realizes now, but during the course of the relationship, was not able to identify how unhealthy and dysfunctional it was to him and his mental health. He indicated he was closer to "her dogs" than he was to her. Since he was 17, all of his relationships appeared to indicate he was rather submissive in them and had very little control. He did not feel that he was capable of being in a "loving relationship," although he appears desperate for one. Given his history, he does not appear to have had age appropriate relationships and is now learning how to have a reciprocal relationship. His current girlfriend, Caroll, appears very loving and caring and demonstrates unconditional love and support for him. He reported he would like a "home life" eventually.

MEDICAL HISTORY

Mr. Switlyk is currently taking Trazodone 50mg. He has recently been prescribed 150mg of Zoloft, which is a 50mg increase from the 100mg he was taking several months ago. He apparently sees a nurse at the Pinellas County Jail on a monthly basis. He indicated recent blood work showed that he is anemic and has recently started taking a multivitamin. Additionally, he has elevated liver enzymes which could have been a problem before he came to jail. Mr. Switlyk states that he did have some type of car accident in 2002 in which he sustained some type of minor head injury. Mr. Switlyk indicated that he lost consciousness for a brief period of time and also sustained some type of neck

injury. He is unsure of what he was diagnosed with as far as the neck injury, but states that he did have several months of physical therapy to help resolve the neck issue. Additionally, he suffered some type of shoulder sprain or strain in which MRIs were taken. Mr. Switlyk also had physical therapy to help resolve the shoulder pain. Mr. Switlyk indicated that he had surgery on the left shoulder due to the injury he sustained in the car accident, and that from time to time he still has some pain. Mr. Switlyk indicated that he saw a wellness doctor, Dr. David Kalin, in October 2011. Apparently, he had a great deal of blood work completed and he was diagnosed with a variety of things. Mr. Switlyk did have decreased energy, trouble sleeping, panic attacks, and he was told that he had a vitamin B12 deficiency, vitamin D deficiency, had some thyroid issues, high cholesterol, and low testosterone. Dr. Kalin prescribed magnesium, B12, hCG, B-complex, zinc, Propanolol for some type of possible heart murmur, and Pregnenelone. He stated that after starting these medications, he started to feel better after a couple weeks. He did apparently follow up with a heart doctor, Dr. Sayad, who stated that he felt that stress was causing and/or exacerbating some of the heart issues. Mr. Switlyk also suffers from allergies and does have a history of allergic rhinitis. Mr. Switlyk states that he has taken allergy medicine consisting of Benadryl and Claritin to be taken as needed. He also states that he has been diagnosed with gastroesophageal reflux disease and has been prescribed some medication to take as needed for that. Mr. Switlyk has seen a variety of mental health physicians over the last couple of years. In 2008-2009, he saw a Dr. Richard Brown and had approximately 10 sessions with him. He feels that it was somewhat beneficial to him. In mid-2008, he saw Dr. Ganache in which he was seen twice. He was not prescribed any medication, but rather at that point, referred to Dr. Richard Brown for follow up treatments. In 2007, he saw a Dr. Pinard for one session. He stated that he was diagnosed with bipolar disorder, depression, and schizophrenia. He was prescribed Seroquel 25mg. Mr. Switlyk stated that he took the medication, but "felt weird" and was having problems with dizziness and felt cloudy. He then stopped the medication. He did not follow up with Dr. Pinard. Most currently, he was seeing Dr. James Edgar up until April 2012. According to Mr. Switlyk, Dr. Edgar diagnosed him with bipolar disorder and depression. Dr. Edgar prescribed Trazodone

making discussed above, his tendency to over-endorse these personal characteristics is also further indication of a more general inability to accurately present himself to others.

Mr. Switlyk's MMPI-2 profile indicates significant psychopathology on scales of Hypochondriasis, Depression, Hysteria Conversion, Psychopathic Deviate, Paranoia, Psychasthenia, Schizophrenia, and Social Isolation. Overall his characterological mental condition is both severe and debilitating to normal functioning. As will be discussed below, this profile indicates a history of insufficiently treated psychological difficulties that significantly characterizes Mr. Switlyk's emotional, cognitive, and social functioning.

In response to internal emotional events, Mr. Switlyk is likely to be characteristically neurotic, expressing a great deal of anxiety and depressive symptomatology. He is likely to be chronically plagued with physical health problems that obfuscate emotional difficulties. Emotional safety is both extremely important to his well-being and also infuriatingly unattainable in the typical situations and relationships in which he finds himself. For all his apparent self-reliance he is in reality overly dependent on others to make decisions for him, out of fear that he appears as stupid or incompetent as he believes he is when things go badly. Underneath his anxiety is an extremely diffuse sense of self and low self-efficacy. As noted above, because of his helplessness he is likely to either make impulsive/compulsive decisions without considering all the facts, or appear apathetic to the consequences.

While Mr. Switlyk appears intelligent, he is likely to demonstrate effective decision-making only in very narrow ways, and, under duress, thinking styles are likely to sharply decrease. Often, for example, individuals with Mr. Switlyk's character profile do extremely well in primary school and higher education, but quickly fail once in the real world of work and adult interactions. In Mr. Switlyk's case, cognitive functioning is likely to be impaired due to the mental effort required to control negative feelings, and his ability to make effective decisions is likely to be compromised as a result. At times his mental state may appear sufficiently compromised to reflect a

thought disorder, and reality testing is likely to be poor due to emotional health.

In social situations, Mr. Switlyk vacillates between blind faith and paranoid avoidance. Most likely this ambivalence originates in early parenting inconsistencies, such as in the case of intermittent child abuse. His character profile indicates an early disruption of attachment development, which appears to impact his ability to form healthy relationships. Such early trauma is likely to explain present difficulties with social intelligence, and why he often becomes a victim of detrimental relationships. This coupled with his history of unhealthy and damaging relationships shows how Mr. Switlyk appears to be experiencing Stockholm Syndrome. He is very reliant on these "toxic" relationships and has only till most recent been able to engage in relationships where his partners drank alcohol in excess, emotionally abused him, felt "extremely dependent" upon them, and the females were always in a state of control. Mr. Switlyk also has these types of relationships with his family and other interpersonal relationships. He wants very much for his parents to approve of him although for Mr. Switlyk, his parents have only reinforced to him that he is "not good enough" and "continues to make mistakes." Mr. Switlyk since he can remember was met with constant confirmation that he was a "bad kid" and the abused he received reiterated what he was verbally told. This has caused him to have an unyielding lack of self-confidence and sense of identity which has obviously affected him throughout the course of his life. Mr. Switlyk needs support and a safe environment to help work through the aforementioned issues.

As an adult Mr. Switlyk is likely to have a history of very poor relationships, in part because he overlooks the flaws of others and tends to idealize them. Because he deeply wants the approval and acceptance of others, he is likely to be easily convinced about their intentions and honestly surprised when their shortcomings inevitably surface. On the other hand, Mr. Switlyk is likely to more quickly become distrustful and paranoid than other people, and to cope with perceived slights from others he becomes excessively independent and isolative. However, his psychological immaturity makes it impossible to sufficiently "cover up" his character weaknesses, and he is likely to be

taken advantage of by others, leading to further distrust and paranoia.

Social and Emotional Functioning:

Mr. Switlyk also completed several measures of current symptomatology and subsequent distress. As with the personality assessments, interpretation of these measures must take into account his tendency to over-endorse subjective experiences. On these measures, Mr. Switlyk is experiencing a severe level of depression, anxiety, hopelessness, and suicidality. He is experiencing a moderate problem with symptoms associated with Bipolar Disorder. His responses on the SCL-90-R also indicate a clinically significant level of distress related to somatic complaints, obsessive-compulsive behaviors, depression, lack of empathy, anxiety, phobic anxiety, paranoia, and schizophrenia. His Global Severity Index on this measure indicates an acute need for treatment for these issues.

Mr. Switlyk was assessed for post-traumatic problems. Two trauma scales, the PDS and Davidson Scale, were completed regarding his recent experiences of incarceration. On these measures Mr. Switlyk is experiencing symptoms of intrusion, avoidance/numbing, and hyperarousal similar to a majority of individuals who are diagnosed with a formal trauma disorder (PTSD). The intensity of his trauma symptoms and their impact on daily functioning fall in the Severe range of these measures. A third measure of traumatic symptomatology indicates clinically significant anxious arousal, depression, anger, intrusive experiences, dissociation, defensive avoidance, somatization, suicidality, insecure attachment, and interpersonal sensitivity. Based on these three measures, Mr. Switlyk extant mental health problems appear to be significantly further jeopardized by traumatic experiences occurring during his incarceration. In particular, existing problems with reality testing, paranoia, depression, anxiety, and suicidality are likely to continue to intensify during this time, and his mental capacity is expected to diminish further as a result. Given his history of trauma preceding his incarceration, his current symptoms are also likely to reflect to some degree a chronic trauma disorder that has affected him prior to the current trauma.

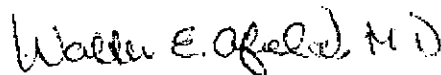
To clarify social functioning issues, Mr. Switlyk also completed the Quality Of Life Inventory and Personal Problems Checklist. Overall, Mr. Switlyk's quality of life falls in the Very Low Range, with the highest ratings of dissatisfaction in health, self-esteem, work, play, learning, relatives, and home. In terms of personal problems, Mr. Switlyk reports having the greatest problems with social relationships, appearance, being jobless, unsanitary living conditions, finances, emotional difficulties, legal issues, and fear of being physically hurt or committing suicide.

In summary, Mr. Switlyk has had a traumatic childhood stemming from years of physical and emotional abuse. He unsuccessfully attempted to socialize in middle and elementary school but was often left out and bullied which left him emotionally scarred and socially incompetent. He was exposed to a variety of relationships where he was taken advantage of and left feeling emotionally vulnerable. He has been abandoned by his family and friends and feels betrayed by the majority of people in his life. He has attempted to build a successful life for himself but unfortunately trusted the wrong people who recognized his vulnerability and took advantage of him. This caused Mr. Switlyk to have less control of his life and a greater loss in his identity. Mr. Switlyk is experiencing P.T.S.D. (Post-Traumatic Stress Disorder) which does cause neuromicrobiological changes in the brain to occur causing Mr. Switlyk to have an underlying constant ability to overact to stressors particularly ones that are similar to the original events/stressors. Therefore, Mr. Switlyk does struggle with an emotional disorder that causes him to have diminished capacity. Given his past diagnoses and past traumas he has experienced, Mr. Switlyk does not have the capacity to maliciously have done with he is being charged with. Mr. Switlyk is very bright and academically successful although that has proven to be of little success for him given he has made poor decisions which he is very aware of and extremely remorseful. He has great difficulty problem solving and foreseeing how his mistakes affect others. He lacks insight because of his traumatic history and lacks empathy because of significant early attachment deficiencies. He desires a loving and caring relationship which he has been deprived of most of his life and has finally discovered that relationship with his current girlfriend, Caroll. He stated, "Every day I look forward

to the chance of finally having a solid relationship with Carroll." I have spoken with Carroll and she is very supportive of him and wants to help him better himself. I believe, without hesitation, Mr. Switlyk could be successful if he remained appropriately medicated, which he is doing quite well with his current medication regimen, and intensive psychotherapy. Mr. Switlyk has been on his current medication regimen for the last 4 months and he feels significantly more in control of his life. Before being appropriately medicated, Mr. Switlyk was experiencing mania, panic attacks, paranoia, insomnia, lack of focus, and was unable to make eye contact. Currently, he does not experience extreme high and lows (although for the situational event of currently being incarcerated which causes some depression). During our interview he was extremely calm, made appropriate eye contact, and appears to have better insight and judgment. The environment of the jail and/or prison will only exacerbate his symptoms and he needs a less restrictive environment and setting. Mr. Switlyk would like to find a psychiatrist and psychologist who could meet his needs and help foster a greater sense of control within himself. This should be arranged prior to his release from prison. Mr. Switlyk needs to be guided and provided insight into how history has negatively impacted his abilities to make appropriate decisions. He is well aware of his mistakes and is dedicated to making better choices for himself and learning how to gain greater control in his life. He has taken the initiative to start making healthier choices for himself and develop a sense of understanding and empathy for the world around him. This as mentioned before has been very difficult for him because of his early childhood experiences and mental health problems.



Jennifer Barror-Levine, PsyD
Licensed Clinical Psychologist



Walter E. Afiel, M.D.
Medical Director

Christopher Switlyk

09/01/2012

INDEPTH NEUROBEHAVIORAL ASSESMENT

The following tests include administration, scoring and interpretation of results: Eysenck Personality Inventory; Beck Anxiety Inventory; Beck Depression Inventory-II; Beck Hopelessness Scale; Beck Scale for Suicide Ideation; Trauma Symptom Inventory, Second Edition; Post Traumatic Stress Diagnostic Scale; Davidson Trauma Scale; Symptom Checklist 90-R; Quality of Life Inventory; Personal Problems Checklist; Minnesota Multiphasic Personality Inventory-2.

EYSENCK PERSONALITY INVENTORY:

E: 31% N: >99%

BECK TESTING:

Depression: 46
Anxiety: 42
Hopelessness: 20
Suicide ideation: 20

POST TRAUMA STRESS TESTING:**TRAUMA SYMPTOM INVENTORY-2:**

(see summary below)

POST TRAUMATIC STRESS DIANOSTIC SCALE:

Severity Rating: Severe

DAVIDSON TRAUMA SCALE:

Positive Predictive Value: >42.12%

SYMPTOM CHECKLIST 90-R:

Global Severity Index: 61T

QUALITY OF LIFE INVENTORY:

Classification: very Low

PERSONAL PROBLEMS CHECKLIST: (see summary below)

CONTINUED ON NEXT PAGE

SUMMARY

Mr. Switlyk is able to complete all measures independently and within a normal amount of time. He does not report any difficulty understanding directions and answers all test items. However, during the scoring of these measures, several unusual or atypical response approaches to test items are indicated. Scores are adjusted accordingly on certain measures, and reasons for these test-taking approaches are described as appropriate for each test. Based on his apparent effort and cooperation, these results are likely to be an accurate estimate of his current level of psychosocial functioning, as well as his overall mental capacity to make informed decisions for himself and about himself and others.

Personality Functioning:

Mr. Switlyk completed two measures of personality functioning, the Eysenck Personality Inventory and MMPI-2. On the Eysenck PI, Mr. Switlyk is excessively neurotic in his responses to social situations and external events. He is likely to make decisions in a black-and-white way that does not take in to account dissonant information, either positive or negative. This makes it extremely difficult for him to consider alternative decisions or perspectives, even when it appears clear to others that his thinking is faulty or clouded. Individuals with his level of inflexible thinking and ruminative cognitive style also often experience events more intensely than others, which may explain his tendency to seemingly over-report on these and other measures.

The MMPI-2 must be interpreted with extreme caution due to excessive endorsements of atypical items. This response pattern tends to elevate scales of psychopathology, resulting in a potential "false positive". On the other hand, this response pattern is more often interpreted as a cry for help on the part of the responder, and indicates a subjective level of difficulty in personality functioning. Given Mr. Switlyk's troubled personal history and limited capacity for balanced, rational decision-making discussed above, his tendency to over-endorse these personal characteristics is also further indication of a more general inability to accurately present himself to others.

Mr. Switlyk's MMPI-2 profile indicates significant psychopathology on scales of Hypochondriasis, Depression,

Hysteria Conversion, Psychopathic Deviate, Paranoia, Psychasthenia, Schizophrenia, and Social Isolation. Overall his characterological mental condition is both severe and debilitating to normal functioning. As will be discussed below, this profile indicates a history of insufficiently treated psychological difficulties that significantly characterizes Mr. Switlyk's emotional, cognitive, and social functioning.

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While Mr. Switlyk appears intelligent, he is likely to demonstrate effective decision-making only in very narrow ways, and, under duress, thinking styles are likely to sharply decrease. Often, for example, individuals with Mr. Switlyk's character profile do extremely well in primary school and higher education, but quickly fail once in the real world of work and adult interactions. In Mr. Switlyk's case, cognitive functioning is likely to be impaired due to the mental effort required to control negative feelings, and his ability to make effective decisions is likely to be compromised as a result. At times his mental state may appear sufficiently compromised to reflect a thought disorder, and reality testing is likely to be poor due to emotional health.

In social situations, Mr. Switlyk vacillates between blind faith and paranoid avoidance. Most likely this ambivalence originates in early parenting inconsistencies, such as in the case of intermittent child abuse. His character profile indicates an early disruption of attachment development, which appears to impact his ability to form healthy relationships. Such early trauma is likely to explain present difficulties with social intelligence, and why he often becomes a victim of detrimental relationships.

As an adult Mr. Switlyk is likely to have a history of very poor relationships, in part because he overlooks the

flaws of others and tends to idealize them. Because he deeply wants the approval and acceptance of others, he is likely to be easily convinced about their intentions and honestly surprised when their short-comings inevitably surface. On the other hand, Mr. Switlyk is likely to more quickly become distrustful and paranoid than other people, and to cope with perceived slights from others he becomes excessively independent and isolative. However, his psychological immaturity makes it impossible to sufficiently "cover up" his character weaknesses, and he is likely to be taken advantaged of by others, leading to further distrust and paranoia.

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Based on these three measures, Mr. Switlyk extant mental health problems appear to be significantly further jeopardized by traumatic experiences occurring during his incarceration. In particular, existing problems with reality testing, paranoia, depression, anxiety, and suicidality are likely to continue to intensify during this time, and his mental capacity is expected to diminish further as a result. Given his history of trauma preceding

his incarceration, his current symptoms are also likely to reflect to some degree a chronic trauma disorder that has affected him prior to the current trauma.

To clarify social functioning issues, Mr. Switlyk also completed the Quality Of Life Inventory and Personal Problems Checklist. Overall, Mr. Switlyk's quality of life falls in the Very Low Range, with the highest ratings of dissatisfaction in health, self-esteem, work, play, learning, relatives, and home. In terms of personal problems, Mr. Switlyk reports having the greatest problems with social relationships, appearance, being jobless, unsanitary living conditions, finances, emotional difficulties, legal issues, and fear of being physically hurt or committing suicide.

Walter E. Afield, M.D.

Walter E. Afield, M.D.

WEA/jp

September 10, 2010

Dear Dr. Rivenbark:

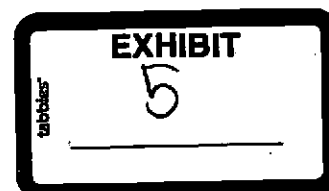
This office represents Christopher Stephen Switlyk, R.Ph., who previously applied to PRN and was assigned Case No. PS-2010-14492. Mr. Switlyk has been advised in a letter from you dated July 21, 2010, that his PRN file is being closed due to his lack of response to PRN's recommendation.

My Switlyk understands and respects PRN's recommendation. However, he has several pending legal matters which need to be attended to and require almost daily contact with his lawyers. For this reason, he is unable to enter into treatment at this time. I hope this does not prejudice his ability to take advantage of this opportunity in the future. Please contact me if I may be of assistance.

Very truly yours,

Todd Foster

TAF/naf



AO 245B (Rev 06/05) Sheet 2 - Imprisonment (Judgment in a Criminal Case)

Defendant: CHRISTOPHER SWITLYK
Case No.: 8:10-cr-530-T-33AEP

Judgment - Page 3 of 10

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of **ONE HUNDRED EIGHT (108) MONTHS** as to Counts ONE, FIVE and SIX. All such terms to run concurrently.

The Court makes the following *recommendations* to the Bureau of Prisons:

- 1) Confinement at FCI Coleman, FL;
- ★ → 2) Defendant participate in the 500 Hour Residential Drug Abuse Program; and
- 3) Defendant obtain vocational training in computers and culinary arts.

The defendant is remanded to the custody of the United States Marshal.
 The defendant shall surrender to the United States Marshal for this district.

___ at ___ a.m./p.m. on ___
___ as notified by the United States Marshal.

The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons.

___ before 2 p.m. on ___
___ as notified by the United States Marshal.
___ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____
at _____, with a certified copy of this judgment.

United States Marshal

By: _____
Deputy United States Marshal

Subject: RE: hello
From: Stephen L. Romine (sromine@tampalawfirm.com)
To: tampaguyrx@yahoo.com;
Date: Tuesday, June 22, 2010 5:46 PM

We will address tomorrow.

-----Original Message-----

From: Chris [mailto:tampaguyrx@yahoo.com]
Sent: Tuesday, June 22, 2010 5:46 PM
To: Stephen L. Romine
Subject: Re: hello

Exhibit 5A-3

I forgot to ask about this PRN program they want me to do when I was just there, what do I tell these people?
 They want me to go into a treatment program asap for 2 to 4 months, if I don't they will have a negative impact with the doh

Sent from my iPhone

On Jun 22, 2010, at 3:26 PM, "Stephen L. Romine" <sromine@tampalawfirm.com> wrote:

Will call you in a bit

 Sent using BlackBerry

----- Original Message -----

From: Christopher Switlyk <tampaguyrx@yahoo.com>
To: Stephen L. Romine
Sent: Tue Jun 22 15:25:12 2010
Subject: Re: hello

What time will you be at the office till? I am trying to print out these reports for you but it is taking awhile, I had to go to the clinic to meet with the staffing agency earlier so that held me up. I think I should be done within 30 minutes or so though

--- On Mon, 6/21/10, Stephen L. Romine <sromine@tampalawfirm.com> wrote:

From: Stephen L. Romine <sromine@tampalawfirm.com>
Subject: Re: hello
To: tampaguyrx@yahoo.com
Date: Monday, June 21, 2010, 2:08 PM

Exhibit 5A-2

Tomorrow come in at 3PM. Get everything done. We have a meeting Thursday with gov. We need to get the fee resolved and get some payment down to start.

 Sent using BlackBerry

----- Original Message -----

From: Christopher Switlyk <tampaguyrx@yahoo.com>
To: Stephen L. Romine
Sent: Mon Jun 21 13:40:25 2010
Subject: Re: hello

do you want me to just come in at 2:30? will u be in the office? I just talked to prn, I want to talk to you about that too. Also, I am finishing up these figures, and according to the computer it shows about 1.1 million was made in profit on total drugs before July 2010, and the total of non-controlled drugs until the day the pharmacy was closed was around 800 grand or so, but the total profit on the computer was about 7 million, is it possible to bring in finalized paperwork tomorrow morning? I am finishing it up now but I think I should check it all over tonight before I give it to you, let me know, I can bring it what I have so far to show it to you at 2:30 if you want, thanks

-- On Mon, 6/21/10, Stephen L. Romine <sromine@tampalawfirm.com> wrote:

From: Stephen L. Romine <sromine@tampalawfirm.com>
Subject: Re: hello
To: tampaguyrx@yahoo.com
Date: Monday, June 21, 2010, 1:11 PM

Please call me at 2:30 for a phone conference.

Sent using BlackBerry

----- Original Message -----
From: Chris <tampaguyrx@yahoo.com>
To: Stephen L. Romine
Sent: Fri Jun 18 19:01:41 2010
Subject: Re: hello

Exhibit 5A-1

I talked to Todd on the phone when I was there, they recommended treatment to try and save my license, they want to do a 7 day in-house evaluation or just go right into a 30 day treatment program, I guess I'll talk to u about it when I see u Monday

Sent from my iPhone

On Jun 18, 2010, at 12:08 PM, "Stephen L. Romine" <sromine@tampalawfirm.com> wrote:

Just got this. If you are still there, reschedule and we will discuss.

Sent using BlackBerry

----- Original Message -----
From: Chris <tampaguyrx@yahoo.com>
To: Stephen L. Romine
Sent: Fri Jun 18 11:25:05 2010
Subject: Re: hello

Hey can u call me, I'm at PRN, I think you should talk to this guy asap before I answer more of his questions.

Sent from my iPhone

On Jun 16, 2010, at 1:11 PM, "Stephen L. Romine" <sromine@tampalawfirm.com> wrote:

330 is fine. Bring what you have. I am in the middle of some matters with a deadline today but I can cut out for five minutes when you and Brian are done, but I have to keep it short today.

Sent using BlackBerry

----- Original Message -----
From: Chris <tampaguyrx@yahoo.com>
To: Stephen L. Romine
Sent: Wed Jun 16 13:08:35 2010
Subject: Re: hello

Well I need to ask u about some things before I can have it all 100% done, I will bring what I have, will u be there? I made an appointment with dr david myers for this Friday at 9am for an evaluation. Let me know when u will be available to answer a couple questions. Also can I come at 3:30 or so? I am supposed to pick something up at 3, thanks

Sent from my iPhone

September 10, 2010

Dear Dr. Rivenbark:

This office represents Christopher Stephen Switlyk, R.Ph., who previously applied to PRN and was assigned Case No. PS-2010-14492. Mr. Switlyk has been advised in a letter from you dated July 21, 2010, that his PRN file is being closed due to his lack of response to PRN's recommendation.

My Switlyk understands and respects PRN's recommendation. However, he has several pending legal matters which need to be attended to and require almost daily contact with his lawyers. For this reason, he is unable to enter into treatment at this time. I hope this does not prejudice his ability to take advantage of this opportunity in the future. Please contact me if I may be of assistance.

Very truly yours,

Todd Foster

TAF/naf

July 21, 2010

ENGAGEMENT AGREEMENT

CHRISTOPHER S. SWITLYK (CLIENT) hereby retains **THE LAW FIRM OF COHEN, FOSTER & ROMINE, P. A.**, 201 E. Kennedy Boulevard, Suite 1000, Tampa, Florida, 33602, 813/225-1655, (LAW FIRM) to represent CLIENT in connection with possible state and federal investigations relating to conspiracy, illegal sale of prescription drugs, money laundering of proceeds and related matters (herein collectively the "Case").

It is understood and agreed that CLIENT employ the LAW FIRM and they accept employment as our attorneys, upon the following terms and conditions:

The LAW FIRM is responsible for handling the matters relating to the Case through trial of the Case. Except for representation in connection with forfeiture proceedings described below and representation in the Case and matters relating thereto, this representation does not include any new or additional investigations or cases, indictments, trials or any appeals or post-conviction motions relating to the Case or other matters. This Agreement is not a guaranty, nor has the LAW FIRM made any promises that any particular result will be accomplished or that any particular lawyer will handle any particular aspect of this case. The LAW FIRM will have the exclusive right to determine which lawyer will handle each particular part of this case.

CLIENT agrees to pay a non-refundable flat fee, which shall be considered the minimum agreed fee of Seven Hundred and Fifty Thousand Dollars (\$750,000.00) for representation in this case. Payment of the engagement fee is due and payable as follows:

Fifty Thousand Dollars (\$50,000.00) payable on July 21, 2010. The balance of the fee, Seven Hundred and Twenty-Five Thousand Dollars (\$700,000.00) is payable as follows:

\$100,000 on or before August 30, 2010 and \$50,000.00 on the 30th day of each month thereafter until paid in full.

CS

In addition CLIENT hereby agrees that any balance owing on the minimum agreed fee shall be payable from the first dollars released or returned to the CLIENT from proceeds seized from him now or in the future estimated to be between Six and Seven Million Dollars (\$6,000,000-\$7,000,000). Funds released or returned shall be applied regardless of whether their release or return is voluntarily made by the Government; is the result of concession, negotiation, stipulation, court order or otherwise. CLIENT hereby authorizes that all checks, wires or ACH returning funds shall only be made payable to the trust account of the LAW FIRM, to assure payment of fees or costs due the LAW FIRM, and then for distribution in accordance with the terms hereof. CLIENT agrees to execute a Promissory Note to evidence the obligation to pay the balance of the minimum agreed fee, which Note shall be secured by a first mortgage on Client's residence.

In addition to the minimum agreed fee for representation in defense of criminal matters constituting the Case, as a separate matter, The Law Firm shall be paid Forty Percent (40%) of any dollars recovered from the approximately Six to Seven Million (\$6,000,000-\$7,000,000) seized from CLIENT and and sought to be forfeited in a civil or criminal forfeiture proceeding. This payment of this fee is contingent and no fee will be due unless amounts are recovered. Any funds paid to the Law Firm as a result of these recoveries shall be in addition to payment of the minimum agreed fee and a separate fee payable for serving as Client's counsel in the forfeiture proceedings. However, it is agreed that the 40% shall not be charged on the first Seven Hundred and Fifty Thousand Dollars recovered, whether such amounts are paid to the Law Firm as agreed above or to CLIENT.

CLIENT agrees that all fees paid pursuant to this Engagement Agreement against the minimum agreed fee shall be considered earned as of the time the law firm undertakes representation, no amount shall be required to be held as a retainer, billed against, escrowed or placed in trust and CLIENT shall not be entitled to any refund of fees for any reason.

CLIENT has considered the seriousness of the Case and and related matters, potential allegations, the potential for an indictment, forfeiture or other tax implications, of a possible prosecution, not only to the life of the CLIENT, but on his family as well, and has decided, after careful consideration, that it is in his best interest to engage the LAW FIRM. This belief is based upon the reputation of the LAW FIRM in the legal community in Hillsborough County, statewide and the community at large. CLIENT believes that the firm will devote the time, energy and legal skills required to increase the probability of

obtaining the best results given the facts and law of CLIENT'S case. CLIENT acknowledges that the Firm has explained to them that other law firms in this case for a fee substantially less than what the Firm is charging to accept representation in this case; that the fee charged by other firms (on an hourly or other basis) may, or may not, ultimately be greater than than the agreed minimum fee charged herein. Because of the risks involved in this matter and the Client's desire to have the certainty of a fixed fee for the services described herein, thereby eliminating the risk of a higher fee and fixing his financial exposure for fees, CLIENT choose the LAW FIRM regardless of which other law firms may be available, and regardless of the initial or ultimate fee other law firms may have charged Client.

CLIENT is aware that because of the nature of this matter, the LAW FIRM has been required to set aside substantial time and resources that will likely preclude it from accepting additional cases that are or may become available. This is due to the time set aside for this representation.

CLIENT has had the opportunity to discuss with family members, independent legal counsel and independent financial advisors before executing this Agreement, and agree voluntarily and freely to the terms and conditions herein. CLIENT considers this Agreement to be reasonable and not excessive under the circumstances. With this knowledge, CLIENT has specifically requested LAW FIRM undertake the representation in this matter.

CLIENT is hereby advised that the Code of Professional Responsibility permits certain facts to be considered in setting a fee and those facts include the following:

- (a) The time and labor required, the novelty, complexity, and difficulty of the questions involved, and the skill required to perform the Legal services properly;
- (b) The likelihood that the acceptance of the particular employment will preclude other employment by the lawyer;
- (c) The significance of, or amount involved in, the subject matter of the representation, the responsibility involved in the representation;
- (d) The time limitations imposed by me or by the circumstances and, as between attorney and client, any additional or special time demands


or requests of the attorney by me;

- (e) The nature and length of the professional relationship;
- (f) The experience, reputation, diligence, and ability of the lawyer or lawyers performing the service and the skill, expertise or efficiency of effort reflected in the actual providing of such services; and,
- (g) The amount involved and the results obtained. [This is not, in any way, to be construed or meant as a contingent fee.]

Costs which are billed to CLIENT are all out-of-pocket costs incurred, such as court reporter fees, filing fees, photocopying expenses, computer assisted research costs, long distance calls, fed-x, experts, accountants, investigators, paralegals and other similar expenses as they are incurred which, in the judgment of the attorney, are necessary to CLIENT'S representation. Billing for costs will be forwarded to the CLIENT monthly.

All cost bills shall be due when rendered and payable in full within ten (10) days. All unpaid bills shall bear interest at the rate of 1-1/4% per month on the unpaid balance, compounded monthly.

If the fees described herein or cost bills are not paid when due, a mutually agreeable payment arrangement shall be made and adhered to **and so long as the CLIENT is acting in good faith to pay the fees and costs, the LAW FIRM shall continue to defend client on the Case and shall not seek to withdraw.** However, if costs are not timely paid for ninety (90) days, the Law Firm may elect to suspend services until the costs are paid current. If an action or agency is employed to collect any amounts, including costs due hereunder, the cost of collection, plus interest at the rate described above and reasonable attorney fees will be added if it becomes necessary to collect any fees and all other costs. This contract is binding on the heirs and assignees of the undersigned parties.

It is further agreed that with respect to any dispute regarding attorney fees and/or costs incurred during this representation by the LAW FIRM the proper venue and forum for litigation or alternative method of resolution of said dispute shall be Hillsborough County, Florida, regardless of any other factors to be considered in making that determination, pursuant to Hughes Supply, Inc. v. Lupton, 487 So.2d 429 (Fla. 5th DCA, 1986). 

CLIENT agrees and represent to the LAW FIRM that all monies or other assets paid to the firm for fees or costs of any kind, including the proceeds of any unlawful or illegal activity whatsoever. While CLIENT is free to seek financial assistance from family or friends, CLIENT understands that payment of fees and costs is CLIENT'S responsibility, and any financial assistance from others is a matter solely between CLIENT and those persons willing to help CLIENT.

CLIENT and THE LAW FIRM OF COHEN, FOSTER & ROMINE, P.A. agree and request that this engagement Agreement, its terms and conditions, and the amount of any fees and/or expenses paid in connection with it, will remain strictly secret, confidential, private and considered part of the attorney-client privilege, unless and until CLIENT affirmatively waive such privilege and confidentiality, or a Court orders disclosure, after all appropriate litigation and appellate remedies have been sought. These restrictions shall not apply if it becomes necessary for the LAW FIRM to conduct litigation for collection of its fees and/or costs.

The attorneys are officers of the Court and are bound by the rules regulating The Florida Bar. We acknowledge and understand that while the attorneys accept this employment and promise to render professional legal services to the best of their ability during the continuation of this employment, that the attorneys make no warranties, representations or guarantees about the outcome of the case and that the manner in which the case is concluded, whether by trial, negotiation, or otherwise, and that this does not in any way affect the amount of the fee, unless specifically provided in this contract. CLIENT further acknowledges that this Agreement is not "contingent" upon any of the foregoing. CLIENT agrees to fully cooperate with the attorneys; to do nothing that would compromise the attorneys' professional ethics; and, will not request or require the attorneys to do anything in violation of the Rules of Professional Conduct. If CLIENT has misrepresented or failed to disclose any material facts, refuse to follow the attorneys' advice, or fail to be available as necessary for preparation, conferences, depositions, hearings or other court proceedings, the attorneys may withdraw from representation with leave of Court.

This Agreement constitutes the entire Agreement between CLIENT and the LAW FIRM and there are no oral Agreements or understandings other than that which is contained herein. All amendments, additions or changes to this Agreement shall be in writing and agreed to and signed by the parties. CS

CLIENT:


CHRISTOPHER S. SWITLYK (CLIENT)

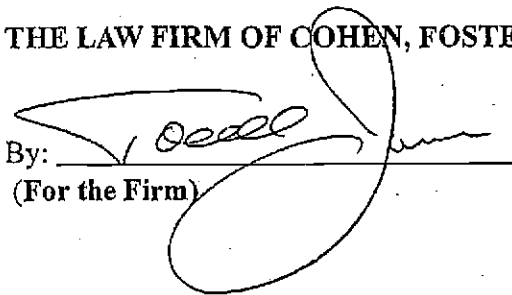
07/21/2010
Date

WE HEREBY AGREE to represent you in connection with the aforementioned matters upon the terms and conditions set forth above.

THE LAW FIRM OF COHEN, FOSTER & ROMINE, P.A.

By:

(For the Firm)



Date

7-21-10

TRULINCS 53913018 - SWITLYK, CHRISTOPHER - Unit: EST-A-A

FROM: 53913018

TO:

SUBJECT: Letter #1 Mailed to DOH on 01/08/2014

DATE: 03/17/2014 06:17:25 PM

From:

Christopher Switlyk
Register #: 53913-018
FCI Estill
Post Office Box 699
Estill, SC 29918-0699

To: Christopher Jurich
Assistant General Counsel
Florida Department of Health
Office of the General Counsel
Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, FL 32399-3265

RE: DOH v. Christopher Stephen Switlyk, R.Ph.
Case Number: 2011-20634

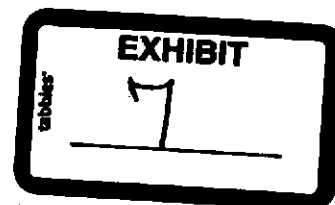
Dear Mr Jurich,

I received your letter dated December 20, 2013 on December 24, 2013. In your letter it states that I have only "21 days" to respond to your notice and to send in a signed and notarized "Election of Rights" form, from the "date I was served", and that "failure to file this form within 21 days may be considered a waiver of your right to dispute the allegations in this matter". However, as you are aware, I am in a federal prison in Estill, South Carolina, and there is no notary available here. Whenever an inmate really needs something notarized they must submit a written request which can take several months before it is fulfilled. In addition to this inconvenience an inmate here has to pay \$20.00 out of their commissary account before the prison even schedules a notary to come to the prison for them.

As soon as I received your letter I immediately submitted an inmate requested my Unit Manager requesting to have a document notarized. Unfortunately, Ms Carlson, as well as all of the counselors who are in charge of fulfilling these types of inmate requests, have been on vacation for the past 2 weeks. I have heard of people waiting up to 3 months in here before the prison has an outside notary representative come to the prison in order to notarize something for them after they submitted their initial request. I think that it is going to take AT LEAST that long before I am able to get my Election of Rights form notarized for you considering these circumstances so I am not really sure what you expect me to do about this since it is out of my hands.

I am not even sure why I need to fill another one of these forms out. I already filled out this exact form and had it notarized back in March of 2013 and mailed it into the Department of Health when I was housed at the Pinellas County Jail. Fortunately it was much easier for me to have something notarized while I was housed at that jail since every Sergeant there was a notary. Unfortunately, the prison I am currently housed at cannot make it any more difficult for an inmate here who is seeking to have something notarized than they do.

The only other option this prison offers inmates here when they need their signature witnessed when signing important documents is an Official Witness Stamp. My Unit Counselor, Mr Steve Smith, is authorized to administer oaths and will stamp the completed "Election of Rights" form for me, noting that he "witnessed my signature" on it. I have recently had a "Limited Power of Attorney" form prepared using this method and it was accepted for the specified duties described in that form since my signature was witnessed by a Federal Prison Counselor. I will take care of this as soon as Mr Smith gets back from vacation, which should be this week. I am going to send the completed and signed "Election of Rights" form along with this letter. I hope that this method of signature verification will be acceptable for this matter considering the unfortunate circumstances and obstacles I am currently faced with.



TRULINCS 53913018 - SWITLYK, CHRISTOPHER - Unit: EST-A-A

Here is the information for my prison Case Manager, Mr Smith, in case you need to verify that he witnessed my signature:

Name: Mr Steven Smith
Unit A-A Case Manager
Address: FCI Estill
100 Prison Road
Estill, SC 29918
Prison Phone Number: (803) 625-4607
Prison Fax Number: (803) 625-5635

Also, I have an attorney who is helping me handle all matters concerning my Florida Pharmacist license but I have not had much communication with him since I have been at this prison. I have mailed him copies of all of the documents you sent me so hopefully he let you know that he is representing me for this matter. Please also forward all documents pertaining to this matter to him as well since he will assist me in handling this matter since I am currently at an extreme disadvantage of being able to defend myself while I am in prison with no resources or access to evidence which could be used in my defense. Here is my healthcare attorney's information:

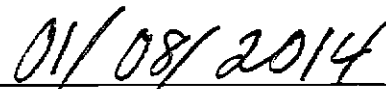
Name: John Perrin
Phone Number: (727) 585-0500
Email Address: JP9975@aol.com
Office Address: The Perrin Law Firm
2401 West Bay Drive, Suite 424
Largo, FL 33770

Also, if this Official Witness Stamp is not acceptable for this matter then please extend the deadline for me to have the Election of Rights form notarized for at least 6 to 9 months from today to ensure that I have a sufficient amount of time to get this document notarized any my rights in this matter are not violated. By the time this prison actually gets around to having an outside notary come to the prison for me I will likely be transferred since I have a pending transfer request in which is supposedly going to be fulfilled within the next 2 to 3 months. Then the transfer process takes anywhere from 2 to 4 weeks before I actually arrive at the new prison or camp. Then it will take another 2 to 6 weeks before I get my property and paperwork returned to me at the new prison. Then it will also potentially take an additional 2 to 3 months after I put a request in at the new prison to finally get this document notarized. Thus, it may actually take me 6 months or longer to get this document notarized considering my circumstances so please take this into consideration. To be on the safe side I think a 9 month extension would ensure enough time for me to get this document notarized just in case the worst case scenario plays out and other obstacles such as prison lock-downs and shake-down's occur which would further delay this process. We have already had 5 entire prison lock-down's since I have been here, each lasting several days, during which nothing gets done, much less anything being notarized for anyone. Hopefully I will be transferred to a Federal Camp soon and I will send you a letter as soon as I am relocated to let you know what my new address is there. Thank you for your help and understanding in this matter during this difficult time in my life. I greatly appreciate it.

Sincerely,



Christopher Switlyk



Date

TRULINCS 53913018 - SWITLYK, CHRISTOPHER - Unit: EST-A-A

FROM: 53913018

TO:

SUBJECT: Letter #2 mailed to DOH on 01/08/2014

DATE: 02/22/2014 02:00:09 PM

Dear Christopher Jurich,

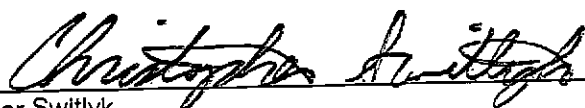
When I was a pharmacy owner and manager I made some careless mistakes during approximately 6 months in late 2009 and early 2010. Other than that small time frame during which I was affected by impaired judgment, I have had a clean professional record since being licensed in 2002, and have never previously had a complaint filed against my license. I have never even committed a single miss-fill of a medication, even though I have spent several years working long hours at extremely busy CVS and Walgreens pharmacies.

I did voluntarily visit PRN (Professionals Resource Network), which is an alcohol treatment and therapy center in Tampa, Florida on June 18, 2010 designed to help Health Care Professionals, and was evaluated by Dr David Myers there. I wanted to enter into an in-house program at PRN at that time but my current attorney advised me to focus my time and limited resources on my pending legal problems. However, I did not ignore my issues which led to my poor decision making and I took steps to make positive changes in my life. I wanted to be proactive and better myself so I personally sought out professional counseling and medication treatment.

I saw a Psychiatrist in Tampa, Dr James Edgar, twice a week for counseling, and followed his prescription medication regimen, from December of 2011 up until May 1, 2012, when my bond was revoked. Since then, despite being incarcerated, I insisted on continuing my treatment and had regular meetings with the Psychologists and Psychiatrist at the Pinellas County Jail while I was there. I even had a private Psychologist from Tampa, Dr. Jennifer Levine, come see me at the jail on a regular basis for counseling so I could continue to make progress with my therapy. Since I have been in prison I have also had regular meetings with the staff Psychologists and Psychiatrist here. I have also continued to take my medications as prescribed while in jail and prison. It has also been recommended by the Court for me to enroll in the nine month RDAP (Residential Drug Abuse Program) ran by the BOP (Bureau of Prisons) as part of my rehabilitation (to address my previous alcohol abuse), which I definitely plan to complete before my release.

I now realize what is truly important to me in life and how to prevent myself from getting into a similar situation to this ever again. As a result of my priorities not being in order four years ago, I have lost everything I had in this world. Absolutely everything is gone, including my house, cars, savings, job, family, friends, girlfriend, and worst of all, my freedom for the next several years. I also continue to suffer financially, physically, emotionally, and mentally throughout this ordeal. I have definitely learned from my mistakes and am obviously still suffering from their severe consequences, this DOH investigation being a major one of them. I would greatly appreciate the opportunity to explain my side of this whole situation to you. Thank you.

Sincerely,



Christopher Switlyk

01/08/2014

Date

TRULINCS 53913018 - SWITLYK, CHRISTOPHER - Unit: EST-A-A

FROM: 53913018

TO:

SUBJECT: Letter #3 mailed to DOH on 01/08/2014

DATE: 02/22/2014 02:00:03 PM

Below is a copy of the letter I sent to Michael G. Lawrence, Jr, at the DOH Prosecution Services Unit back in March of 2013. I readdressed the letter to you and made some minor revisions and additions to it. I also sent you another updated letter which I also sent to Mr Lawrence back then in addition to the one below.

Dear Christopher Jurich, Assistant General Counsel, of the DOH Prosecution Services Unit,

When I talked to DOH Investigation Specialist Joseph Degregorio at the Pinellas County Jail in December of 2012, he told me that the Prosecution Services Unit of the DOH would likely be very interested in the information I have regarding illegal activities being conducted by over a dozen currently licensed and practicing pharmacists, pharmacies, pharmacy technicians, doctors and pain clinics. I have a lot of video surveillance of several pharmacists and pharmacy technicians when they were working for me at my pharmacy that clearly and undeniably show each of them committing numerous massive illegal activities involving oxycodone and other controlled substances right in front of my surveillance cameras. I was not aware of their illegal activities when they were being committed since I did not have the opportunity to review my pharmacy's surveillance footage until over a year after it was closed. None of these pharmacists or pharmacy technicians have ever been criminally charged or even reported to the Department of Health, or have the doctors I also have relevant information about. However, I would be happy to work with your department so you will be able to take the proper steps to ensure that each of these licensed medical professionals do not continue to abuse their positions and continue to break the law. I hope that you will give me an opportunity to share this information and evidence with your department in order to help maintain your goal of ensuring the safety of the public.

I was able to communicate with Mr Degregorio a few times via email while I was in jail when the government was allowing me access to a computer. However, I was not able to finish putting a list together of all of the evidence that I have against Pharmacists, Pharmacies, Pharmacy Technicians, Doctors and Pain Clinics. I will enclose in this letter a copy of some of the email exchanges I had with My Degregorio as well as a list of the licensed individuals and businesses I have damning information about. Also, I should be moving to a Federal Prison Camp in Florida in the near future. Thus, if a member of the Prosecution Services Unit would be willing to come meet with me after I am relocated back to Florida I think that I would be able to provide valuable information and evidence against numerous individuals and businesses who are currently licensed by the Florida Department of Health. Thank you for your help and consideration in this matter.

Sincerely,



Christopher Switlyk



Date

TRULINCS 53913018 - SWITLYK, CHRISTOPHER - Unit: EST-A-A

FROM: 53913018

TO:

SUBJECT: Letter #4 mailed to DOH on 01/08/2014

DATE: 03/22/2014 11:08:58 AM

I currently have information and evidence of illegal activities being conducted by the following:

Doctors:

- 1) Kim Sheridan
- 2) Nancy Brummer
- 3) Byron Dean
- 4) Paul Awa
- 5) Jayam Iyer
- 6) John Carson
- 7) John Lanning
- 8) James Shelburne
- 9) Mark Kantzler
- 10) Sanjeev Grover
- 11) Ronald Heromin

Pain Clinics:

- 1) Yellow Bay
- 2) Well Quest
- 3) Creative Health Center

Pharmacies:

- 1) West Coast Pharmacy
- 2) Memorial Family Pharmacy
- 3) Busch Pharmacy
- 4) Lambright Pharmacy
- 5) R & H Pharmacy
- 6) Quality Speciality Pharmacy
- 7) Bay Scripts Pharmacy

Pharmacists:

- 1) Joanne Estephan
- 2) Brian Weiler
- 3) Nirav Patel
- 4) Joseph Hochstetter

Pharmacy Technicians:

- 1) David Lopez
- 2) Jurnee Herrick
- 3) Shawn Persad
- 4) Ronnie Ragoonanan

TRULINCS 53913018 - SWITLYK, CHRISTOPHER - Unit: MIA-G-A

PRACTITIONER REGULATORY
LEGAL

2014 JUL -7 AM 9:55

FROM: 53913018
TO: May, Lucas
SUBJECT: Letter Mailed on 07/01/2014 regarding DOAH Case
DATE: 07/01/2014 06:28:45 PM

In Reference to DOH Case Number: 2011-20634 (Department Of Health v. Christopher Stephen Switlyk, R.Ph.)
& DOAH Case Number: 14-0883PL

Dear Administrative Law Judge Johnston,
General Counsel for DOH, Jennifer Tschetter,
Attorneys for DOH, Yolanda Green and Lucas May,
and Executive Director of Board of Pharmacy for DOH, Mark Whitten:

I am mailing a copy of this letter on 07/01/2014 to all five people listed above, to the addresses which I was provided for each of you. I received Mr May's 05/19/2014 "Proposed Recommend Order" less than 3 weeks ago because he mailed it to my old address. I received Judge Johnston's 06/23/2014 "Recommended Order" last week. I was in the process of writing this letter in response to Mr May's "Proposed Recommended Order" when I received a copy of Judge Johnston's "Recommended Order", which he also sent to Mr Whitten and Ms Tschetter. Thus, I figured that I should just send a copy of this letter to all of you.

Mr May, please update my address, as I was transferred to a different prison in May and the BOP only forwards mail sent to my previous address once a month at most. My current address is:

Christopher Switlyk
Register #: 53913-018
Federal Correctional Institution
Post Office Box #: 779800
Miami, FL 33177

Although I really need to focus as much of my time and efforts on the pending matters concerning my active appeal in my criminal case right now since my freedom is dependent upon this, I felt that I needed to spend some time to respond to certain things which Mr May wrote in his "Proposed Recommended Order."

First, I want to address Mr May's claim that I had ample opportunity to report to the Board of Pharmacy within 30 days that I plead guilty to a felony. The several months leading up to the day I plead guilty were filled with extreme unethical tactics to bully me and pressure me into pleading guilty to exaggerated and unsupported charges, by both the government and by my attorney at the time, Jeff Brown. The government actually had recommended that the jail keep me in a Solitary Confinement Section of the Medical Wing for nearly 2 months, where none of the regulations which Mr May quoted out of the Inmate Handbook applied.

The extreme Solitary Confinement I was in during this timeframe consisted of me being locked in a small, windowless room, for 24 hours a day, 7 days a week, and being only allowed out to shower and brush my teeth for 20 minutes twice a week. I was not allowed to have any commissary items (including calling cards), reading materials, writing utensils, paper, etc..., and was unable to make any phone calls during this timeframe. Thus, trying to get a hold of the Florida Department of Health was the last thing on my mind while this torture was being inflicted upon me daily.

Forcing me to endure these inhumane conditions for an extended period of time was one of the many tactics the government used to break me down to agree to a plea bargain which contained numerous untrue statements, shortly after they unjustly revoked my bond. Even after I was pressured, bullied, and tricked into pleading guilty, and was housed in an Open Bay section of the jail, the only way an inmate could make a phone call to anyone is if they have a significant amount of money in their commissary account to buy calling cards with, which I did not have since the government took every penny I had. Also, I did not have any phone numbers for anyone other than a girl I was dating at the time who had her own agenda to steal anything I had left. Obviously the government did not give me the chance to write down any phone numbers before they broke my door down and assaulted me.

Also, the jail phones do not allow inmates to call 1-800 numbers or phone numbers that are answered with automated systems, which I am believe is how the DOH's phone is answered. Thus, even if I had the money to make a long distance call, and even if I had the DOH's phone number (which I didn't), and even if I wanted to contact the DOH after I plead guilty to let them know about it, I would not have been able to do so using the jail phones.

Also, Mr May quoted that a "Social Worker" at the jail can be contacted to make an emergency phone call", which that situation definitely did not qualify as according to their standards. In fact, I actually wrote the "Social Worker" at the jail over a dozen inmate requests asking her to please look up for various information for me while I was there, as well as to help me with making an important phone call. However, not once did I ever receive a helpful reply, or any help in making any phone calls from the so-called jail "Social Worker", despite my numerous sincere requests. The "Social Worker" would not even provide me with a simple request for an address or phone number for an attorney, and would not even help me contact a family member, despite me not having any contact with any of my family for over a year while I was in that jail. Thus, for Mr May to suggest that the jail "Social Worker", who I have never met the entire time I was there, and have never received any assistance from whatsoever despite my numerous requests to this person, would go out of his or her way to look up the address and phone number for the Department of Health, and/or help me contact someone there is absolutely absurd.

Also, for several of the 16+ months I was housed at the Pinellas County Jail I was housed in the Maximum Security wing, during which I was much more concerned with my personal safety than I was with somehow contacting the Department of Health, especially since a former roommate of mine in the Open Bay area was murdered in that part of the jail right before I was transferred to it. Two of the people I was in the Maximum Security section of the jail with were actually charged with Murder, among numerous additional charges. These dangerous individuals had absolutely nothing to lose and I witnessed first-hand one of these people nearly choking one of the other inmates to death right in front of me before several other inmates pulled him off the guy. Thus, during that timeframe, contacting the DOH was the last thing on my mind, especially since I did not know if I was going to be attacked at any time, even in my sleep.

Thus, the inmate handbook that Mr May submitted as some sort of evidence against me should be completely discounted since it does not even contain the various rules and regulations for the different housing areas of the jail. The section which Mr May quoted only pertains to the Open Bay section of the jail, where I was housed only a portion of the 16+ months that I was there. Also, if you ask anyone who has been unfortunate enough to be held at the Pinellas County Jail for an extended amount of time like I have, I guarantee that they would agree with me that the rules and regulations which are listed in their handbook are definitely not all followed by the jail and it's staff.

Also, Mr May stated that I testified to the government allowing me to briefly use a computer to send some e-mails. As I stated during that testimony, I was only allowed to send emails to government agents and prosecutors for the purpose of cooperation, and when this was going on, it was several months after I plead guilty. Thus, this happened months after the 30 day timeframe of when Mr May somehow expected me to report my guilty plea go the Board even though I had no way of doing so. And even if I was able to send emails to prosecutors and government agents months later it isn't like they are going to inform the Department of Health for me of my guilty plea. This suggestion by Mr May is completely absurd and baseless.

Also, throughout the 6+ months after I was tricked into agreeing to a plea bargain, which I was never even given an opportunity to thoroughly review, I continually told my attorney at that time, Jeff Brown, that I wanted to withdraw my guilty plea after I realized how many lies were contained within it; lies which Brown had promised to have removed before my 09/05/2012 "change of plea hearing". Brown subsequently promised me that he would help me withdraw my guilty plea, and he repeatedly assured me that I could withdraw it at any time, even after I was sentenced. Only after I was unjustly sentenced to 9 years did I realize that Brown had been lying to me all along as part of his ploy to extort over 150k from me, after he already received about 200k from me, just to get me to plead guilty to trumped up charges which he knew I wanted to fight. Thus, throughout the 6+ months after I plead guilty, especially during the 30 days immediately following my 09/05/2012 change of plea hearing, I fully expected to be withdrawing my plea at any time, and I was falsely led to believe that I would be able to do so by my greedy attorney. Therefore reporting this guilty plea to anyone was not on the forefront of my mind, considering the fact that I was actively attempting to get my attorney to withdraw it because I was bullied, coerced, and tricked into agreeing to it, on top of never given a chance to review it before my change of plea hearing. I was completely focused on trying to get my attorney to file a "motion to withdraw my guilty plea" during this timeframe, and was not thinking about trying to get someone to contact the Department of Health for me, especially during the 30 days following 09/05/2012, during which my attorney falsely led me to believe that he was helping me withdraw my plea.

In regards to the harsh statements made by the judge who sentenced me, and the lengthy sentence which she imposed on me, at that time she had reached these opinions and decisions after taking into consideration only the prosecutor's mendacious version of the situation. The prosecution extremely exaggerated my supposed role in the alleged conspiracy in their version primarily in order to justify keeping absolutely all of my money, which I had legally earned, that I voluntarily turned over to them on the first day of their investigation to "hold on to" while it is conducted, as an extreme measure of good faith by me. Despite requesting Brown to notify the judge of the false information portrayed to her by the prosecution about me, he declined to do so, and he also refused to let me address this matter at my sentencing hearing. I am confident that when I do get back to court for my pending appeal later this year that the numerous lies told about me will finally be exposed, and that the truth about the many improprieties which occurred during my case which ultimately caused me undue punishment will all come out as well.

TRULINCS 53913018 - SWITLYK, CHRISTOPHER - Unit: MIA-G-A


Also, I would like to point out that Mr May stated that during my "Supervised Release" that I shall refrain from working in the medical field, but he failed to mention that my period of supervised release is only 36 months, which can actually be terminated early, after 18 months of clear conduct. In fact, my supervised release, along with the rest of my sentence, may be terminated completely depending on what happens with my pending appeal, so this point could ultimately become mute. I believe that the ultimate outcome of my criminal case will be significantly improved in the near future. I will keep you all updated on the progress of my appeal, and any changes in my criminal case, since whatever happens with these things will likely directly affect the ultimate outcome of this present case with the DOH and DOAH.

I would like to respond in more detail to everything which Mr May and Judge Johnston wrote regarding this matter, but as I previously stated, I need to dedicate as much of my time as I can right now to working on matters involving my pending criminal appeal. Thank you for all of your patience, consideration, and understanding during this extremely difficult time for me, while on my own, I try the best I can to right the many wrongs which have been imposed on me, using only the severely limited resources available to me here. Through my efforts, and God's will, I pray that the truth about everything that went on in my case will finally come out soon, and that the many wrongs which were inflicted upon me the past 4+ years will began to be made right.

Sincerely,



Christopher Switlyk


Date

From: tampaguyrx <tampaguyrx@aol.com>
To: jp9975 <jp9975@aol.com>; jeff <jeff@brownanddoherty.com>
Subject: Fwd: Summary of Information - In Progress
Date: Tue, Dec 18, 2012 8:36 am

this is what Joe wrote back, I will work more on that summary for him after I finish what I am working on
-----Original Message-----

From: Joseph_DeGregorio <Joseph_DeGregorio@doh.state.fl.us>
To: tampaguyrx <tampaguyrx@aol.com>
Sent: Tue, Dec 18, 2012 8:10 am
Subject: RE: Summary of Information - In Progress

DeGregorio email

Thank you Chris.
All the best to you.
Joe

Joseph DeGregorio Jr.
Investigative Specialist II
Florida Department of Health
Investigative Services Unit
6800 N. Dale Mabry Hwy., Suite 220
Tampa FL 33614-3984
Ph: (813) 356-1771
Fax: (813) 871-7421
Cell: (813) 546-3916
e-mail: joseph_degregorio@doh.state.fl.us
Customer Satisfaction Survey

Mission: The mission of the Department of Health is to protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.

Vision: To be the Healthiest State in the Nation

Please note: Florida has a very broad public records law. Most written communications to or from state officials regarding state business are public records, which are available to the public and media upon request. Your email communications may therefore be subject to public disclosure.

From: tampaguyrx@aol.com [<mailto:tampaguyrx@aol.com>]
Sent: Monday, December 17, 2012 3:26 PM
To: DeGregorio, Joseph; jp9975@aol.com; jeff@brownanddoherty.com
Subject: Summary of Information - In Progress

Joe,

Thank you for spending the time to talk with me last Friday. I appreciate the opportunity to share valuable information regarding licensed medical professionals with you and the Florida Department of Health. I look forward to working with you, Babette, and the prosecutorial services. I have started to write up a summary regarding illegal activities of Doctors, Pharmacists, and Pharmacy Technicians but I do not have time to finish it this week. I am in the middle of working on a big project for the Dr Heromin case which I need to finish before I can finish this summary for you. I am sending you what I have written up so far. Hopefully next week I will have time to finish it and send it to you. If you could please delay things regarding my case for a little while until I have time to work on this for you I would greatly appreciate it. Thank you for your help, and I hope you and Babette have a Merry Christmas.

Sincerely,
Chris

Christopher Switlyk Cooperation Meetings & Work Chart

| Date: | Agents & Attorneys Chris Met With: | Subject of Meeting: | Time Frame: | Total Time: (in minutes) |
|--|---|--|---|-----------------------------|
| 08/05/11 | DEA Agent Bill Davis, DEA Computer Specialist, Attorney Candace Barthelomew & Me | Picked up VIP Pharmacy DVR from DEA Office & Tested out each of the 6 Replicated Hard Drives in it | 10:00AM - 12:00PM | 120 |
| 8/5/2011 to 04/30/12 | I spent an average of 12 hours per day reviewing the Surveillance Video from VIP Pharmacy from 01/22/2010 to 05/20/2010 and Burning several thousand clips of suspicious activities which I discovered. | Reviewed VIP Surveillance Video for Illegal Activities Concerning: <u>Pharmacists:</u> Joanne Estephan, Brian Weiler, Joseph Hochstetter, <u>Pharmacy Technicians:</u> Aaron Bennett, David Lopez, Jurnee Herrick, Tommy Curtiss, Kimberly Curtiss, Mark Beltran <u>Customers:</u> Multiple Doctor Shoppers, Jorge Cassal, Josh Cassal, Evan Brandies, Myron Haddix, and others <u>Others:</u> Louis Jr, Louis III, Dr Heromin | 12 Hours per Day (720 minutes per day for 270 days) | 194,400 |
| 06/06/12 | Jeff Brown took over as my attorney | | | |
| 07/06/12 07/07/12 07/10/12 | Attorney Jeff Brown was present for some of this time & Paralegal Megan Tobias was present during all of this time & Me | Reviewed Burned VIP Pharmacy Video Clips That never had opportunity to show to DEA & Prosecutor of the people mentioned above with my Attorney Jeff Brown and my Paralegal Megan Tobias | 9:00AM - 5:00PM each day (approximately) | 1,440 |
| 07/11/12 | DEA Agent Jeffery Shearer met with my Attorney Jeff Brown & my Paralegal Megan Tobias | Regarding Video Evidence of Pharmacist Joanne Estephan participating in and profiting from illegal activities at VIP Pharmacy while she worked there | 3:00PM - 5:00PM | 120 |
| 07/11/12 to 08/02/12 | Met with Paralegal Megan Tobias each weekday for over 3 weeks: 07/11/12, 07/12/12, 07/13/12, 07/16/12, 07/17/12, 07/18/12, 07/19/12, 07/20/12, 07/23/12, 07/24/12, 07/25/12, 07/26/12, | Reviewed Previously Burned VIP Pharmacy Surveillance Video Clips Concerning Pharmacist Joanne Estephan & Compiled a Chart for Each Video Clip which details everything that occurred in each clip by time and camera | 9:00AM - 5:00PM each day (approximately) | 7,680 |
| 08/03/12 | Attorney Jeff Brown & Paralegal Megan Tobias & Me | Reviewed Burned Clips and Time & Camera Charts for meeting with Agent Jeffery Shearer | 9:00AM - 2:00PM | 300 |
| 08/03/12 | Agent Jeffery Shearer met with my Attorney Jeff Brown & my Paralegal Megan Tobias | Pharmacist Joanne Estephan - showed and turned over 24 Clips from VIP Pharmacy Surveillance Video showing Joanne participate and profit from illegal activities while she was working at VIP Pharmacy as well as 24 Charts explaining exactly what occurs in each clip & at what time & in front of what cameras | 3:00AM - 5:00PM | 120 |
| 08/06/12 08/07/12 08/08/12 08/09/12 08/10/12 | Paralegal Megan Tobias & Me | Reviewed Additional Previously Burned Video Clips of additional individuals mentioned above (customers, employees) committing illegal activities at VIP Pharmacy & Compiled Time & Camera Charts for many of the video clips | 9:00AM - 5:00PM each day | 2,400 |

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| 09/05/10 | Accepted Plea Agreement | | | |
| 09/12/12 | DEA Agent Jeffery Shearer & Attorney Jeff Brown & Me | Dr Ronald Heromin - Proffer Discussed: Conversations with Dr Heromin, Observations of Dr Heromin's Patients & Clinic, Review of all prescriptions filled at my pharmacy written by Dr Heromin requested | 9:00AM - 1:00PM | 240 |
| 09/12/12 | Time Spent in DIU | Reviewed Hard Drives my attorney Jeff Brown Brought Me & Started to Organize All Information & Prescriptions Regarding Dr Heromin on it | 1:00PM - 4:30PM | 210 |
| 09/13/12 09/14/12 09/15/12 09/16/12 09/17/12 | ~ whole day ~ whole day ~ whole day ~ whole day ~ 8:30AM - 2:30PM Time Spent in DIU | Reviewed DEA's Previously Scanned VIP Pharmacy Prescriptions & Picked out all of the Dr Heromin Prescriptions & Split them into individual files. Then I named each prescription by Rx #, medication & quantity, and I organized them by date and patient name so they are all in an easily searchable directory. | 8:30AM - 4:30PM each day (approximately) | 2,280 |
| 09/17/12 | AUSA Maria Lopez, AUSA Jennifer Jackson & DEA Agent Jeffery Shearer & Attorney Jeff Brown & Me | Pharmacist Brian Weiler - Proffer Discussed: Conversations with Brian Weiler, Possible Fraudulent Prescription Brian filled at my pharmacy on 04/20/10, Days he worked at my pharmacy, Review of Video Surveillance of those days | 2:30PM - 6:30PM | 240 |
| 09/18/12 | Time Spent in DIU | Reviewed Video Surveillance of VIP Pharmacy to find that Brian Weiler worked at VIP Pharmacy on: 02/20/10, 02/22/10, 03/01/10, 03/02/10, 03/03/10, 03/09/10, 03/18/10, 03/20/10, 04/01/10 | 8:30AM - 4:30PM | 480 |
| 09/19/12 09/20/12 09/24/12 09/24/12 09/25/12 09/26/12 09/27/12 09/28/12 | Time Spent in DIU | Reviewed Each Day Pharmacist Brian Weiler worked at VIP Pharmacy and carefully looked for any signs of suspicious or illegal activity he committed or participated in and made note of each instance I found. | 8:30AM - 4:30PM each day (approximately) | 3,840 |
| 10/01/12 10/02/12 10/04/12 10/05/12 | Time Spent in DIU | Burned 23 Video Clips of Pharmacist Brian Weiler committing or participating in illegal activities at VIP Pharmacy and named and organized them by date and time they occurred | 8:30AM - 4:30PM each day (approximately) | 1,920 |

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| 10/03/12 | State Attorney Mike Schmid, State Attorney Christine Brown, <i>Tampa Detective Kenneth Norman</i> DEA Agent Jeffery Shearer & Attorney Jeff Brown & Me | (First Medical Clinic) <u>Doctors:</u> Dr Aimee Martin, Dr Fred Clark, Dr John Mubang, Dr Jon Carson, <i>Dr Kimberly Daffern, Dr Marina Kutick, Dr</i> Michael Romano, Dr Paul Awa, Dr Sheila Mohammed, Dr Sydel LeGrande, Dr Victoria Quezon <u>Owners:</u> Jorge Betancort-Gonzalez & Maria Gonzalez | 9:00AM - 1:00PM | 240 |
| 10/03/12 | DEA Agent Jeffery Shearer & Attorney Jeff Brown & Me | Attorney Joe Gonzalez - Proffer Discussed: Possible Money Laundering Case | 1:00PM - 3:00PM | 120 |
| 10/08/12 10/09/12 10/10/12 10/11/12 10/12/12 10/15/12 10/16/12 10/17/12 | Time Spent in DIU | Compiled Charts for each of the 23 Video Clips of Pharmacist Brian Weiler detailing what occurred in each one and when and on what cameras | 8:30AM - 4:30PM each day (approximately) | 3,840 |
| 10/17/12 | Time Spent in DIU | Finished Brian Weiler Project and transferred everything I did onto a portable hardrive which was given to AUSAs Maria Lopez & Jennifer Jackson | 8:30AM - 4:30PM | 480 |
| 10/18/12 10/19/12 10/22/12 10/23/12 10/24/12 10/25/12 10/26/12 10/29/12 10/30/12 | Time Spent in DIU | Went back to organizing Dr Heromin Prescriptions which were filled at VIP Pharmacy. | 8:30AM - 4:30PM each day (approximately) | 4,320 |
| 10/31/12 | FBI Agent Erin Marshall & Me | Talked to her about a current open FBI case and emailed her 6 pages I previously put together concerning Quality Specialty Pharmacy and the massive insurance and coupon fraud that has been going on there. | 11:30AM - 12:00PM | 30 |
| 10/31/12 11/01/12 11/02/12 | ~ whole day ~ whole day ~ 8:30AM - 12:00PM Time Spent in DIU | Went back to organizing Dr Heromin Prescriptions which were filled at VIP Pharmacy. | 8:30AM - 4:30PM each day (approximately) except 11/02/12 | 1,170 |

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| 11/02/12 | AUSA Simon Gaugush & Agent from Health & Human Services Brian Harris & Agent from Attorney General's Office Pete Martinez & Agent from Defense Criminal Investigative Service Robert Mathis & Attorney Jeff Brown & Me | Nirav "Nick" Patel - Proffer Discussed: What occurred while I worked at both of his pharmacies, West Coast Pharmacy, and Memorial Family Pharmacy for approximately 1 & 1/2 years in 2007 and 2008. Illegal activities Nick conducted himself and instructed his employees to do at his pharmacies while I worked for him (as well as after I left). <u>Illegal activities included:</u> filling fraudulent prescriptions for oxycodone, charging large cash dispensing fees on top of their insurance payments for patients who used insurance to pay for their pain medications, billing patient's insurance companies for expensive medications they never received, fabricating call-in prescriptions for billed medications never dispensed, fabricating signature log sheets for medications never dispensed. | 12:00PM - 6:00PM | 360 |
| 11/05/12 11/06/12 11/07/12 11/08/12 11/09/12 | Agent from Health & Human Services Brian Harris & Agent from Attorney General's Office Pete Martinez & Agent from Miami (Computer Specialist) & Me | Reviewed the prescription processing software (Rx30) from Nick Patel's West Coast Pharmacy and pointed out how to identify numerous examples of insurance fraud by using his own software. Took numerous screen shots of evidence of insurance fraud and printed out multiple patient profiles of patient's who were victims of insurance fraud. | 9:00AM - 5:00PM each day (approximately) | 2,400 |

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| 11/12/12 | Time Spent in DIU | I began analyzing all of the Dr Heromin Prescriptions I organized and started to compile charts which summarized them. The charts clearly show the date each prescription was written, what clinic Dr Heromin wrote it at, the date it was filled at VIP Pharmacy, the patient's name, the patient's date of birth, the patient's age at the time of their office visit, the patient's city, and state they resided at the time of their office visit, the medication, the strength, and the quantity. Emailed finished charts to Agent Jeffery Shearer on 12/26/2012. (These were preliminary charts which revision was later requested by AUSA Kathy Peluso & Agent Jeffery Shearer.) | 8:30AM - 4:30PM each day (approximately) | 13,920 |
| 11/13/12 | | | | |
| 11/14/12 | | | | |
| 11/15/12 | | | | |
| 11/16/12 | | | | |
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| 12/19/12 | | | | |
| 12/20/12 | | | | |
| 12/21/12 | | | | |
| 12/27/12 | Time Spent in DIU | Reviewed DVR Surveillance Footage from VIP Pharmacy to find clips with Dr Heromin in them, and also to notate exactly what pharmacist was working each day it was open. | | 2,280 |
| 12/28/12 | - | | | |
| 12/31/12 | - | | | |
| 01/01/12 | - | | | |
| 01/02/13 | 8:30AM - 2:30PM | | | |
| 01/02/13 | AUSA Natalie Adams & AUSA Josie Thomas & Agent Jeffrey Shearer & Attorney Jeff Brown | Forfeiture (related to what I voluntarily turned over as well as my townhouse I agreed to turn over as part of my plea agreement) Requested Review and copies of all emails between me and anyone at Barry Cohen's Law Firm while they represented me as well as records from Tampa Total Health and several other documents. | 2:30PM - 5:30PM | 180 |

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| 01/03/13 01/04/13 | Time Spent in DIU | Regarding Forfeiture: Reviewed and Printed to PDF over 600 emails to individual files and named them by date sent and who each email was to and from. Also included several hundred attached files which were also sent as well and organized everything on a flash stick for them. I also included Tampa Total Health Records as well as documents from Attorney David Smith and Greg Kehoe. Also had a waiver of attorney - client privilege for all my previous attorneys notarized and sent to Natalie Adams as well. | 8:30AM - 4:30PM each day (approximately) | 960 |
| 01/07/13 01/08/13 01/09/13 01/10/13 01/11/13 | Agent from Health & Human Services Brian Harris & Me | Continued to review prescription processing software (Rx30) from Nick Patel's West Coast Pharmacy: Took numerous screen shots of evidence of insurance fraud and printed out multiple patient profiles of patient's who were victims of insurance fraud. | 8:30AM - 4:30PM each day (approximately) | 2,400 |
| 01/14/13 01/15/13 01/16/13 01/17/13 01/18/13 | FBI Agent Tim Gorman & Me | Continued to review prescription processing software (Rx30) from Nick Patel's West Coast Pharmacy: Took numerous screen shots of evidence of insurance fraud and printed out multiple patient profiles of patient's who were victims of insurance fraud. Also gave information and documents regarding tax fraud by Dr Jayam Iyer from 2008 to 2011. | 8:30AM - 4:30PM each day (approximately) | 2,400 |
| 01/19/13 | AUSA Kathy Peluso & Agent Jeffery Shearer & Me | Discussed how I organized all of the Dr Heromin prescriptions filled at VIP Pharmacy as single files and in the charts. I was asked to go through each single prescription and redact the Day and Month anywhere the patient's Date of Birth was shown, as well as the Number and the Street Name anywhere the Street Address was shown. | 11:00AM - 11:30AM | 30 |
| 01/19/13 01/21/13 01/22/13 | ~ 11:30AM - 4:30PM ~ whole day ~ whole day Time Spent in DIU | Redacted Dr Heromin Prescriptions which I had previously organized | 8:30AM - 4:30PM each day (approximately) except 01/19/13 | 1,260 |

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|--|--|---|--|-------|
| 01/22/13 | Tampa Police Narcotics Detective Vincent Leto & Another Detective & Me | Ricky Leitwein, Heidi Leitwein, Ricky Leitwein Jr, & all of the patients they sponsored - Proffer <i>Discussed:</i> When I first met Ricky, his wife, son & his crew of people he would bring from Ohio to various clinics and pharmacies. Printed out VIP Pharmacy Profiles for 26 of them, took screen shots of their information on Rx30, & gave them Tampa Total Health Charts for 27 of them. Told them I had access to about 5 months worth of Surveillance Video from VIP Pharmacy that Ricky & his crew would be on dropping off, paying for & picking up prescriptions. They told me that would be very valuable to their case & requested I burn as many | 4:00PM - 6:00PM | 120 |
| 01/23/13 01/24/13 01/25/13 | Agent from Health & Human Services Brian Harris & Me | Continued to review prescription processing software (Rx30) from Nick Patel's West Coast Pharmacy: Took numerous screen shots of evidence of insurance fraud and printed out multiple patient profiles of patient's who were victims of insurance fraud. | 8:30AM - 4:30PM each day (approximately) | 1,440 |
| 01/28/13 01/29/13 01/30/13 01/31/13 | Agent from Defense Criminal Investigative Service Robert Mathis & Me | Continued to review prescription processing software (Rx30) from Nick Patel's West Coast Pharmacy: Took numerous screen shots of evidence of insurance fraud and printed out multiple patient profiles of patient's who were victims of insurance fraud. | 8:30AM - 4:30PM each day (approximately) | 1,920 |
| 02/01/13 | Time Spent in DIU | Identified 36 different clips of Ricky Leitwein & his crew dropping off various prescriptions, paying for them, and picking them up at VIP Pharmacy. Burned 5 of the clips so far. | 8:30AM - 4:30PM | 480 |
| 02/04/13 | AUSA Kathy Peluso & Agent Jeffery Shearer & Me | Reviewed Charts I worked on and the approximately 1,700 Dr Heromin Prescriptions filled at VIP Pharmacy which I organized in single files and redacted. Was requested to go back through all the prescriptions previously scanned by the DEA for VIP Pharmacy and save EVERY Dr Heromin prescription that was filled there, and also redact them. Was also asked to create new charts with the added prescriptions and the dates filled for each prescription in them as well as if they are possible forgeries. (I am still working on this now.) | 12:00PM - 3:00PM | 180 |
| 02/04/13 | Time Spent in DIU | Typed up things that I know could be relevant concerning Dr Heromin. Started working on the new Dr Heromin project just given to me. | 8:30AM - 12:00PM & 3:00PM - 4:30PM | 300 |

| | | | | |
|----------------|---|---|--|----------------|
| 02/05/13 | Pete Martinez with Attorney General's Office & Me | Nick Patel: West Coast Pharmacy project | 8:30AM-- 4:30PM | 480 |
| 02/06/13 | ~ whole day Time Spent in DIU | Continued working on the new Dr Heromin project just given to me. | 8:30AM - 4:30PM each day (approximately) | 2,340 |
| 02/07/13 | ~ whole day | | | |
| 02/08/13 | ~ whole day | | | |
| 02/11/13 | ~ met with TPD Detectives for 1 hour | | | |
| 02/12/13 | ~ whole day | | | |
| 02/11/13 | Detective from Tampa Narcotics Division Vincent Leto and Detective Santos | Ricky Leitwein & his crew: Gave them 5 video clips, and copies of 35 scanned prescriptions from his crew, identified 31 additional video clips that can be burned and analyzed. Also made a chart showing all video clips available and important things to be noted in each clip, such as when each Rx was dropped off, paid for & picked up, as well as who dropped Rx off, who paid for, and who picked it up. It will take approximately 80 additional hours to burn the remaining clips and then analyze each one. | 3:30PM - 4:30PM | 60 |
| TOTALS: | | Total Number of Minutes So Far: | | 259,500 |
| | | Converted to Hours: | | 4,325 |
| | | Number of Days at an Average of 8 Hours Per Day: | | 541 |

Summary of Information I have concerning Illegal Activities Regarding Pharmacists, Doctors and Pharmacy Technicians:

Regarding Pharmacist Brian Weller, License #: PS19949:

Incidents of Illegal Activities concerning Brian Weiler which were discovered from personally reviewing the Surveillance Video from VIP Pharmacy from January, 2010 to May, 2010:

- *9 Video Clips of Brian stealing several types of controlled substances, mainly oxycodone, and putting them in his pockets while he was the pharmacist on duty
- *3 Video Clips of Brian stealing several types of controlled substances, mainly oxycodone, and ingesting them while he was the pharmacist on duty
- *4 Video Clips of Brian allowing Pharmacy Technician Marco Beltran take and give out controlled substances in his presence, mainly oxycodone, without prescriptions ever being presented to him while he was the pharmacist on duty
- *4 Video Clips of Brian allowing non-employees into the pharmacy and around the controlled substances while he was the pharmacist on duty
- *1 Video Clip of Brian allowing Mark's friend Jorge Casal into the back of the pharmacy and letting him take bottles of #100 oxycodone and #120 alprazolam 2mg and then letting him use the pharmacy computer system to reprint old labels for himself in his presence with no prescriptions while he was the pharmacist on duty
- *1 Video Clip of Brian allowing Mark and Kim to fill prescriptions for controlled substances for patients which were not present and without him checking over the prescriptions
- *1 Video Clip of Brian taking "hush money" from Mark and putting it in his pocket for allowing Mark to get away with his illegal activities while Brian he was the pharmacist on duty
- *1 Video Clip of Brian allowing Louis Fernandez Jr into the back of the pharmacy and giving him a bottle of prescription medication without a prescription ever being presented to him
- *1 Video Clip of Brian persuading Mark to fill a fraudulent Dr Heromin prescription for #200 oxycodone 30mg for HIMSELF without Andy Mobley's knowledge (who was the Pharmacist on duty at the time)

Other Information Shared concerning Brian Weiler's Illegal Activities:

- *Knowledge and proof of Brian helping Marco Beltran and Dr Ronald Heromin open an "In-House" pharmacy at Tampa Bay Wellness Centre in February and March of 2010
- *Knowledge of Brian illegally opening an unlicensed and unregistered pain clinic on Memorial Highway for Dr Ronald Heromin after he left Tampa Wellness Centre in April of 2010 and running it illegally for several weeks
- *Knowledge of Brian's illegal activities while he worked at New Tampa Pharmacy, including stealing controlled substances, mainly oxycodone and substantial amounts of money
- *Knowledge and proof of Brian's attempt to help Joanne Estephan and her brother-in-law Wassim Estephan open Dollar Pharmacy (DOH License #PH25027) (Dollar Pharmacy LLC)
- *Proof of Brian's attempt to open a pain clinic in Orlando, Florida with Dr Francis Lacina (WLC PHI, Inc)
- *Proof of Brian working at Amex Pharmacy in Melbourne, FL, after he was indicted on October 13th, 2011, while he has been out on bond which broke the rules of his bond agreement
- *Showed Prosecutors that his pharmacist license was still clear and active and that he was working outside the middle district and within a week they had Brian voluntarily withdraw his pharmacist license with the Department of Health as a result of the information I provided to them
- *Met with Assistant United States Attorney Maria Chapa Lopez and Jennifer Jackson, also with the same office, regarding the above information concerning Brian Weiler regarding case #8:11-CR-00323-T-17TBM and am assisting them with their prosecution of Brian Weiler

Regarding Pharmacist Joanne Estephan, License #: PS32656:

Incidents of Illegal Activities concerning Joanne Estephan which were discovered from personally reviewing Surveillance Video from VIP Pharmacy from January, 2010 to May, 2010:

- *12 Video Clips of Joanne allowing Pharmacy Technician Marco Beltran take and give out large amounts of controlled substances in her presence, mainly oxycodone, without prescriptions ever being presented to her while she was the pharmacist on duty
- *7 Video Clips of Joanne taking "hush money" from Mark and putting it in her pocket for allowing Mark to get away with and participate herself in illegal activities while she is on duty
- *1 Video Clip of Joanne allowing Louis Fernandez III in the back of the pharmacy and actually help count and fill prescriptions for controlled substances while she is on duty
- *5 Video Clips of Joanne allowing non-employees into the pharmacy and around the controlled substances while she was the pharmacist on duty
- *3 Video Clips of Joanne directly accepting money from customer Myron Haddix so she would participate in selling significant quantities of oxycodone 30mg to him without prescriptions ever being presented to her while she was the pharmacist on duty
- *4 Video Clips of Joanne allowing oxycodone 30mg to be sold to Myron Haddix without a prescription ever being presented to her while she was the pharmacist on duty
- *1 Video Clip of Joanne helping Louis Fernandez III and Kimberly Curtiss count thousands of dollars in money paid by Evan Brandies for at least 5 boxes (60 bottles) of oxycodone #100 30mg and 1 #500 bottle alprazolam 2mg without ever presenting any prescriptions to her for them while she was the pharmacist on duty
- *1 Video Clip of Joanne taking "hush money" from Louis Fernandez III twice and putting it in her pockets for allowing and participating in the massive illegal transaction with customer Evan Brandies while she was on duty
- *1 Video Clip of Joanne taking a bottle of hydrocodone / APAP and giving a sizeable amount of it to customer Evan Brandies without a prescription ever being presented to her
- *1 Video Clip of Joanne taking a pre-counted bottle of #60 alprazolam 2mg and giving it to Mark's friend Jorge Casal without a prescription ever being presented to her
- *1 Video Clip of Joanne taking a bottle of #100 oxycodone 30mg and giving it to Mark's friend Jorge Casal without a prescription ever being presented to her

Other Information Shared concerning Joanne Estephan's Illegal Activities:

- *Proof of Joanne lying to the DEA about her involvement in numerous illegal activities that she participated in at VIP Pharmacy and received substantial cash payments for
- *Proof of Joanne lying to the DEA to help close VIP Pharmacy so she could steal customers for her pharmacy, Tampa Express Pharmacy, and her clinic, Habana Spine and Medical Clinic as well as wholesaler accounts for her pharmacy
- *Knowledge of Joanne's hidden ownership interest in Habana Spine and Medical Clinic while putting all paperwork and licenses under the name of Dr Darlene Jones while it was open
- *Knowledge of Joanne's hidden ownership of Tampa Express Pharmacy LLC when she started it on 12/10/09 (DOH License #PH24532)
(She listed herself as an owner of it on 12/09/10 due to updated laws and regulations)
- *Knowledge and proof of Joanne's preference to fill prescriptions for controlled substances, mainly oxycodone, for patients from out of state, so she would be able to charge them substantially more money than Florida residents (The vast majority of the patients Joanne filled prescriptions for at Tampa Express Pharmacy were from out of state.)
- *Proof that Joanne was attempting to open a second pharmacy under her brother-in-law's name with Brian Weiler named Doliar Pharmacy (DOH License #PH25027)
- *Knowledge of Joanne making between 15 to 20 million dollars while Tampa Express Pharmacy was open, mainly off charging extremely high prices for prescriptions of oxycodone for out of state patients
- *Knowledge of Joanne transferring significant amounts of money to the country where she is from, Lebanon
- *Proof that when Joanne found out that I received the DVR from VIP Pharmacy and it had 5 months worth of video surveillance footage on it that she closed up her pharmacy the very next week

*Proof that she did not want to sell her pharmacy to another pharmacist because "she did not want to hand over her pharmacy's records"
(likely because of her records were questionable and showed illegal activity)

*Proof of Joanne purchasing the building that she previously rented for her restaurant at 2832 South MacDill Avenue Tampa, FL 33629 in October of 2010 for \$1,250,000 with money made from Tampa Express Pharmacy

*Knowledge of Joanne using about \$300,000 in cash she made at her pharmacy to make extensive improvements to her restaurant Byblo's Restaurant at 2832 South MacDill Avenue, Tampa, FL 33629

*Proof that Joanne used several hundred thousands of dollars she made from Tampa Express Pharmacy to purchase multiple businesses, houses, and condos in the Tampa area

Cases that Chris Switlyk will potentially testify in:

Federal Cases:

8:11-cr-00323-T- 17TBM United States v. Brian Weiler (Pharmacist)
Status Conference 04/26/2013

8:11-CR- 00550-T-33TBM United States v. Ronald Heromin (Doctor)
Status Conference 03/14/2013

Federal Case In Progress United States v. Nirav "Nick" Patel (Pharmacist)
(Owner of West Coast Pharmacy, Memorial Family Pharmacy, Memorial Family Pharmacy LTC, Busch Pharmacy)

Pending Federal Case against Pharmacist Joanne Esephan
Pending Federal Case Against Aaron Bennett
Pending Federal Case against Attorney Joe Gonzalez
Pending Federal Case against Pharmacist Norman Clement

State Cases:

Case # 09-19534: Produced Pharmacy Records (Patient Profiles and Scanned Prescriptions Filled for several patients) as well as Surveillance Video from VIP Pharmacy of them dropping off and picking up several prescriptions – will testify to their validity if needed

Case # 10-CF-05758: Produced Pharmacy Records (Patient Profiles and Scanned Prescriptions Filled for several patients) as well as Surveillance Video from VIP Pharmacy of them dropping off and picking up several prescriptions – will testify to their validity if needed

Case #11-CF-16692

Dr Awa

Case #10-CF-19744

(First Medical Clinic) Doctors: Dr Aimee Martin, Dr Fred Clark, Dr John Mubang, Dr Jon Carson, Dr Kimberly Daffern, Dr Marina Kulick, Dr Michael Romano, Dr Paul Awa, Dr Sheila Mohammed, Dr Sydel LeGrande, Dr Victoria Quezon
Owners: Jorge Betancort-Gonzalez & Maria Gonzalez
(Have copies of prescriptions several of these doctors wrote, list of all prescriptions filled at VIP Pharmacy from these doctors, charts when they worked at Tampa Total Health)

(Racketeering)

State Case in Progress against:

Ricky Leitwein, Ricky Leitwein Jr, Heidi Leitwein & their crew including Craig Allen, Gerrone Allen, William Armstrong, Terry Bowers, Nathaniel Brooks, Dorsien Butler, April Caroli, Tamara Chavis, Terry Coleman, Deanna Crisp, Kenneth Fossett, Daniel Hashman, John Herring, Linda Hunt, Edward Hunter, William Imboden, Jerry Ingles, Joesph Jujula, Larry Loring, Zelda Loring, Rashad Marshall, Christopher Matheson, Joshua Mathews, Anthony Mize, Shawn Moore, Lisa Obryan, Pauline Perry, Karl Peterson, Fernando Pittman, Doneta Posey, Geoffrey Regensburger, Mykal Small, David Stamp, Jeremy Summers, Natasha Vance, Angela Vandyne, Crystal Wallace, Deanna Wallace, Lisa Weber, Sherry Wright,

Rough Draft of Cooperation Meetings so Far:

Meetings: May 20, 2010 and May 21, 2010
Agents: Bill Davis and Jeffrey Shearer
Attorney: Dirk Weed
Purpose: Turned over all of the money I had, in cash and all of my bank accounts, over 6.2 million, nearly all of it made legally, to the DEA, and immediately entered into cooperation mode.

Meetings: Original Proffer Meeting in September, 2010:
Agents: Bill Davis and Jeffrey Shearer
Prosecutors: Kathy Peluso and Josie Thomas
Attorney: Todd Foster
Targets: Mark Beltran, Kimberly Curtiss, Louis Fernandez Jr, Louis Fernandez III, Dr Ronald Heromin, Rets Griffin, Brian Weiler RPh, Aaron Bennett, Joanne Estephan RPh, Charlie Deal, Myron Haddix, Evan Brandies
Purpose: (To give them information for the original indictment. I was the first person to cooperate with the government and promised I would get the best deal.)

Multiple Meetings: From January, 2011 to October, 2011
Agents: Bill Davis and Jeffrey Shearer
Attorney: Todd Foster
Targets: Mark Beltran and Kimberly Curtiss still conducting massive illegal activities after his clinic was closed (brought witness Miguel Maisonet (Mark's former right hand man) to meet with the agents at Todd's office on my behalf), Numerous Dr Shoppers, Sean Padgett (Owner of 3 pain clinics), Dr Mark Kantzler, VIP Pharmacy Video clips of illegal activity taking place involving Mark Beltran, Joanne Estephan, Louis Fernandez Jr, Louis Fernandez III, Kimberly Curtiss, Evan Brandies, etc...

Meeting: July, 2011
Agent / Prosecutor: Christine Brown
Targets: Provided VIP Pharmacy Profiles and copies of prescriptions filled at VIP Pharmacy for each of the following patients:
Adrian Fernandez
Michael Banasky
Paul Bocko
Also provided video of Michael Banasky dropping off and picking up prescriptions at VIP Pharmacy.

Concerning State Case 09-19534:

Provided VIP Pharmacy Profiles and copies of prescriptions filled at VIP Pharmacy for each of the following patients:

Allyson Bush

with

Cooperation Chart
for 08/05/2011
to 02/12/2013

prescriptions filled at VIP Pharmacy for

Meeting:

Agents:

Attorney:

Targets:

... something and his partner
... (Laverly Degroat accompanied me)
... Dr Mark Kantzler

Meeting:

Agent:

Attorney:

Target:

July, 2012

Jeffrey Shearer

Jeff Brown

Joanne Estephan, RPh (compiled 24 video clips of indisputable evidence of pharmacist Joanne Estephan conducting illegal activities at VIP Pharmacy)

Meeting:

Agent:

Attorney:

Target:

September, 2012:

Jeffrey Shearer

Jeff Brown

Dr Ronald Heromin

(gave information regarding conversations I personally had with Dr Heromin)
(still working on compiling a professional review of Dr Heromin prescriptions which were filled at VIP Pharmacy in 2009 and 2010)

Meeting:

Agent:

Prosecutors:

Attorney:

Target:

September, 2012:

Jeffrey Shearer

Maria Lopez and Jennifer Jackson

Jeff Brown

Brian Weiler

(compiled 23 video clips of indisputable evidence of pharmacist Brian Weiler conducting illegal activities at VIP Pharmacy)

Meeting: November, 2012:
Agent: Kenneth Morman, Jeffrey Shearer
Prosecutor: Christine Brown, Mike Schmidt
Attorney: Jeff Brown
Targets: First Medical Clinic Doctors and Owners
Dr Daffern, Dr Kulick, Dr Mohammed, Dr Clark, Dr Mubang, Dr Quezon, Dr
Romano, Dr Martin, Dr Carson
Owners Jorge Betancort-Gonzalez and Maria Gonzalez
(going to work on a professional review of prescriptions filled at VIP Pharmacy
written by this group of doctors)

Meeting: November, 2012:
Agent: Jeffrey Shearer
Attorney: Jeff Brown
Target: Attorney Joe Gonzalez

Meeting: October and November, 2012 and ongoing
Agents: Richard and Scott from Miami, Florida
Prosecutors: Simon, Rob, Brian Harris
Target: Nirav "Nick" Patel

Meeting: October and November, 2012
Agent: Pinellas Homicide Detective Edward Judy
Target: Robert Warden
Purpose: to help solve the missing person's (murder) case of Raymond Scott Rupp
(gave information to Detective Judy based on personal conversations I had with
Robert Warden – still an ongoing investigation)

Things already done in cooperation with the Government concerning my case:

- 1) 05-19-10: Voluntarily turned over all the cash I had and all the money in my bank accounts the day of the raids and the day after them to the government to hold while the case was being investigated
- 2) 09-09-10: Voluntarily was the first person to go to the US Attorney's office to talk to the DEA Agents and Federal Prosecutors. Talked to them for 2 days about things I knew was going on at the time my pharmacy and Mark and Louie's clinics were open. Provided them information concerning:
 - a. When I worked for SeniorCare Pharmacy owned by Virgil Valdes, Reineer Goba & William Lupo, how they illegally filled a significant amount of internet prescriptions
 - b. Information about New Tampa Pharmacy filling known fraudulent prescriptions for multiple people in the past
 - c. Aaron Benett buying oxycodone and methadone without prescriptions and selling it
 - d. Evan Brandies buying fraudulent prescriptions from Louis Fernandez III & Jesus Manez
 - e. Evan Brandies buying oxycodone from Mark without proper prescriptions
 - f. Evan Brandies using other pharmacies including West Coast Pharmacy to fill his fake Rx's
 - g. Jesus Manez selling Evan Brandies counterfeit Oxycontin 80mg tablets
 - h. Charlie Deal buying oxycodone without proper prescriptions to sell it for profit
 - i. Myron Haddix buying oxycodone without proper prescriptions to sell it for profit
 - j. Mark and Kim presently extorting me for money from my clinic on a daily basis
 - k. Showed them texts from Kim Curtiss extorting me at the time
 - l. Showed them texts from Aaron Bennett regarding the illegal sale of oxycodone to him
 - m. Showed them texts from Charlie Deal regarding the illegal sale of oxycodone to him
- 3) August, 2010 - August, 2011: Helped closed the following clinics with information provided to Law Enforcement and/or Department of Health:
 - a. Habana Spine & Wellness Center (at 4600 N Habana Ave, Tampa, FL 33614)
 - b. 1910 Medical Center (when it moved to 4600 N Habana Ave, Tampa, FL 33614)
 - c. Superior Injury Center (at 1779 W Hillsborough Ave, Tampa, FL 33603)
 - d. Pallisades Healthcare (at 5811 Memorial Hwy, Suite 106, Tampa, FL 33615)
 - e. West Coast Medicine (at 3631 Henderson Blvd, Tampa, FL 33609)
- 4) July, 2010: Identified Massive Fraudulent Prescription writing scheme involving Mark and Kim
 - a. Informed DEA & Detective Fowler that Kim Curtiss stole multiple Rx pads from my clinic
 - b. Informed DEA & Detective Fowler that Kim Curtiss had an additional 2,000 blank Rx's printed at Ray Anthony's Printing cat 413 W Waters Ave, Tampa, FL, 33604
 - c. Identified a list of dozens of people who purchased hundreds of fraudulent prescriptions from Mark & Kim & filled them at R&H Pharmacy at 8908 N 56th St, Tampa, FL 33617
 - d. Had employees at my clinic verify with several of the patients on that list that Mark & Kim is where they obtained the fraudulent prescriptions from

- 5) May, 2011: Befriended Sean Padgett under DEA's instructions which led to information regarding him:
- a. Trying to open several pharmacies including:
 - i. Healthy Choice Pharmacy at Sheldon Rd
 - ii. An additional pharmacy in Wesley Chapel
 - b. Trying to buy several pharmacies including:
 - i. Progressive Pharmacy at 29448 St Rd 54, Wesley Chapel, FL 33543
 - ii. Express Scripts at 4219 N Armenia Ave, Tampa, FL 33607
(which was owned by Joanne Estephan and is now closed)
 - iii. Bay Scripts at 11621 Sheldon Rd, Tampa, FL 33626
 - c. Actually buying Bay Scripts pharmacy (in partnership with Dr Rosetta Cannata)
 - i. Hired Brian Weiler on as Pharmacist In Charge
 - ii. Admitted to sending his patients over to the pharmacy
 - iii. Having a set of Keys to the pharmacy
- 6) August, 2011: Befriended Rets Griffith, owner of New Tampa Pharmacy, located at 2912 W Waters Ave, Tampa, FL 33614, and found out:
- a. That she is in the process of opening 2 pain management clinics in Atlanta, GA area
 - b. That she is in the process of opening a pharmacy in Georgia
 - c. That she had caught Pharmacist Brian Weiler stealing oxycodone multiple times while he was working for her and she didn't report it to anyone
- 7) August, 2010 – September, 2011: Provided complete and accurate records and signed affidavits for the following subpoenas:
- a. 08/06/2010 Subpoena Number: 004867
From: Drug Enforcement Administration & AUSA Corey Smith
Attn: TFO/DEA, Allen Davis at: 1510 Commonwealth Business Drive,
Tallahassee, FL 32303-3170
 - b. 07/18/2011 Case Number: 2010-CF-5758
From: State Attorney
Attn: Christine Brown, ASA at: 419 N. Pierce Street, Tampa, FL 33602-4022
 - c. 09/07/2011 Subpoena Number: IB-11-853898, Case Number: IB-11-0037
From: Drug Enforcement Administration
Attn: TFO Russell Moore at: 500 S. Front St, Columbus, OH 43015, 6th Floor
 - d. 09/21/2011 Case Number: 09-19534
From: State Attorney
 - i. Attn: Christine Brown, ASA at: 419 N. Pierce Street, Tampa, FL 33602-4022
 - e. 09/21/2011 Case Number: 10-05758
From: State Attorney
Attn: Christine Brown, ASA at: 419 N. Pierce Street, Tampa, FL 33602-4022
 - f. 09/21/2011 Case Number: (unknown but related to patient Paul Bosko)
From: State Attorney
Attn: Christine Brown, ASA at: 419 N. Pierce Street, Tampa, FL 33602-4022

8) October, 2011: Burned Video from DVR from pharmacy regarding:

a. Pharmacist Joanne Estephen:

- i. selling oxycodone without prescriptions herself
- ii. allowing Mark to take oxycodone and other controlled substances out of the pharmacy without any prescriptions
- iii. receiving money from the illegal sale of oxycodone
- iv. receiving money from Mark dozens of times to allow and participate in his illegal distribution of narcotics scheme

b. Pharmacist Joseph Hochstetter:

- i. receiving money from Mark for allowing the illegal sale of oxycodone

c. Pharmacist Brian Weiler:

- i. submitting a suspicious prescription for himself for oxycodone

d. Pharmacy Technician David Lopez:

- i. Selling oxycodone without prescriptions
- ii. allowing Mark to take oxycodone and other controlled substances out of the pharmacy without any prescriptions
- iii. receiving money from Mark dozens of times to allow and participate in his illegal distribution of narcotics scheme

e. Pharmacy Technican Aaron Bennett:

- i. Selling oxycodone without prescriptions
- ii. allowing Mark to take oxycodone and other controlled substances out of the pharmacy without any prescriptions
- iii. receiving money from Mark multiple times to allow and participate in his illegal distribution of narcotics scheme

f. Dealer Myron Haddix:

- i. Buying oxycodone dozens of times without prescriptions from Joanne, Mark, Dave, Aaron

g. Dealer Evan Brandies:

- i. Buying large amounts of oxycodone multiple times without prescriptions from Mark, Dave, Aaron, Louis II, Louis III

h. Individual Glenn Johnston:

- i. Receiving oxycodone and other narcotics from Mark multiple times in exchange for contents of small paper bags

i. Individual Steven Labiosa:

- i. Buying oxycodone multiple times without prescriptions from Mark

j. Current Pain Clinic Worker Ronald Dopico:

- i. Receiving oxycodone, methadone, alprazolam from Mark multiple times without proper prescriptions

k. Former Pain Clinic Worker Adriani Cordovi (Mark's sister):

- i. Stealing #120 hydrocodone 10mg/325mg tablets

- 9) July, 2011: Provided valuable information on 14 doctor shoppers to DEA agents
 - a. Their VIP Pharmacy prescription profiles showing multiple doctors filled in same month
 - b. Copies of the original prescriptions filled
 - c. Copies of their Driver Licenses or Identifications
- 10) October, 2011: Provided video on a dozen doctor shoppers to DEA agents:
 - a. Burned multiple video clips of each person dropping off prescription & picking it up
 - b. Made chart for each person that summarized all the video burned showing this activity

Available Video from VIP Pharmacy Shows the following Pharmacists Worked the Following Times:

January 2010

| Date | Day of Week | Name of the Day Pharmacist Worked | License Number | Day Pharmacist Arrived | Chris Arrived | Day Pharmacist Left | Chris Left | Hours Day Pharmacist Worked | Hours Chris Worked |
|----------|-------------|-----------------------------------|----------------|------------------------|---------------|---------------------|------------|-----------------------------|--------------------|
| 01/22/10 | Friday | Joanne Estephan | PS32656 | 09:54:45 | 17:45:40 | 17:53:55 | 23:44:30 | 8.00 | 5.25 |
| 01/23/10 | Saturday | Carrie Wicker | PS43966 | 10:39:55 | 14:59:20 | 15:28:00 | 20:32:25 | 5.00 | 5.00 |
| 01/24/10 | Sunday | CLOSED | | | | | Total: | 13.00 | 10.25 |
| 01/25/10 | Monday | Carrie Wicker | PS43966 | 09:59:45 | 18:43:30 | 18:51:30 | 23:22:55 | 9.00 | 4.50 |
| 01/26/10 | Tuesday | Joanne Estephan | PS32656 | 10:05:50 | 18:03:05 | 18:03:30 | 20:03:50 | 8.00 | 2.00 |
| 01/27/10 | Wednesday | Joanne Estephan | PS32656 | 09:54:25 | 18:04:30 | 18:07:05 | 20:26:55 | 8.25 | 2.25 |
| 01/28/10 | Thursday | Joanne Estephan | PS32656 | 09:50:55 | 14:54:05 | 14:54:50 | 23:58:55 | 5.00 | 9.00 |
| 01/29/10 | Friday | Joanne Estephan | PS32656 | 09:59:55 | 15:49:50 | 15:58:45 | 21:13:25 | 6.00 | 5.25 |
| 01/30/10 | Saturday | Carrie Wicker | PS43966 | 10:19:20 | 19:51:50 | 19:34:50 | 21:23:40 | 9.25 | 1.75 |
| 01/31/10 | Sunday | CLOSED | | | | Week | Total: | 45.50 | 34.75 |
| | | | | | | TOTALS: | | 58.50 | 45.00 |

February 2010

| Date | Day of Week | Name of the Day Pharmacist Worked | License Number | Day Pharmacist Arrived | Chris Arrived | Day Pharmacist Left | Chris Left | Hours Day Pharmacist Worked | Hours Chris Worked |
|----------|-------------|-----------------------------------|----------------|------------------------|---------------|---------------------|------------|-----------------------------|--------------------|
| 02/01/10 | Monday | Carrie Wicker | PS43966 | 10:00:30 | 18:57:15 | 19:04:55 | 19:18:55 | 9.00 | 0.25 |
| 02/02/10 | Tuesday | Joanne Estephan | PS32656 | 09:56:25 | 17:42:50 | 17:49:30 | 20:04:55 | 8.00 | 2.25 |
| 02/03/10 | Wednesday | Joanne Estephan | PS32656 | 09:53:15 | 18:22:45 | 18:24:45 | 19:29:40 | 8.50 | 1.00 |
| 02/04/10 | Thursday | Joanne Estephan | PS32656 | 09:55:20 | 14:56:05 | 15:04:45 | 19:33:40 | 5.25 | 4.50 |
| 02/05/10 | Friday | Joanne Estephan | PS32656 | 09:54:20 | 19:06:35 | 19:20:00 | 23:46:40 | 7.50 | 4.50 |
| 02/06/10 | Saturday | Carrie Wicker | PS43966 | 10:03:30 | 19:48:45 | 20:12:45 | 22:23:55 | 10.25 | 2.25 |
| 02/07/10 | Sunday | CLOSED | | | | Week | Total: | 48.50 | 14.75 |
| 02/08/10 | Monday | Carrie Wicker | PS43966 | 10:00:50 | 18:21:00 | 18:46:15 | 25:21:30 | 8.75 | 6.50 |
| 02/09/10 | Tuesday | Joanne Estephan | PS32656 | 09:58:00 | 15:28:10 | 15:29:35 | 19:36:15 | 5.50 | 4.00 |
| 02/10/10 | Wednesday | Joanne Estephan | PS32656 | 10:05:05 | 19:14:20 | 17:51:25 | 23:41:15 | 7.75 | 5.50 |
| 02/11/10 | Thursday | Joanne Estephan | PS32656 | 10:01:25 | 19:13:35 | 18:35:30 | 21:10:05 | 8.50 | 2.50 |
| 02/12/10 | Friday | Joanne Estephan | PS32656 | 10:25:55 | 14:52:50 | 15:05:35 | 26:28:00 | 4.75 | 11.25 |
| 02/13/10 | Saturday | Carrie Wicker | PS43966 | 10:08:05 | 19:38:30 | 19:43:00 | 19:56:05 | 9.50 | 0.25 |
| 02/14/10 | Sunday | CLOSED | | | | Week | Total: | 44.75 | 14.75 |
| 02/15/10 | Monday | Carrie Wicker | PS43966 | 10:04:25 | 14:40:35 | 15:44:35 | 19:38:15 | 5.50 | 4.00 |
| 02/16/10 | Tuesday | Joanne Estephan | PS32656 | 09:55:20 | 15:51:20 | 14:50:10 | 21:25:10 | 5.00 | 6.50 |
| 02/17/10 | Wednesday | Joanne Estephan | PS32656 | 10:03:40 | 18:45:20 | 18:46:05 | 23:15:10 | 8.75 | 4.75 |
| 02/18/10 | Thursday | Joanne Estephan | PS32656 | 10:02:00 | 20:11:10 | 19:25:50 | 22:43:30 | 9.50 | 3.25 |
| 02/19/10 | Friday | Joanne Estephan | PS32656 | 10:01:55 | 18:30:55 | 18:39:45 | 23:12:50 | 8.75 | 4.50 |
| 02/20/10 | Saturday | Brian Weiler | PS19949 | 10:00:55 | 20:40:10 | 20:46:00 | 20:46:00 | 10.75 | 0.00 |
| 02/21/10 | Sunday | CLOSED | | | | Week | Total: | 49.25 | 22.75 |
| 02/22/10 | Monday | Brian Weiler | PS19949 | 10:14:45 | 17:34:00 | 17:44:20 | 19:22:20 | 7.50 | 1.75 |
| 02/23/10 | Tuesday | Joanne Estephan | PS32656 | 09:58:45 | 13:46:25 | 13:55:20 | 18:31:30 | 4.00 | 2.50 |
| 02/24/10 | Wednesday | Joanne Estephan | PS32656 | | | | | 7.25 | 4.00 |
| 02/25/10 | Thursday | Joanne Estephan | PS32656 | | | | | 7.25 | 4.00 |
| 02/26/10 | Friday | Joanne Estephan | PS32656 | | | 1942 | | 7.75 | 4.00 |
| 02/27/10 | Saturday | Anthony Salzano | PS25341 | | | | | 10.25 | 0.75 |
| 02/28/10 | Sunday | CLOSED | | | | Week | Total: | 43.50 | 17.00 |
| | | | | | | TOTALS: | | 185.00 | 84.50 |

average

March 2010

| Date | Day of Week | Name of the Day Pharmacist Worked | License Number | Day Pharmacist Arrived | Chris Arrived | Day Pharmacist Left | Chris Left | Hours Day Pharmacist Worked | Hours Chris Worked |
|----------|-------------|-----------------------------------|----------------|------------------------|---------------|---------------------|------------|-----------------------------|--------------------|
| 03/01/10 | Monday | Brian Weiler | PS19949 | 10:08:00 | 15:17:00 | 16:00:00 | | 6.00 | |
| 03/02/10 | Tuesday | Brian Weiler | PS19949 | 10:09:50 | | 22:59:20 | | 13.00 | 0.00 |
| 03/03/10 | Wednesday | Brian Weiler | PS19949 | 10:37:10 | 13:08:55 | 15:16:10 | | 4.75 | |
| 03/04/10 | Thursday | Anthony Salzano | PS25341 | | | | | | |
| 03/05/10 | Friday | Joanne Estephan | PS32656 | | | | | | |
| 03/06/10 | Saturday | Anthony Salzano | PS25341 | | | | | | |
| 03/07/10 | Sunday | CLOSED | | | | | | | |
| | | | | | | Week | Total: | | |
| 03/08/10 | Monday | Joanne Estephan | PS32656 | | | | | | |
| 03/09/10 | Tuesday | Brian Weiler | PS19949 | 10:47:45 | 13:35:50 | 15:52:22 | | 5.00 | |
| 03/10/10 | Wednesday | Joanne Estephan | PS32656 | | | | | | |
| 03/11/10 | Thursday | Joanne Estephan | PS32656 | | | | | | |
| 03/12/10 | Friday | Joanne Estephan | PS32656 | | | | | | |
| 03/13/10 | Saturday | Andrew Mobley | PS16902 | | | | | | |
| 03/14/10 | Sunday | CLOSED | | | | | | | |
| | | | | | | Week | Total: | | |
| 03/15/10 | Monday | Joanne Estephan | PS32656 | | | | | | |
| 03/16/10 | Tuesday | Joanne Estephan | PS32656 | | | | | | |
| 03/17/10 | Wednesday | Joanne Estephan | PS32656 | | | | | | |
| 03/18/10 | Thursday | Brian Weiler | PS19949 | 11:17:00 | 18:38:00 | 18:46:15 | | 7.50 | |
| 03/19/10 | Friday | Joanne Estephan | PS32656 | | | | | | |
| 03/20/10 | Saturday | Brian Weiler | PS19949 | 09 | 21:05:00 | 21:09 | | | |
| 03/21/10 | Sunday | CLOSED | | | | | | | |
| | | | | | | Week | Total: | | |
| 03/22/10 | Monday | Joanne Estephan | PS32656 | | | | | | |
| 03/23/10 | Tuesday | Joanne Estephan | PS32656 | | | | | | |
| 03/24/10 | Wednesday | Joanne Estephan | PS32656 | | | | | | |
| 03/25/10 | Thursday | Joanne Estephan | PS32656 | | | | | | |
| 03/26/10 | Friday | Joanne Estephan | PS32656 | | | | | | |
| 03/27/10 | Saturday | Andrew Mobley | PS16902 | 10:01:30 | 19:15:40 | 19:20:25 | 21:47:00 | 9.25 | 2.50 |
| 03/28/10 | Sunday | CLOSED | | | | | | | |
| | | | | | | Week | Total: | | |
| 03/29/10 | Monday | Joseph Hochstetter | PS10464 | 09:42:10 | 13:57:10 | 16:21:50 | | | |
| 03/30/10 | Tuesday | Joseph Hochstetter | PS10464 | 10:25:30 | | 19:10:05 | | 8.75 | 0.00 |
| 03/31/10 | Wednesday | Joseph Hochstetter | PS10464 | 10:07:10 | 19:25:15 | 19:38:40 | 20:38:25 | 9.50 | 1.00 |
| | | | | | | | Total: | | |
| | | | | | | TOTALS: | | | |

I did not have time to finish reviewing this footage, but I was at my pharmacy much less in March of 2010 than I was in February of 2010.

April 2010

| Date | Day of Week | Name of the Day Pharmacist Worked | License Number | Day Pharmacist Arrived | Chris Arrived | Day Pharmacist Left | Chris Left | Hours Day Pharmacist Worked | Hours Chris Worked |
|----------|-------------|-----------------------------------|----------------|------------------------|---------------|---------------------|------------|-----------------------------|--------------------|
| 04/01/10 | Thursday | Brian Weiler | PS19949 | 09:35:10 | 17:09:40 | 17:19:45 | 20:14:50 | 7.75 | 3.00 |
| 04/02/10 | Friday | Andrew Mobley | PS16902 | 09:00:30 | 18:10:45 | 18:11:25 | 18:50:55 | 9.25 | 0.75 |
| 04/03/10 | Saturday | Andrew Mobley | PS16902 | 10:06:25 | 16:07:55 | 17:10:40 | 20:26:20 | 7.00 | 3.25 |
| 04/04/10 | Sunday | CLOSED | | | | | Total: | 24.00 | 7.00 |
| 04/05/10 | Monday | Joseph Hochstetter | PS10464 | 09:55:00 | 17:24:55 | 17:33:10 | 20:27:20 | 7.75 | 3.00 |
| 04/06/10 | Tuesday | Andrew Mobley | PS16902 | 09:57:30 | 13:18:50 | 15:55:45 | 19:23:30 | 6.00 | 3.50 |
| 04/07/10 | Wednesday | Joseph Hochstetter | PS10464 | 10:28:55 | 12:14:40 | 15:32:35 | 19:48:50 | 5.00 | 4.25 |
| 04/08/10 | Thursday | Andrew Mobley | PS16902 | 09:56:55 | | 20:08:40 | | 10.25 | 0.00 |
| 04/09/10 | Friday | Andrew Mobley | PS16902 | 09:54:00 | 16:30:30 | 16:54:50 | 19:12:50 | 7.00 | 2.25 |
| 04/10/10 | Saturday | Andrew Mobley | PS16902 | 10:29:15 | 17:18:10 | 17:21:00 | 17:34:50 | 7.00 | 0.25 |
| 04/11/10 | Sunday | CLOSED | | | | Week | Total: | 42.75 | 13.25 |
| 04/12/10 | Monday | Joseph Hochstetter | PS10464 | 10:39:40 | 19:32:00 | 19:23:05 | 23:49:55 | 8.75 | 4.50 |
| 04/13/10 | Tuesday | Andrew Mobley | PS16902 | 09:55:30 | 15:33:45 | 16:09:20 | 17:36:10 | 6.25 | 1.50 |
| 04/14/10 | Wednesday | Joseph Hochstetter | PS10464 | 10:19:05 | 13:23:45 | 14:33:20 | 20:38:10 | 4.25 | 6.00 |
| 04/15/10 | Thursday | Andrew Mobley | PS16902 | 09:54:25 | 17:47:20 | 17:52:45 | 18:06:05 | 8.00 | 0.25 |
| 04/16/10 | Friday | Andrew Mobley | PS16902 | 09:48:10 | 19:19:55 | 19:26:35 | 20:11:10 | 10.0 | 0.75 |
| 04/17/10 | Saturday | Andrew Mobley | PS16902 | 10:04:05 | | 16:30:35 | | 6.50 | 0.00 |
| 04/18/10 | Sunday | CLOSED | | | | Week | Total: | 43.75 | 13.00 |
| 04/19/10 | Monday | Joseph Hochstetter | PS10464 | 08:34:10 | 18:44:30 | 18:52:00 | 19:07:00 | 10.5 | 0.25 |
| 04/20/10 | Tuesday | Andrew Mobley | PS16902 | 09:52:30 | 17:59:15 | 18:02:10 | 18:32:20 | 8.25 | 0.50 |
| 04/21/10 | Wednesday | Joseph Hochstetter | PS10464 | 10:20:55 | | 20:30:05 | | 10.25 | 0.00 |
| 04/22/10 | Thursday | Andrew Mobley | PS16902 | 11:00:15 | | 20:49:35 | | 9.75 | 0.00 |
| 04/23/10 | Friday | Andrew Mobley | PS16902 | 10:56:55 | 19:06:00 | 19:25:45 | 20:50:00 | 8.50 | 1.50 |
| 04/24/10 | Saturday | Andrew Mobley | PS16902 | 11:33:40 | 18:13:05 | 18:25:50 | 18:31:10 | 7.00 | 0.00 |
| 04/25/10 | Sunday | CLOSED | | | | Week | Total: | 54.25 | 2.25 |
| 04/26/10 | Monday | Joseph Hochstetter | PS10464 | 10:29:40 | 20:14:15 | 20:20:10 | 21:21:20 | 9.50 | 1.00 |
| 04/27/10 | Tuesday | Andrew Mobley | PS16902 | 10:59:45 | 19:32:20 | 19:38:40 | 19:44:10 | 8.75 | 0.00 |
| 04/28/10 | Wednesday | Joseph Hochstetter | PS10464 | 10:35:30 | | 21:22:20 | | 10.75 | 0.00 |
| 04/29/10 | Thursday | Andrew Mobley | PS16902 | 11:01:35 | 18:19:30 | 18:19:40 | 20:30:05 | 7.25 | 2.25 |
| 04/30/10 | Friday | Andrew Mobley | PS16902 | 11:00:05 | 20:19:35 | 20:28:30 | 24:44:10 | 9.50 | 4.25 |
| | | | | | | Week | Total: | 45.75 | 7.5 |
| | | | | | | TOTALS: | | 210.50 | 43.00 |

May 2010

| Date | Day of Week | Name of the Day Pharmacist Worked | License Number | Day Pharmacist Arrived | Chris Arrived | Day Pharmacist Left | Chris Left | Hours Day Pharmacist Worked | Hours Chris Worked |
|----------|-------------|-----------------------------------|----------------|------------------------|---------------|---------------------|------------|-----------------------------|--------------------|
| 05/01/10 | Saturday | Andrew Mobley | PS16902 | 10:53:20 | 17:08:30 | 17:18:00 | 18:22:45 | 6.25 | 1.00 |
| 05/02/10 | Sunday | CLOSED | | | | Total: | | 6.25 | 1.00 |
| 05/03/10 | Monday | Anthony Salzano | PS25341 | 10:45:25 | 19:06:55 | 20:01:10 | 20:05:50 | 9.25 | 0.00 |
| 05/04/10 | Tuesday | Andrew Mobley | PS16902 | 10:57:15 | 19:01:05 | 19:08:05 | 19:42:30 | 8.25 | 0.50 |
| 05/05/10 | Wednesday | Anthony Salzano | PS25341 | 10:45:05 | 21:11:35 | 21:15:40 | 21:27:20 | 10.50 | 0.25 |
| 05/06/10 | Thursday | Andrew Mobley | PS16902 | 10:47:30 | 19:12:45 | 19:26:50 | 21:28:30 | 8.75 | 2.00 |
| 05/07/10 | Friday | Andrew Mobley | PS16902 | 10:46:25 | | 20:29:45 | | 9.75 | 0.00 |
| 05/08/10 | Saturday | Andrew Mobley | PS16902 | 10:33:45 | | 17:57:35 | | 7.50 | 0.00 |
| 05/09/10 | Sunday | CLOSED | | | Week | Total: | | 54.00 | 2.75 |
| 05/10/10 | Monday | Anthony Salzano | PS25341 | 10:40:55 | 21:37:40 | 21:40:55 | 21:46:30 | 11.0 | 0.00 |
| 05/11/10 | Tuesday | Andrew Mobley | PS16902 | 10:58:45 | 14:29:10 | 18:06:55 | 20:23:20 | 7.25 | 2.25 |
| 05/12/10 | Wednesday | Anthony Salzano | PS25341 | 10:30:10 | 18:59:20 | 19:20:15 | 19:58:25 | 9.00 | 0.75 |
| 05/13/10 | Thursday | Andrew Mobley | PS16902 | 10:54:45 | 20:14:00 | 20:18:15 | 20:57:10 | 9.50 | 0.75 |
| 05/14/10 | Friday | Andrew Mobley | PS16902 | 10:58:55 | 20:38:00 | 20:45:05 | 22:26:15 | 9.75 | 1.75 |
| 05/15/10 | Saturday | Andrew Mobley | PS16902 | 11:12:45 | 14:53:25 | 17:02:00 | 17:11:15 | 6.00 | 0.25 |
| 05/16/10 | Sunday | CLOSED | | | Week | Total: | | 52.50 | 5.75 |
| 05/17/10 | Monday | Anthony Salzano | PS25341 | 11:01:05 | 18:35:30 | 18:38:30 | 20:59:50 | 7.75 | 2.25 |
| 05/18/10 | Tuesday | Andrew Mobley | PS16902 | 10:58:10 | 18:30:55 | 18:35:15 | 19:30:40 | 7.75 | 1.00 |
| 05/19/10 | Wednesday | Anthony Salzano | PS25341 | 10:54:45 | 19:44:50 | 19:53:00 | 20:26:00 | 9.00 | 0.50 |
| 05/20/10 | Thursday | Anthony Salzano | PS25341 | CLOSED | Week | Total: | | 24.50 | 3.75 |
| | | | | May | 2010 | TOTALS: | | 137.25 | 13.25 |

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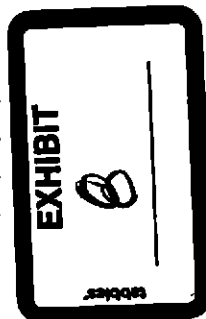
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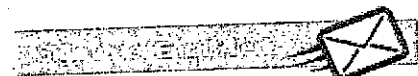
| Activity Title | Accreditor Code | Test Date | Credit | Action |
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| Case 2: Hepatitis C Virus Infection: Emerging Therapeutic Options | 0290-9999-11-026-H01-P | 2012-02-28 14:00:34 | 1.00 | Request credit |
| Hypogonadism: The Role of the Pharmacist, Case Study #2 | 0290-0000-10-004-H01-P | 2012-02-28 13:55:04 | 0.50 | Request credit |
| Hypogonadism: The Role of the Pharmacist, Case Study #1 | 0290-0000-10-003-H01-P | 2012-02-28 13:53:25 | 0.50 | Request credit |
| Testosterone Replacement Therapy: Hypogonadism and The Role of the Pharmacist, Case Study #2 | 0290-0000-10-006-H01-P | 2012-02-28 13:51:35 | 0.50 | Request credit |
| Testosterone Replacement Therapy: Hypogonadism and The Role of the Pharmacist, Case Study #1 | 0290-0000-10-005-H01-P | 2012-02-28 13:49:58 | 0.50 | Request credit |
| Case 1: Hepatitis C Virus Infection: Diagnosing and Treating | 0290-9999-11-025-H01-P | 2012-02-27 15:49:29 | 1.00 | Request credit |
| Case 2: The Contemporary Management of Gout: Active Treatment of Gout | 0290-0000-11-031-H01-P | 2012-02-27 15:47:54 | 1.00 | Request credit |
| Case 1: The Contemporary Management of Gout: Identification and Diagnosis of Gout | 0290-0000-11-030-H01-P | 2012-02-27 15:45:49 | 1.00 | Request credit |
| Case 2: Optimizing Outcomes in Osteoporosis Management: How Can the Pharmacist Help? | 0290-0000-11-029-H01-P | 2012-02-27 15:43:35 | 1.00 | Request credit |
| Case 1: Optimizing Outcomes in Osteoporosis Management: How Can the Pharmacist Help? | 0290-0000-11-028-H01-P | 2012-02-27 15:33:02 | 1.00 | Request credit |
| Understanding Opioid Dependence: Therapeutic Options to Improve Patient Care: Case 2 | 0290-0000-11-043-H01-P | 2012-02-27 15:26:59 | 1.00 | Request credit |
| Understanding Opioid Addiction and Dependence: Therapeutic Options to Improve Patient Care: Case 1 | 0290-0000-11-042-H01-P | 2012-02-27 15:24:20 | 1.00 | Request credit |
| Contemporary Options for the Management of Scars | 0290-000-09-004-H01-P | 2011-07-21 01:55:19 | 2.00 | Request credit |
| Breathe Easy: An Update on Asthma | 0290-0000-10-015-H01-P | 2011-07-20 12:31:24 | 2.00 | Request credit |
| Prevention and Treatment of the Common Cold in Adults | 0290-000-08-010-H01-P | 2011-07-20 12:28:00 | 2.00 | Request credit |
| Obesity Management: Quality of Life, Cost Impact, and Disease Burden | 0290-9999-11-034-H01-P | 2011-07-18 05:25:08 | 1.00 | Request credit |
| Working with Opioid Analgesics Does Not Have to Be a Pain! The Basics of Pain Management | 0290-000-09-002-H01-P | 2011-07-18 05:20:16 | 2.00 | Request credit |
| Waste Not, Want Not: Drug Disposal and the Role of the Pharmacist | 0290-0000-10-002-H04-P | 2011-07-18 03:06:32 | 1.50 | Request credit |
| Drug Therapy During Pregnancy: An Update on FDA Labeling for Antipsychotics | 0290-0000-11-035-H01-P | 2011-07-18 02:33:26 | 1.50 | Request credit |
| 10 Strategies to Reduce Medication Errors | 0290-000-08-009-H05-P | 2011-07-18 01:44:42 | 2.00 | Request credit |
| Sunburn: The Summertime Blues | 0290-000-08-005-H01-P | 2008-07-21 13:34:19 | 1.00 | Request credit |
| Cases in Cardiology: Complications Associated with Heparin Therapy | 0290-999-06-010-H01 | 2007-09-06 00:01:15 | 1.50 | Request credit |
| Managing Chronic Pain: An Analysis of the Use of Opioids | 0290-000-05-010-H01-P | 2007-08-27 02:38:02 | 2.00 | Request credit |
| An Overview and Update of the Controlled Substances Act of 1970 | 0290-000-07-001-H03 | 2007-08-20 01:58:13 | 2.00 | Request credit |
| Asthma Treatment Guidelines and Use of Inhalers | 0290-999-06-013-H01-P | 2007-08-20 01:23:43 | 2.00 | Request credit |
| New Drugs of 2004 | 0290-000-05-006-H01 | 2007-08-16 21:37:28 | 1.50 | Request credit |
| The ABC's of Asthma Management | 0290-999-06-003-H01 | 2007-08-09 03:28:59 | 2.50 | Request credit |
| New Drugs of 2005 | 0290-000-06-002-H01 | 2007-08-09 01:58:53 | 3.00 | Request credit |
| New Drugs of 2006 | 0290-000-07-003-H01 | 2007-08-09 00:12:39 | 2.00 | Request credit |
| A Good Night's Rest - Helping the Patient with Insomnia | 0290-000-06-004-H01 | 2007-03-27 10:27:03 | 2.00 | Request credit |
| Clinical Perspectives in ED | 0105-000-04-931-H01 | 2007-03-26 17:34:02 | 2.00 | Request credit |



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| | | | | |
|--|---------------------|---------------------|------|----------------|
| NPS Management of Oral and Genital Herpes Simplex Virus Infection: The Pharmacist's Role | 0105-000-05-001-H01 | 2005-07-21 04:38:38 | 2.00 | Request credit |
| Clinical perspectives on drug interactions with statins | 0290-999-04-022-H01 | 2005-07-20 04:35:17 | 1.00 | Request credit |
| "Oh No, Not Another One-" Treatment and Prevention of the Common Cold | 0290-000-03-011-H01 | 2005-07-20 03:47:59 | 2.00 | Request credit |
| Treatment of Sexually Transmitted Diseases | 0057-999-04-016-H01 | 2004-11-10 00:14:03 | 2.00 | Request credit |
| Pharmacists' Role in Recognizing and Managing Patients with Insomnia | 0290-000-04-015-H01 | 2004-11-05 07:48:22 | 2.00 | Request credit |
| The Prevalence of Erectile Dysfunction and Associated Factors Among Men Worldwide | 0105-000-04-931-H01 | 2004-08-15 09:44:47 | 2.00 | Request credit |
| New Drugs of 2003 | 0290-000-04-016-H01 | 2004-07-02 05:41:32 | 2.00 | Request credit |
| New Drugs of 2002 | 0057-999-03-002-H01 | 2004-07-02 05:35:42 | 2.00 | Request credit |
| Pharmacists' Expanding Role in Oral Health and Dental Care | 0038-999-03-090-H04 | 2004-07-02 05:15:20 | 1.00 | Request credit |

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For all enquires, please contact us at:
cainfo@pharmacytimes.com

Christopher Switlyk
2410 Victoria Gardens Lane
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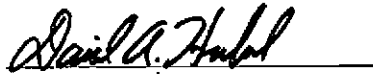
Has completed the CPE-Accredited Activity

"10 Strategies to Reduce Medication Errors"

ACPE Universal Activity Number 0290-000-08-009-H05-P
Type of Activity: Knowledge

On July 18, 2011

and earned 2.0 contact hours (0.2 CEUs)



David Heckard

Vice President of Education
Pharmacy Times Office of Continuing Professional Education
July 18, 2011



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Christopher Switlyk
2410 Victoria Gardens Lane
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Has completed the CPE-Accredited Activity

**"Drug Therapy During Pregnancy: An Update on FDA Labeling for
Antipsychotics"**

ACPE Universal Activity Number 0290-0000-11-035-H01-P
Type of Activity: Knowledge

On July 18, 2011

and earned 1.5 contact hours (0.15 CEUs)



David Heckard

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July 18, 2011



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Christopher Switlyk
2410 Victoria Gardens Lane
Tampa, FL 33609

Has completed the CPE-Accredited Activity

"Waste Not, Want Not: Drug Disposal and the Role of the Pharmacist"

ACPE Universal Activity Number 0290-0000-10-002-H04-P
Type of Activity: Knowledge

On July 18, 2011

and earned 1.5 contact hours (0.15 CEUs)



David Heckard

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July 18, 2011



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Christopher Switlyk
2410 Victoria Gardens Lane
Tampa, FL 33609

Has completed the CPE-Accredited Activity

**"Working with Opioid Analgesics Does Not Have to Be a Pain! The
Basics of Pain Management"**

ACPE Universal Activity Number 0290-000-09-002-H01-P
Type of Activity: Knowledge

On July 18, 2011

and earned 2.0 contact hours (0.2 CEUs)



David Heckard

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July 18, 2011



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Christopher Switlyk
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Tampa, FL 33609

Has completed the CPE-Accredited Activity

"Obesity Management: Quality of Life, Cost Impact, and Disease Burden"

ACPE Universal Activity Number 0290-9999-11-034-H01-P
Type of Activity: Knowledge

On July 18, 2011

and earned 1.0 contact hours (0.1 CEUs)



David Heckard

Vice President of Education
Pharmacy Times Office of Continuing Professional Education
July 18, 2011



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Christopher Switlyk
2410 Victoria Gardens Lane
Tampa, FL 33609

Has completed the CPE-Accredited Activity

"Prevention and Treatment of the Common Cold in Adults"

ACPE Universal Activity Number 0290-000-08-010-H01-P
Type of Activity: Knowledge

On July 20, 2011

and earned 2.0 contact hours (0.2 CEUs)



David Heckard

Vice President of Education
Pharmacy Times Office of Continuing Professional Education
July 20, 2011



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Christopher Switlyk
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Tampa, FL 33609

Has completed the CPE-Accredited Activity

"Breathe Easy: An Update on Asthma"

ACPE Universal Activity Number 0290-0000-10-015-H01-P
Type of Activity: Knowledge

On July 20, 2011

and earned 2.0 contact hours (0.2 CEUs)



David Heckard

Vice President of Education
Pharmacy Times Office of Continuing Professional Education
July 20, 2011



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Christopher Switlyk
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Tampa, FL 33609

Has completed the CPE-Accredited Activity

"Contemporary Options for the Management of Scars"

ACPE Universal Activity Number 0290-000-09-004-H01-P
Type of Activity: Knowledge

On July 21, 2011

and earned 2.0 contact hours (0.2 CEUs)



David Heckard

Vice President of Education
Pharmacy Times Office of Continuing Professional Education
July 21, 2011



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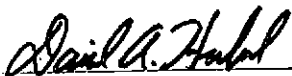
Has completed the CPE-Accredited Activity

**"Understanding Opioid Addiction and Dependence: Therapeutic
Options to Improve Patient Care: Case 1"**

ACPE Universal Activity Number 0290-0000-11-042-H01-P
Type of Activity: Application

On February 27, 2012

and earned 1.0 contact hours (0.1 CEUs)



David Heckard

Vice President of Education
Pharmacy Times Office of Continuing Professional Education
February 27, 2012



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Christopher Switlyk
2410 Victoria Gardens Lane
Tampa, FL 33609

Has completed the CPE-Accredited Activity

**"Understanding Opioid Dependence: Therapeutic Options to Improve
Patient Care: Case 2"**

ACPE Universal Activity Number 0290-0000-11-043-H01-P
Type of Activity: Application

On February 27, 2012

and earned 1.0 contact hours (0.1 CEUs)



David Heckard

Vice President of Education
Pharmacy Times Office of Continuing Professional Education
February 27, 2012



Pharmacy Times Office of Continuing Professional Education is accredited by the Accreditation Council for Pharmacy Education as a provider of continuing pharmacy education.

Christopher Switlyk
2410 Victoria Gardens Lane
Tampa, FL 33609

Has completed the CPE-Accredited Activity

**"Case 1: Optimizing Outcomes in Osteoporosis Management: How
Can the Pharmacist Help?"**

ACPE Universal Activity Number 0290-0000-11-028-H01-P
Type of Activity: Application

On February 27, 2012

and earned 1.0 contact hours (0.1 CEUs)



David Heckard

Vice President of Education
Pharmacy Times Office of Continuing Professional Education
February 27, 2012



Pharmacy Times Office of Continuing Professional Education is accredited by the Accreditation Council for Pharmacy Education as a provider of continuing pharmacy education.

Christopher Switlyk
2410 Victoria Gardens Lane
Tampa, FL 33609

Has completed the CPE-Accredited Activity

**"Case 2: Optimizing Outcomes in Osteoporosis Management: How
Can the Pharmacist Help?"**

ACPE Universal Activity Number 0290-0000-11-029-H01-P
Type of Activity: Application

On February 27, 2012

and earned 1.0 contact hours (0.1 CEUs)



David Heckard

Vice President of Education
Pharmacy Times Office of Continuing Professional Education
February 27, 2012



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Christopher Switlyk
2410 Victoria Gardens Lane
Tampa, FL 33609

Has completed the CPE-Accredited Activity

**"Case 1: The Contemporary Management of Gout: Identification and
Diagnosis of Gout"**

ACPE Universal Activity Number 0290-0000-11-030-H01-P
Type of Activity: Application

On February 27, 2012

and earned 1.0 contact hours (0.1 CEUs)



David Heckard

Vice President of Education
Pharmacy Times Office of Continuing Professional Education
February 27, 2012



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Christopher Switlyk
2410 Victoria Gardens Lane
Tampa, FL 33609

Has completed the CPE-Accredited Activity

**"Case 2: The Contemporary Management of Gout: Active Treatment
of Gout"**

ACPE Universal Activity Number 0290-0000-11-031-H01-P
Type of Activity: Application

On February 27, 2012.

and earned 1.0 contact hours (0.1 CEUs)



David Heckard

Vice President of Education
Pharmacy Times Office of Continuing Professional Education
February 27, 2012



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Accreditation Council for Pharmacy Education as a provider of continuing
pharmacy education.

Christopher Switlyk
2410 Victoria Gardens Lane
Tampa, FL 33609

Has completed the CPE-Accredited Activity

"Case 1: Hepatitis C Virus Infection: Diagnosing and Treating"

ACPE Universal Activity Number 0290-9999-11-025-H01-P
Type of Activity: Application

On February 27, 2012

and earned 1.0 contact hours (0.1 CEUs)



David Heckard

Vice President of Education
Pharmacy Times Office of Continuing Professional Education
February 27, 2012



Pharmacy Times Office of Continuing Professional Education is accredited by the Accreditation Council for Pharmacy Education as a provider of continuing pharmacy education.

Christopher Switlyk
2410 Victoria Gardens Lane
Tampa, FL 33609

Has completed the CPE-Accredited Activity

**"Testosterone Replacement Therapy: Hypogonadism and The Role of
the Pharmacist, Case Study #1"**

ACPE Universal Activity Number 0290-0000-10-005-H01-P
Type of Activity: Application

On February 28, 2012

and earned 0.5 contact hours (0.05 CEUs)



David Heckard

Vice President of Education
Pharmacy Times Office of Continuing Professional Education
February 28, 2012



Pharmacy Times Office of Continuing Professional Education is accredited by the
Accreditation Council for Pharmacy Education as a provider of continuing
pharmacy education.

Christopher Switlyk
2410 Victoria Gardens Lane
Tampa, FL 33609

Has completed the CPE-Accredited Activity

**"Testosterone Replacement Therapy: Hypogonadism and The Role of
the Pharmacist, Case Study #2"**

ACPE Universal Activity Number 0290-0000-10-006-H01-P
Type of Activity: Application

On February 28, 2012

and earned 0.5 contact hours (0.05 CEUs)


David Heckard

Vice President of Education
Pharmacy Times Office of Continuing Professional Education
February 28, 2012



Pharmacy Times Office of Continuing Professional Education is accredited by the Accreditation Council for Pharmacy Education as a provider of continuing pharmacy education.

Christopher Switlyk
2410 Victoria Gardens Lane
Tampa, FL 33609

Has completed the CPE-Accredited Activity

"Hypogonadism: The Role of the Pharmacist, Case Study #1"

ACPE Universal Activity Number 0290-0000-10-003-H01-P
Type of Activity: Application

On February 28, 2012

and earned 0.5 contact hours (0.05 CEUs)



David Heckard

Vice President of Education
Pharmacy Times Office of Continuing Professional Education
February 28, 2012



Pharmacy Times Office of Continuing Professional Education is accredited by the Accreditation Council for Pharmacy Education as a provider of continuing pharmacy education.

Christopher Switlyk
2410 Victoria Gardens Lane
Tampa, FL 33609

Has completed the CPE-Accredited Activity

"Hypogonadism: The Role of the Pharmacist, Case Study #2"

ACPE Universal Activity Number 0290-0000-10-004-H01-P
Type of Activity: Application

On February 28, 2012

and earned 0.5 contact hours (0.05 CEUs)



David Heckard

Vice President of Education
Pharmacy Times Office of Continuing Professional Education
February 28, 2012



Pharmacy Times Office of Continuing Professional Education is accredited by the Accreditation Council for Pharmacy Education as a provider of continuing pharmacy education.

Christopher Switlyk
2410 Victoria Gardens Lane
Tampa, FL 33609

Has completed the CPE-Accredited Activity

"Case 2: Hepatitis C Virus Infection: Emerging Therapeutic Options"

ACPE Universal Activity Number 0290-9999-11-026-H01-P
Type of Activity: Application

On February 28, 2012

and earned 1.0 contact hours (0.1 CEUs)



David Heckard

Vice President of Education
Pharmacy Times Office of Continuing Professional Education
February 28, 2012



Pharmacy Times Office of Continuing Professional Education is accredited by the Accreditation Council for Pharmacy Education as a provider of continuing pharmacy education.



STATEMENT OF CREDIT

Christopher S Switlyk

CPE Monitor ID: **204662**

Medication Errors 2011: Impact on the Pharmacist and Public Safety -LAW-

Accreditation Number: **0798-0000-11-002-L03-P**

Activity Type: **Knowledge**

Date Completed: **Monday, July 25, 2011**

This activity has been approved for **2 contact hour(s)** of continuing education for Pharmacists.



PharmCon, Inc. is accredited by the Accreditation Council for Pharmacy Education as a provider of continuing pharmacy education.

Kevin McCarthy, RPh
Continuing Education Administrator

Signed and issued on: **7/25/2011**



This Statement of Credit will be retained online by freeCE for a minimum of five (5) years.



STATEMENT OF CREDIT

Christopher S Switlyk

CPE Monitor ID: **204662**

Reducing the Risk of Stroke in Patients with Atrial Fibrillation

Accreditation Number: **0798-0000-11-019-L01-P**

Activity Type: **Knowledge**

Date Completed: **Wednesday, July 27, 2011**

This activity has been approved for **1 contact hour(s)** of continuing education for Pharmacists.



PharmCon, Inc. is accredited by the Accreditation Council for Pharmacy Education as a provider of continuing pharmacy education.

Kevin McCarthy, RPh
Continuing Education Administrator

Signed and issued on: **7/27/2011**



This Statement of Credit will be retained online by freeCE for a minimum of five (5) years.



STATEMENT OF CREDIT

Christopher S Switlyk

CPE Monitor ID: 204662

Best Practices for the Management of Type 2 Diabetes Mellitus

Accreditation Number: 0798-0000-11-022-L01-P

Activity Type: **Knowledge**

Date Completed: **Monday, August 08, 2011**

This activity has been approved for 1 contact hour(s) of continuing education for Pharmacists.



PharmCon, Inc. is accredited by the Accreditation Council for Pharmacy Education as a provider of continuing pharmacy education.

Kevin McCarthy, RPh
Continuing Education Administrator

Signed and issued on: **8/8/2011**



This Statement of Credit will be retained online by freeCE for a minimum of five (5) years.



STATEMENT OF CREDIT

Christopher S Switlyk

CPE Monitor ID: 204662

I've Got a Secret - Identifying and Treating Urinary Incontinence in the Elderly

Accreditation Number: 0798-0000-11-024-L01-P

Activity Type: **Knowledge**

Date Completed: **Wednesday, August 17, 2011**

This activity has been approved for 1 contact hour(s) of continuing education for Pharmacists.



PharmCon, Inc. is accredited by the Accreditation Council for Pharmacy Education as a provider of continuing pharmacy education.

Kevin McCarthy, RPh
Continuing Education Administrator

Signed and issued on: **8/17/2011**



This Statement of Credit will be retained online by freeCE for a minimum of five (5) years.



STATEMENT OF CREDIT

Christopher S Switlyk

CPE Monitor ID: 204662

Antioxidants 101

Accreditation Number: 0798-0000-11-004-L01-P

Activity Type: **Knowledge**

Date Completed: **Friday, October 21, 2011**

This activity has been approved for 1 contact hour(s) of continuing education for Pharmacists.



PharmCon, Inc. is accredited by the Accreditation Council for Pharmacy Education as a provider of continuing pharmacy education.

Kevin McCarthy, RPh
Continuing Education Administrator

Signed and issued on: **10/21/2011**



This Statement of Credit will be retained online by freeCE for a minimum of five (5) years.



STATEMENT OF CREDIT

Christopher S Switlyk

CPE Monitor ID: **204662**

A Question of Ethics: Treating Pain for the Dying Patient

Accreditation Number: **0798-0000-11-016-L01-P**

Activity Type: **Knowledge**

Date Completed: **Monday, November 07, 2011**

This activity has been approved for 1 contact hour(s) of continuing education for Pharmacists.



PharmCon, Inc. is accredited by the Accreditation Council for Pharmacy Education as a provider of continuing pharmacy education.

Kevin McCarthy, RPh
Continuing Education Administrator

Signed and issued on: **11/7/2011**



This Statement of Credit will be retained online by freeCE for a minimum of five (5) years.



STATEMENT OF CREDIT

Christopher S Switlyk

CPE Monitor ID: **204662**

Emily's Law Revisited: the Pharmacist, the Family and the Medication Error that Changed Their Lives -LAW-

Accreditation Number: **0798-0000-11-038-L03-P**

Activity Type: **Knowledge**

Date Completed: **Wednesday, November 30, 2011**

This activity has been approved for 1 contact hour(s) of continuing education for Pharmacists.



PharmCon, Inc. is accredited by the Accreditation Council for Pharmacy Education as a provider of continuing pharmacy education.

Kevin McCarthy, RPh
Continuing Education Administrator

Signed and issued on: **11/30/2011**



This Statement of Credit will be retained online by freeCE for a minimum of five (5) years.

February 15th, 2013

The Honorable Virginia M. Hernandez Covington
District Judge
United States Courthouse
810 N Florida Ave
Tampa, FL 33602

I first met Chris in 2005 while working as a pharmacy technician at CVS Pharmacy where he worked as a Pharmacist. I have always known Chris to be an extremely hard worker who was always nice and helpful to all patients and fellow employees. At that time I was also a full time student at USF earning a Bachelor of Science degree in Biology. Despite working an average of 40 hours per week at CVS I still struggled to pay my bills, and was racking up credit card debt on top of accumulating multiple student loans. It was a very tough time for me, balancing a full course load and trying to support myself working a full time job. I had no idea what type of job I would be able to get after graduating or how I would be able to pay off my growing debt.

Chris and I quickly became friends at work and frequently got together outside of work as well. Chris was generous with not only money, but also his time and knowledge with his friends, family and associates. Chris never let me pay for one meal we ate together, and he insisted on fixing both, my computer and laptop, which I thought were beyond repair. Not only would Chris listen to my problems but he would always offer me a good solution to each and every one of them. Chris really took me under his wing and became a positive influential role model and mentor to me when I really needed one during that difficult and indecisive time in my life. I will be forever grateful for the positive advice and constant encouragement I always received from Chris. He truly inspired me to pursue and achieve goals I thought were unattainable before meeting him.

I was employed by CVS since 2000 and I really loved working in a pharmacy which Chris recognized. However by 2005, I was very unhappy with my pay of \$8 an hour and severely frustrated by CVS's refusal to grant me a single pay raise for over 3 years. By 2005 I was strongly considering an entirely different line of work and was very unsure of what I would do in my future. Chris genuinely appreciated my predicament and he reassured me that I excelled at my position and that there was definitely a bright future for me in pharmacy. Chris told me that if I just dedicated the next couple years of my life to becoming a pharmacist that it would greatly improve the rest of my life. He even urged me to apply to various Pharmacy Colleges that I never knew of. Chris also told me not to worry so much about my current financial troubles because they would all subside soon after I graduated from Pharmacy College and became a licensed Pharmacist. I told Chris that there was no way I could even afford my current bills and attempt to attend four additional years of college even if I wanted to.

Chris urged me not to give up on the field of pharmacy and told me that there were plenty of other great opportunities for me even as a licensed pharmacy technician with my current knowledge and skills. Chris took me to an open house at WellPoint where I was offered a position starting at nearly twice my CVS pay which definitely encouraged me. Unfortunately that job's hours wouldn't have worked with my class schedule so Chris recommended that I contact a friend of his at Publix Pharmacy. Chris's guidance ultimately led me to secure a better job with much better pay, benefits, and hours at Publix Pharmacy. Landing that new job reinforced me to focus on doing whatever it took to fulfill my dream of becoming a licensed pharmacist.

I ended up being accepted into one of the Pharmacy Colleges Chris told me about, Lake Erie School of Pharmacy in Bradenton, Florida. I kept that Publix Pharmacy job all through Pharmacy College which really helped me support myself while I continued my education. I am really proud to say that I graduated last year with my Doctorate in Pharmacy and became a licensed pharmacist. It feels really good to be able to have a career which allows me to pay my bills and provide for my family I have since started. I have even bought a new house I live in with my wife and daughter when just several years ago I never thought I would be able to achieve this type of life I now live.

It took a lot of studying and hard work to get where I am today but I would have not even attempted the path I took if it wasn't for Chris's advice, guidance, and encouragement. I am aware that Chris has made some poor choices in his life 3 years ago which led him to be in his current situation. I am not going to make excuses for his actions but they are extremely out of character for the Chris I have always known. Chris understands that he had severe lapses in judgment throughout the 16 months his pharmacy was open. I hope the court recognizes that Chris was eager to make amends for the things he did by voluntarily turning over everything he had to the government as well as being one of the first people to proffer. Chris also communicated to me that he has continued to substantially cooperate with the government on numerous cases.

Since Chris voluntarily closed his pharmacy nearly 3 years ago his life has been extremely difficult and filled with misery, severe depression, abandonment and outrageous legal bills he could not keep up with. I know all of the people who were around when things were going well for Chris abandoned him when things got bad. When I found out about what happened May 20, 2010 I offered Chris support and encouragement in his time of need like he did for me when I needed it. I will continue to offer my friendship and support to Chris because I consider him my friend for life. Chris told me the past three years have been the worst years of his life which I can easily believe since I have seen what he has been going through. I really feel that Chris has already learned his lesson for the things he's done and would never participate in any type of criminal activity ever again. I truly believe that Chris still has a lot he could positively contribute to the community if given the opportunity. Please consider all of these factors as well as the positive impact Chris has had on my life when imposing your sentence on him.

Sincerely,

Declain McGrory, Pharm D
6311 Desert Peace Ave
Land O Lakes, FL 34639

February 15th, 2013

The Honorable Virginia M. Hernandez Covington
District Judge
United States Courthouse
810 N Florida Ave
Tampa, FL 33602

My name is Patrick Carpenter and I have been a licensed pharmacist in the state of Massachusetts since 2001. I am writing this letter to you on behalf of my good friend Christopher Switlyk. I have known Chris for nearly 18 years and I considered him to be one of my closest friends while we attended Albany College of Pharmacy together.

I spent a significant amount of time with Chris throughout the five years we attended ACP and I got to know him very well. I have always known Chris to be an honest, loyal, caring, kind and hardworking individual. I remember Chris always instinctively wanted to help people any way he could, whether they were his friends, family, or strangers. Chris strived to make his parents proud, especially his father who seemed impossible to please. Chris was originally attending SUNY Albany studying Business and Computer Programming but his dad urged him to go into the medical field which is why Chris switched to ACP after 1 year at SUNY.

ACP, like all Pharmacy Colleges, was and still is an extremely tough and competitive school, and less than a third of our original freshman class made it through to graduation. Chris was determined to make it and we spent countless hours studying together very hard. On top of averaging 21 credits a semester at ACP, Chris also worked a full time job all through college. He even worked 2 jobs his second year because he didn't want to give up his original pharmacy technician job at Price Chopper Pharmacy. He loved that job even though he made a lot less at it then at his newer job at the Albany, New York Veteran's Hospital. Chris truly enjoyed being able to help Veterans in need on a daily basis and he kept that job at the VA Hospital Pharmacy for 4 years.

I remember Chris was always seeking to expand his knowledge and skills outside of pharmacy as well. In the little free time he had, Chris also helped a fellow classmate with his computer business. He enjoyed building computers from scratch and programming them to sell at monthly computer fairs. Chris even became skilled in auto mechanics from helping his other brother at the garage he worked at. I remember Chris walking into school one day with black marks on his arms and hands wondering what they were from. It turned out Chris had pulled over on the highway to help an elderly couple on the side of the road who had a flat tire and didn't know how to change it. Chris told me that they were surprised how quickly and easily he was able to change it for them and he was still able to make it to class on time. That is how Chris has always been, wanting to assist anyone in need of help any way he could. That is the main reason Chris really enjoyed working in the field of pharmacy. He felt great satisfaction from helping a lot of sick people get the proper medications they needed to get better or feel better every day he worked.

Unfortunately, I have been out of touch with Chris for a while and only recently learned of his recent legal issues. When I found out he was in jail in Pinellas County I have scheduled a visit to see him whenever I have been in town. From talking with Chris it is obvious to me that the past 3 years of his life have been extremely difficult for him.

Chris was part of a really supportive circle of honest and caring friends when we were in Albany, New York. I don't know why he let such questionable individuals into his life in Tampa in 2009 but perhaps he was trying to find a new circle of friends down here to belong to. Chris's actions and / or lack of action while he owned his pharmacy are completely out of character for him. I have always known Chris to be a law abiding citizen and a productive member of the community. I know Chris got himself into this situation because of the poor choices he made 3 years ago. Please don't let those several months of poor choices define his life which has been predominately full of positive contributions to society.

Chris is a great person and friend and still has many wonderful attributes he would like to share with this world. Chris lost everything he worked so hard for in his life due to this ordeal, and not just financially. Chris lost his career he worked so long and hard for along with approval and acceptance by his family. The deterioration of his overall physical and mental health from being incarcerated so long have also added to his pain and suffering. I promised Chris that we will never lose touch again and that I'll be there if he needs any help getting back on his feet when he is released. I know that Chris has learned his lesson from this unfortunate experience and would never again put his freedom in jeopardy. Please take these things into consideration when making your decision as to Chris's sentence. Thank you for the time you took to read this letter.

Sincerely,

Patrick Carpenter, RPh
427 Shawmut Ave, Unit #5
Boston, MA 02118

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

DEPARTMENT OF HEALTH,

Petitioner,

v.

DOAH CASE NO.: 14-0883PL

DOH CASE NO.: 2011-20634

CHRISTOPHER SWITLYK, R.Ph.,

Respondent.

**PETITIONER'S RESPONSE TO RESPONDENT'S MOTION TO
RECONSIDER RULINGS CONCERNING EXHIBITS & MOTIONS TO ADMIT
EXHIBITS 9 AND 10**

Petitioner, Department of Health, by and through the undersigned counsel, files this Response to Respondent's Motion to Reconsider Rulings Concerning Exhibits & Motions to Admit Exhibits 9 and 10 and states as follows:

1. On March 26, 2014, a hearing was held in the above-referenced matter in Tallahassee, Florida. Respondent appeared by teleconference. The Administrative Law Judge (ALJ) left the record open for post-hearing submissions of evidence.

2. On April 29, 2014, the ALJ filed an order closing the evidentiary record and ordering the parties to file proposed recommended orders by May 13, 2014.

RESPONSE TO MOTION TO RECONSIDER

3. At the final hearing in the case, Respondent was allowed 21 days to submit Exhibit 3, proposed patient medical records, to the Department and

the ALJ. Respondent failed to timely submit the records. Petitioner received Exhibit 3 after the ALJ closed the evidentiary record. Notwithstanding the foregoing, upon receipt and review of the exhibit, Petitioner has no objection to admission of Exhibit 3.

4. Respondent was allowed 10 days to submit Exhibit 8, copies of proof of completion of continuing education courses. Petitioner received Exhibit 8 after the ALJ closed the evidentiary record. Notwithstanding the foregoing, upon receipt and review of the exhibit, Petitioner has no objection to admission of Exhibit 8.

5. Petitioner maintains its objections to Exhibits 1, 4 and 6.

6. Petitioner concedes that it did not serve a copy of Petitioner's Exhibit 6 to Respondent. However, Petitioner served a copy of Exhibit 6 to Respondent on May 12, 2014.

RESPONSE TO MOTIONS TO SUBMIT EXHIBITS 9 AND 10

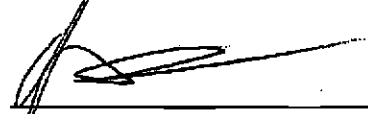
7. Petitioner objects to admission of Exhibit 9 on the basis that the proposed evidence is not relevant to these proceedings and is uncorroborated hearsay. In addition, the alleged text messages cannot be authenticated. Finally, the ALJ closed evidentiary record on April 29 and as a result, Respondent's submission is untimely.

8. Petitioner objects to admission of Exhibit 10 on the basis that the proposed evidence is not relevant to these proceedings. The Amended Administrative Complaint alleged that Respondent was convicted of a crime

related to the practice of pharmacy and failed to report that crime within 30 days to the Board of Pharmacy. The materials discuss changes in sentencing guidelines, which has no impact on Respondent's conviction. Finally, the ALJ closed the evidentiary record on April 29 and as a result, Respondent's submission is untimely.

9. Based on the foregoing, Petitioner requests that the ALJ deny Respondent's motions and set a new date for filing proposed recommended orders.

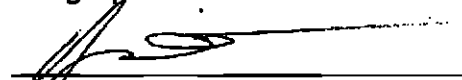
Respectfully submitted,



Yolonda Y. Green
Assistant General Counsel
DOH Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, Florida 32399-3265
Florida Bar No.: 0738115
(850) 245 - 4444 ext. 8128 Telephone
(850) 245 - 4683 Facsimile
yolonda.green@flhealth.gov

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Response to Respondent's Motion to Reconsider Rulings Concerning Exhibits and Motions to Admit Exhibits 9 and 10 has been furnished this 12th day of May, 2014, to Respondent, Christopher Switlyk, Register # 53913-018, FCI Estill, Post Office Box 699, Estill, South Carolina, 29918-0699 by postage-paid U.S. Mail.



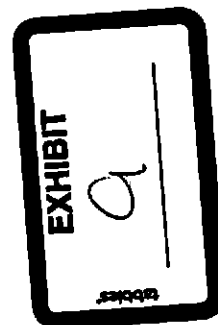
Yolonda Y. Green
Assistant General Counsel

Dear Judge Johnston and Mr Lucas May,

05/05/2014

Today I was told that I am being transferred to the Federal Prison Camp in Miami, Florida next week. I just had to pack up all of my property including all of my legal paperwork today so I am now at an extreme disadvantage when I write up my proposed recommended order for my case. On Friday, May 3, 2014, I received your notice stating that I have until May 13, 2014 to send both of you my proposed recommended order. Despite my extreme disadvantages and limitations, I am going to type this up tomorrow so I can get it in the prison mailbox tomorrow on May 6th, 2014. Hopefully it will reach you by May 13th, but please keep in mind that is a very, very short deadline for me to meet on such extremely short notice, especially considering my circumstances.

I have no control over how long it takes for my mail to reach you since the prison holds any outgoing mail until it can all be read and reviewed before they actually release it to be sent out. Also, the more pages which are mailed out, the longer it takes for prison officials to review them before they are sent to the local post office. This is why some of my exhibits which I placed in the mail here before my deadlines did not reach you as fast as you wanted them to. I obviously have no control over how fast the prison sends my mail out, and if I complain about it to them, and ask them to try and put a rush on my outgoing mail, that will just make them delay this process even longer for me. I am just a number in an overcrowded system and I definitely do not get any special privileges here. I hope you understand this and



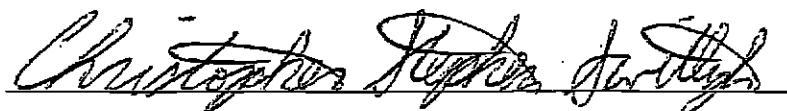
will take this into consideration when you don't receive some of my exhibits, motions, documents and letters as fast as you would like to receive them. Believe me, I mail everything out to both of you as fast as I possibly can, but as you both know, I have absolutely no control over how fast stuff reaches me and how fast it reaches you. Hopefully after I am moved to a Camp next week this process will become shorter.

I will be leaving here next Tuesday, May 13th, and will then be in the transfer process for 1 to 2 weeks before I reach my new facility. Thus, by late this month, or early next month, my new address will be:

Christopher Switlyk
Register #: 53913-018
Federal Satellite Camp
Post Office Box 779800
Miami, FL 33177

I believe that for a month or so that any mail that is sent to this facility at Estill, South Carolina for me will eventually be forwarded to me in Miami, but there will be a lengthy delay before I receive it. Also, it is up to me to notify anyone I expect to be receiving mail from of my new address once I am relocated. Thank you for your patience and understanding in this matter and please look for my Proposed Recommended Order in the mail soon (hopefully the day after you receive this letter). Have a good day.

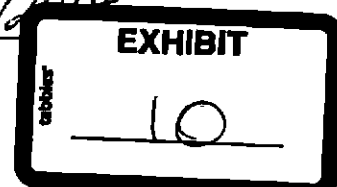
Sincerely,



CHRISTOPHER STEPHEN SWITLYK

05/05/2014

DATE



STATE OF FLORIDA DIVISION OF ADMINISTRATIVE HEARINGS
DEPARTMENT OF HEALTH, Petitioner,

FILED

v.

DOAH CASE NO: 14-0883PL

2014 MAY 12 AM 11 35 DOH CASE NO: 2011-20634

CHRISTOPHER SWITLYK, Respondent. /

ADMINISTRATIVE
HEARINGS

MOTION TO RECONSIDER RULINGS CONCERNING EXHIBITS

COMES NOW, the defendant, CHRISTOPHER STEPHEN SWITLYK, proceeding on his own behalf, respectfully asks this Honorable Court to Reconsider the Rulings made on 04/29/2014 and 04/30/2014 pertaining to his Exhibits 1, 3, 4, 6, 9 and 10, and the Department of Health's Exhibit 6.

At the conclusion of the 03/26/2014 hearing, I was told that I had 10 days to submit Exhibits 1, 2, 4, 6 & 7, and that I had 21 days to submit Exhibits 3, 5 & 8. However, I was never told if these deadlines were going to be determined using calendar days or working days.

The very next morning, on 03/27/2014, I e-mailed Mr Lucas May of the Prosecution Services Unit for the Department of Health to clarify this matter. As I stated in that e-mail, I mailed copies of it to Mr May, as well as to Judge Johnston, hoping to get a response regarding this matter.

Mr May responded to that e-mail on 04/01/2014, in which he stated, "I am sorry but I do not know what he meant by 10 days. Since you are currently incarcerated and are acting pro-se, I would assume he will grant you leniency on submitting your evidence. Perhaps you can send him a letter stating your difficulties.", which is exactly what I did.

you wish to calculate them. (Exhibits 1, 2, 4, 7 & (part of) 5 on 04/01/14 and Exhibits 3, 8 & (rest of) 5 on 04/17/14)

With this motion, I enclosed a copy of my 03/27/2014 e-mail, as well as a copy of the 04/01/2014 e-mail from Mr May. Despite that over a month ago I sent an e-mail to Mr May about it, and mailed it to Judge Johnston as well, I still never received a response clarifying for me when the exact deadlines were for submitting my Exhibits. In fact, Mr May has not e-mailed me or mailed me anything since 03/27/2014. The first communications I have received regarding this matter in over a month were the 04/29/2014 and 04/30/2014 Court Rulings I received today concerning the Exhibits in question.

Thus, as a result of Mr May's advice, and lack of any communication clarifying this matter for me, and considering my communications to both, Mr May and Judge Johnston, concerning my extreme difficulties in submitting my evidence in a expeditious manner, I presumed that I had AT LEAST until the 14th of April to mail in my Exhibits 1, 2, 4, 6 & 7, and that I had AT LEAST until the 1st of May to mail in my Exhibits 3, 5 & 8, ESPECIALLY since Mr May stated that "since I am currently incarcerated and are acting pro-se" that Judge Johnston would "grant me leniency on submitting my evidence". Thus, for Mr May to lead me to believe that I had a sufficient amount of time to submit my Exhibits, and then for him to actually object when they did not reach him as fast as he wanted them to, is a display of flagrant deceit, which should be taken into consideration by the Court when ruling on the acceptance of my Exhibits, all of which I placed in the mailing system here at the prison before my deadlines, however you wish to calculate them. (Exhibits 1, 2, 4, 7 & (part of) 5 on 04/01/14 and Exhibits 3, 8 & (rest of) 5 on 04/17/14)

I also assumed that as with all legal proceedings concerning incarcerated defendants, that "the mailbox rule" for inmates applied to this matter as well; meaning that whatever date(s) which I placed my Exhibits, and corresponding Certificates of Service, into the prison mailing system, that they would be the dates which are taken into consideration by the Court pertaining to my deadlines.

Please realize that I am in prison, which is the most inconvenient situation as possible as far as obtaining any documents I need, copying them, and then actually mailing them out. On top of mail only being sent out 4 days a week here, (Monday, Tuesday, Wednesday and Thursday), anytime there is a lock-down several days are also lost. There have been several lock-downs in this prison throughout the past month which have delayed this process for me even further.

I obtained my Exhibits as quickly as I could, and then copied them and mailed them out as fast as I could as well. I really thought that I was able to get copies to the Court and to Mr May relatively quickly, especially considering the numerous obstacles and extreme inconvenient circumstances which I faced during the process. Obviously my current incarceration makes any simple matter, such as submitting Exhibits, an extremely complex and difficult matter. Due to my severe restrictions imposed by my current housing situation, taking care of these matters, which would be extremely simple tasks under any other circumstances, become gargantuan tasks which require a significant amount of my time and effort to accomplish, as well as me needing to depend on other people as well in order to complete them.

In regards to my Exhibits 9 and 10, which I mailed on 04/18/2014, I would like the Court to consider accepting them into evidence as well, especially since they pertain to issues discussed during earlier hearings. Pertaining to Exhibit 9, I sent copies of some of the evidence showing that I was under serious coercion, blackmail and duress during the alleged conspiracy. Pertaining to Exhibit 9, I sent copies of several articles concerning the new changes in sentencing laws. I expect to receive 21 months off my current sentence once they are applied to me, in addition to the relief I also expect to receive as a result of my pending appeal (Exhibit 1).

Also, in regards to Exhibit 6 submitted by Mr May for the Department of Health, I never had a chance to object to it since I was never sent a copy of it, or even sent notice that it was being submitted. Thus, I object to this Exhibit being submitted into evidence, especially since I feel that I should have had the right to review whatever this Exhibit is before it was accepted into evidence against me.

Thus, since I placed all of my Exhibits in the prison mailbox before my informed deadlines, please RECONSIDER YOUR RULINGS and Accept my Exhibits 1, 3, 4, 8, 9, and 10 into Evidence, and also please exclude Exhibit 6 filed by Mr May due to the above stated reasons. WHEREFORE, the defendant, CHRISTOPHER STEPHEN SWITLYK, prays this Honorable Court grant him this Motion to Reconsider Rulings concerning Exhibits, or any other relief the Court deems just and proper.

Respectfully submitted,


CHRISTOPHER STEPHEN SWITLYK

05/02/2014
DATE

TRULINCS 53913018 - SWITLYK, CHRISTOPHER - Unit: EST-A-A

FROM: May, Lucas
TO: 53913018
SUBJECT: RE: question about 10 day timeframe
DATE: 04/01/2014 02:51:06 PM

Hello Mr. Switlyk,

I am sorry but I do not know what he meant by 10 days. Since you are currently incarcerated and are acting pro se, I would assume he will grant you leniency on submitting your evidence. Perhaps you can send him a letter stating your difficulties.

Regarding the mitigating factors in your case, I do not doubt that you have learned a great deal from this situation, but the Department of Health is recommending revocation because it believes the underlying violations to be inexcusable. The Department would still be recommending the same discipline even if the sentence were to be reduced because it does not change the underlying facts of the conspiracy.

CHRISTOPHER SWITLYK on 3/27/2014 10:23:23 AM wrote
Mr May,

I need some clarification about the 10 days Judge Johnston gave me to submit my exhibits.
Is it 10 days from today? (Which would be April 5th.)
Or does he mean 10 mailing days?

Also, since they do not mail documents out Friday, Saturday and Sunday here only Monday, Tuesday, Wednesday and Thursday would count as mailing days for me. (Then that would come to April 14th.)

And do I need to have it in the mail within 10 mailing days?
Meaning that as long as it is post-marked within 10 days will that be fine?
Or do these documents actually have to get to him and you within 10 days of today?

The reason I am asking about this deadline is because the Prison Commissary store is closed until next Tuesday. It closes for a week only twice a year to take inventory and this week happens to be an inventory week so they are closed all week. Thus, I am unable to buy copy cards to make copies of everything I need to send until next Tuesday at the earliest.

This Tuesday I will buy at least 4 or 5 copy cards so I can make copies of the exhibits I want to submit within 10 days to you and Judge Johnston. However, sometimes the Commissary Store doesn't even have these copy cards in stock so please keep that in mind. If I am able to buy the copy cards on Tuesday I will be able to mail the documents which I actually have copies of here out on Wednesday afternoon. Then they may reach both of you by that Saturday, which is April 5th, but possibly not until that following Monday, which is April 7th. Thus, please clarify the 10 day timeframe for me when you get a chance. I will print out this email and mail a copy of it to you, and to Judge Johnston as well.

Also, since I was not expecting this hearing to be conducted today since I thought that my Motion to Postpone would be granted I was not prepared to testify or come up with exhibits to submit for my case. I had to literally do it all off the top of my head, which Ms Carlson will be able to verify since she was sitting across from me during our entire conversation. Thus, I would like to also ask to submit as an exhibit a list of all of the cooperation I did with the government throughout my case, which I feel should be taken into account as a mitigating factor for this case.

Also, and I mentioned this during the deposition of Mr Salem, I would also like to submit evidence of me being blackmailed and extorted during the alleged conspiracy. I have copies of emails and pictures of text messages, (which the government also has), that shows that 1 of my co-defendants actually tried to hire someone to kill me, and that 2 of them were also extorting me during the alleged conspiracy. I believe this is very relevant to this case and this is also part of my criminal appeal, and will likely be brought up whenever I get back to court for it.

Also, and I know I touched on my excessive drinking during the timeframe of when my case arose from, but after our phone call I thought about it and I wish I had put more emphasis on it, because it really did severely affect my judgment back then, and my poor decision making. It was a big contributing factor to what happened, and if I wasn't drinking so much everyday and night back then, and tending to my responsibility of owning a pharmacy like I should have more, and actually physically being there instead of letting people I obviously put too much trust into running it for me, all of this would not have happened, and I wouldn't be sitting here in prison writing you this email and fighting for just a chance to get my license back after this nightmare is all over. I did not even start drinking excessively until late 2008, and it kind of just spiraled out of control, and got worse and

TRULINCS 53913018 - SWITLYK, CHRISTOPHER - Unit: EST-A-A

worse. For the majority of the time I owned that pharmacy I did not have my priorities in order and I am the first to admit that I screwed up royally back then. However, I have gotten far more blame placed on me for things I didn't even know about happening in my criminal case, which I will hopefully be able to address when I get back in front of a Judge for my appeal.

I wish I could relay all the facts of what really happened when I owned that pharmacy to you and Judge Johnston, but it is literally impossible for me to do that with me being in here, especially without all of the video evidence I have showing what really went on. I just really think it is unfair for the Department of Health to want to take my license forever when the suspension range is 1 year probation up to revocation. If you even know the beginning of how much I have already been punished for this alleged conspiracy you would probably understand how I feel. Thank you for your understanding in this matter.

Sincerely,

-Chris Switlyk

CERTIFICATE OF SERVICE

I, CHRISTOPHER STEPHEN SWITLYK, hereby certify under the penalty of perjury, 28 U.S.C. § 1746, that a true and correct copy of the forgoing "Motion to Reconsider Rulings Concerning Exhibits" and "03/27/2014 & 04/01/2014 E-mails" were deposited in the prison's legal mailing system on this 2nd day of May of 2014, addressed to:

Lucas May, Assistant General Counsel
Florida Department of Health
Prosecutorial Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, FL 32399-3265

I further attest that first-class postage has been prepaid.

Executed on this 2nd day of May of 2014.

signature/



CHRISTOPHER STEPHEN SWITLYK

CERTIFICATE OF SERVICE

14-883 PL

I, CHRISTOPHER SWITLYK, hereby certify under the penalty of perjury, 28 U.S.C. § 1746, that a true and correct copy of the forgoing "Character Letters which Accompanied Defendant's Sentencing Memorandum as part of EXHIBIT 4" was deposited in the prison's legal mailing system on this 18th day of April 2014, addressed to:

Lucas May, Assistant General Counsel
Florida Department of Health
Prosecutorial Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, FL 32399-3265

2014 MAY 5 PM 12 43
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I recently received copies of 2 of the 5 Character Letters which were sent to my Sentencing Judge along with my Sentencing Memorandum on 02/20/2013. If and when I receive copies of the other 3 Character Letters, I will forward them as well. However, I believe all 5 of them are available on Pacer's Website.

I further attest that first-class postage has been prepaid.

Executed on this 18th day of April, 2014.

signature/



CHRISTOPHER STEPHEN SWITLYK

Original Copy

CERTIFICATE OF SERVICE

14-883PL

I, CHRISTOPHER STEPHEN SWITLYK, hereby certify under the penalty of perjury, 28 U.S.C. § 1746, that a true and correct copy of the forgoing "EXHIBITS 3(A-E), 5(A-C) & 8", were deposited in the prison's legal mailing system on this 17th day of April 2014, addressed to:

Lucas May, Assistant General Counsel
Florida Department of Health
Prosecutorial Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, FL 32399-3265

2014 MAR 5 PM 12 44
DIVISION OF
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HEARINGS
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EXHIBITS 3 (A-E): I enclosed copies of the relevant sections of my psychological medical records which I was able to have mailed to me the past few weeks.

EXHIBIT 3A) I enclosed a copy of an excerpt of my 06/18/2010 Psychological Evaluation by Psychiatrist David Myers, M.D., of the Professional Resource Network (PRN). This Psychological Evaluation indicates that I was suffering from alcohol abuse, as well as other emotional and mental conditions during the timeframe of the alleged conspiracy. Also, as shown at the conclusion of his evaluation, Dr Myers recommended that I "enter into a 7-day Inpatient Evaluation at a facility that is recommended for medical professionals and approved by PRN".

EXHIBIT 3B) I enclosed a copy of an excerpt of my 12/14/2011 Psychological Evaluation by Forensic Psychiatrist Donald Taylor, M.D., which indicates that I was suffering from alcohol abuse, as well as other emotional and mental conditions during the timeframe of the alleged conspiracy. Dr Taylor concluded that "It is probable that his history of interpersonal conflicts, occupational problems, and legal problems have been at least partially caused by his mental condition."

EXHIBIT 3C) I enclosed copies of 2 Letters which were written by Psychiatrist James Edgar, M.D. on 05/02/2012 and 06/13/2012. These letters verify that I was a patient of his and was seeing him twice a week for counseling up until the revocation of my bond on 05/01/2012. These letters also show that in addition to counseling, Dr Edgar was prescribing me medications to treat my conditions and improve my mental health, which he felt were "medically necessary".

EXHIBIT 3D) I enclosed a copy of the 08/24/2012 "In-Depth NeuroPsychiatric Evaluation" composed by Licensed Clinical Psychologist Jennifer Barror-Levine, PsyD, of The NeuroPsychiatric Institute. These 14 pages summarize most of my mental health history. Dr Barror-Levine diagnosed me with Bipolar II Disorder, with a recent history of Depression, Post Traumatic Stress Disorder, and a History of Alcohol Abuse. She concluded that I had suffered "diminished capacity" during the timeframe of the alleged conspiracy.

EXHIBIT 3E)

I enclosed a copy of the 09/01/2012 "In-Depth NeuroBehavioral Assessment" composed by Psychiatrist Dr Walter, Afield, M.D., who is the Medical Director of The NeuroPsychiatric Institute. Dr Afield stated that "because he deeply wants the approval and acceptance of others, he is likely to be easily convinced about their intentions and is honestly surprised when their short-comings inevitably surface."

EXHIBITS 5 (A-C):

EXHIBIT 5A (1-3): I enclosed a copy of E-mail communications I had with my Attorney Stephen Romine (Todd Foster's partner) in 06/2010, regarding my desire to enter into a PRN (Professional Resource Network) treatment program:

5A-1) 06/18/2010 at 7:01PM: I e-mailed Romine asking him about me entering into a 7-day in-house evaluation or a 30-day treatment program at PRN.

5A-2) 06/21/2010 at 2:08PM: Romine e-mailed me back, but only wrote about getting "the fee resolved and some payment down to start" on my case, completely neglecting to address my earlier email stating my desire to enter into a treatment program at PRN.

5A-3) 06/22/2010 at 5:46PM: I e-mailed Romine again about PRN, this time asking him about me entering into a 2 to 4 month in-house treatment program at PRN, which he also never bothered to reply to.

EXHIBIT 5B)

I enclosed a copy of the letter my Attorney Todd Foster sent on 09/10/2010 to Dr Judy Rivenbark, informing her that since I needed to focus on my criminal case, that I would not be able to enroll in a treatment program at PRN at that time. The real reason Todd Foster, who was my attorney from May of 2010 until October of 2011, did not want me to enter into a PRN program back then was because he wanted me to earn as much money as I could, as fast as I could, in order to pay off his massive \$750,000.00 fee, especially since I had just voluntarily turned over everything I had to the government in late May of 2010.

(see Exhibit 5C)

EXHIBIT 5C)

I enclosed a copy of Attorney Todd Foster's 07/21/2010 Engagement Contract, which verifies his extreme financial interest in my case over any intention he should have had of actually helping me with my problems and heeding to my best interests. While representing me, Foster focused only on collecting as much of his excessive fee of \$750,000.00 as he could from me, as well as on recovering my money which I had voluntarily turned over to the government, for himself and his firm.

EXHIBIT 8) I enclosed copies of the Continuing Education Certificates which I have available to me at this time, which I earned for each course that I completed in 2010, 2011, and 2012. Even though I voluntarily stopped practicing as a pharmacist on 05/20/2010 due to my pending criminal case, and despite going through significant legal problems while I was out on bond, I still spent a considerable amount of time completing Continuing Education Courses because I still cared about meeting the requirements to maintain my pharmacist license. I even completed several courses about Opioid Dependence in order to achieve a better understanding of it since my criminal case focused on an opioid medication.

I further attest that first-class postage has been prepaid.

Executed on this 17th day of April, 2014.

signature/

A handwritten signature in cursive script that reads "Christopher Stephen Switlyk". The signature is written in dark ink and is positioned above a horizontal line.

CHRISTOPHER STEPHEN SWITLYK

CERTIFICATE OF SERVICE

I, CHRISTOPHER SWITLYK, hereby certify under the penalty of perjury, 28 U.S.C. § 1746, that a true and correct copy of the forgoing Exhibits (1, 2, 4, 5 & 7), were deposited in the prison's legal mailing system on this 1st day of April 2014, addressed to:

Lucas May, Assistant General Counsel
Florida Department of Health
Prosecutorial Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, FL 32399-3265

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HEARINGS

Exhibit 1: My Initial Plea Agreement filed on 09/04/2012, which on 09/03/2012, my former Attorney Jeff Brown insisted that I initial it's first page, and sign and date it's last page, in order for him to be able to negotiate the terms of what my revised plea bargain would be, which were detailed in the 25 pages in between those 2 pages, which I did not initial. Also included as part of this exhibit is an excerpt of information I had recently typed up for my attorney handling my appeal. This information details how Brown provided me extremely ineffective and harmful representation, and pages 18 through 28 focus on this particular matter.

Exhibit 2: 02/21/2013 Sentencing Transcripts;
Psychologist Dr Jennifer Levine's testimony is on pages 26 through 29, and my testimony is on pages 37 through 39.

Exhibit 4: The Sentencing Memorandum filed for me shortly before my 02/21/2013 sentencing hearing.

Exhibit 5: The 09/10/2010 letter which Todd Foster, who was my attorney at the time, sent to Dr Judy Rivenbark of PRN (Professional Resource Network), informing her that I needed to focus on my criminal case and was not able to take advantage of their program at that time. Also as part of this exhibit I am including documentation showing that the Court determined that I am eligible for the 500-hour RDAP (Residential Drug Abuse Program) while incarcerated, which I plan to complete before my release. (Pages 48 and 49 of my 02/21/2013 Sentencing Transcripts also show this as well.)

Exhibit 7: Copies of the 4 letters I mailed on 01/08/2014 to Christopher Jurich of the DOH, a copy of a December 2012 email exchange with DOH Investigator Joseph DeGregorio, copies of documentation which list details of a significant amount of the cooperation which I have worked on with the government, and a detailed list of the hours which the pharmacists I employed worked at my pharmacy, as well as the number of hours I was present there, which are both supported by the available video surveillance footage.

I further attest that first-class postage has been prepaid.
Executed on this 1st day of April, 2014.

signature/



CHRISTOPHER STEPHEN SWITLYK

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

DEPARTMENT OF HEALTH,
BOARD OF PHARMACY,

Petitioner,

vs.

Case No. 14-0883PL

CHRISTOPHER STEPHEN SWITLYK,
R.P.H.,

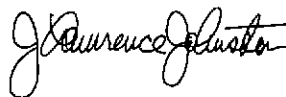
Respondent.

AMENDMENT TO RULINGS ON OBJECTIONS
AND FURTHER POST-HEARING PROCEDURES

The rulings entered on April 29, 2014, inadvertently omitted reference to the Petitioner's objections to the Respondent's Exhibit 6 and the ruling sustaining the objections. That exhibit is excluded as well.

In other respects, the rulings and further post-hearing procedures remain in effect. As a result, since the Petitioner has given notice that there will be no rebuttal evidence, the evidentiary record is closed, and the parties have until May 13, 2014, to file proposed recommended orders.

DONE AND ORDERED this 30th day of April, 2014, in Tallahassee, Leon County, Florida.



J. LAWRENCE JOHNSTON
Administrative Law Judge
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-3060
(850) 488-9675
Fax Filing (850) 921-6847
www.doah.state.fl.us

Filed with the Clerk of the
Division of Administrative Hearings
this 30th day of April, 2014.

COPIES FURNISHED:

Lucas Lawrence May, Esquire
Department of Health
Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, Florida 32399
(eServed)

Christopher S. Switlyk
Register No. 53913-018
FCI Estill
Post Office Box 699
Estill, South Carolina 29918-0699

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

DEPARTMENT OF HEALTH,

Petitioner,

v.

DOAH CASE NO.: 14-0883PL

DOH CASE NO.: 2011-20634

CHRISTOPHER SWITLYK, R.Ph.,

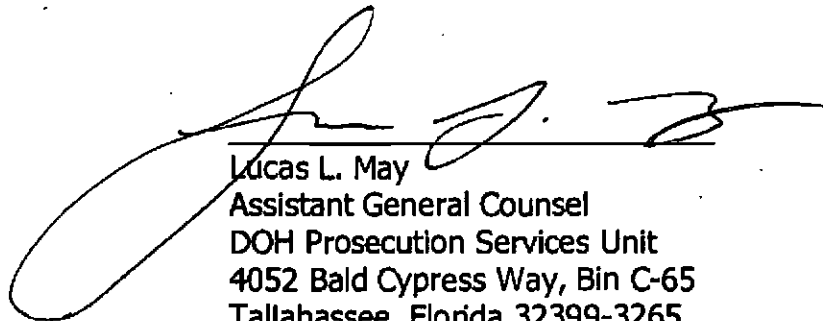
Respondent.

**PETITIONER'S NOTICE OF WITHDRAWAL OF REQUEST TO OFFER
REBUTTAL EVIDENCE**

Petitioner, Department of Health, by and through the undersigned counsel, files this Notice of Withdrawal of Request to Offer Rebuttal Evidence as follows:

1. Petitioner, Department of Health, does not wish to present rebuttal evidence. Therefore, Petitioner will timely file its proposed recommended order by May 13, 2014.

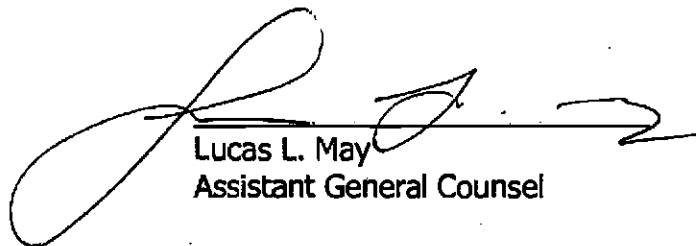
Respectfully submitted,



Lucas L. May
Assistant General Counsel
DOH Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, Florida 32399-3265
Florida Bar No.: 0102747
(850) 245 - 4444 ext. 8242 Telephone
(850) 245 - 4683 Facsimile
Lucas.May@flhealth.gov

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the forgoing Notice of Filing Late Exhibit has been furnished this 29 Day of April, 2014 to Respondent, Christopher Switiyk, Register # 53913-018, FCI Estill, Post Office Box 699, Estill, South Carolina, 29918-0699 by postage-paid U.S. Mail.



Lucas L. May
Assistant General Counsel

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

DEPARTMENT OF HEALTH,
BOARD OF PHARMACY,

Petitioner,

vs.

Case No. 14-0883PL

CHRISTOPHER STEPHEN SWITLYK,
R.P.H.,

Respondent.

RULINGS ON OBJECTIONS
AND FURTHER POST-HEARING PROCEDURES

The final hearing in this case was held on March 26, 2014. The evidentiary record was held open pending the submission of exhibits and objections.

The Petitioner's Exhibit 6 was submitted on April 11, and no objection to the exhibit has been filed by the Respondent. The exhibit is received.

The Respondent has not submitted his Exhibits 3 or 8. The Petitioner objected to Exhibit 3 on the ground that it was not submitted within 21 days of the final hearing, as required. The objection is sustained, and these exhibits will not be received in evidence.

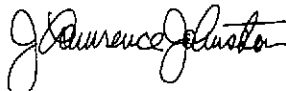
The Respondent has submitted his Exhibits 1, 2, and 4 through 7. The Petitioner does not object to Respondent's Exhibits 2, 5, or 7, and they are received in evidence.

The Petitioner objected to the Respondent's Exhibits 1, 3, and 4. Those objections are sustained, and those exhibits are excluded.

Within seven (7) days, the Petitioner shall confer with the Respondent and agree to a date or range of dates to reconvene the evidentiary hearing, if the Petitioner wishes to present rebuttal evidence. If there is to be no rebuttal, the

evidentiary record is closed, and the parties shall file proposed recommended orders by May 13, 2014.

DONE AND ORDERED this 29th day of April, 2014, in Tallahassee, Leon County, Florida.



J. LAWRENCE JOHNSTON
Administrative Law Judge
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-3060
(850) 488-9675
Fax Filing (850) 921-6847
www.doah.state.fl.us

Filed with the Clerk of the
Division of Administrative Hearings
this 29th day of April, 2014.

COPIES FURNISHED:

Lucas Lawrence May, Esquire
Department of Health
Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, Florida 32399
(eServed)

Christopher S. Switlyk
Register No. 53913-018
FCI Estill
Post Office Box 699
Estill, South Carolina 29918-0699

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

DEPARTMENT OF HEALTH,

Petitioner,

v.

DOAH CASE NO.: 14-0883PL

DOH CASE NO.: 2011-20634

CHRISTOPHER SWITLYK, R.Ph.,

Respondent.

**PETITIONER'S AMENDEND NOTICE OF FILING OBJECTIONS TO
RESPONDENT'S PROPOSED EXHIBITS**

Petitioner, Department of Health, by and through the undersigned counsel, files this Amended Notice of Filing Objections to Respondent's Proposed Exhibits as follows:

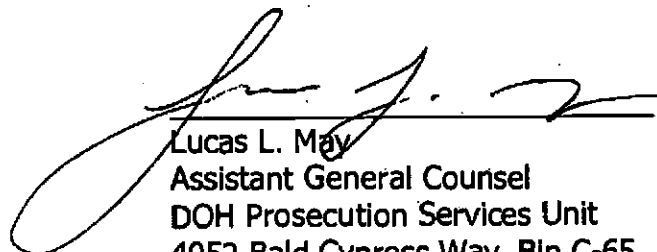
1. Petitioner objects to Respondent's proposed exhibit 1, a Plea Agreement filed September 4, 2012. The Plea Agreement should not be admitted into evidence because it is not relevant to this administrative proceeding. Relevant evidence is defined as "evidence tending to prove or disprove a material fact." *Fla. Stat. § 90.401*. At issue in this case is whether Mr. Switlyk has entered pleas of guilty to crimes delineated in Petitioner's Administrative Complaint. Petitioner has already entered an Amended Plea Agreement into evidence, which is the controlling plea agreement as to Respondent's criminal case. Furthermore, Respondent's Plea Agreement, Filed September 4, 2012, is incomplete and lacks Respondent's initials on pages two (2) through twenty six (26).

2. Petitioner objects to Respondent's proposed exhibit 3, patient medical records. At the final hearing in this case, Respondent was allowed 21 days to provide said records. Respondent has failed to do so.

3. Petitioner objects to Respondent's proposed exhibit 4, a copy of Respondent's Sentencing Memorandum. The Sentencing Memorandum is incomplete in that it is unsigned and also appears to be a draft. Petitioner objects because the Memorandum contains hearsay. Lastly, Petitioner objects because the Memorandum is not relevant to determine whether Respondent entered pleas of guilty to the crimes delineated in the Administrative Complaint.

4. Petitioner does not state further objections to Petitioner's proposed exhibits 2, 5 or 7.

Respectfully submitted,

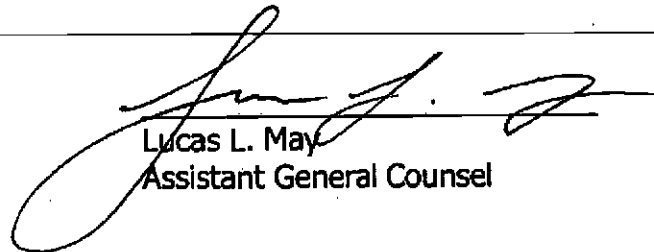


Lucas L. May
Assistant General Counsel
DOH Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, Florida 32399-3265
Florida Bar No.: 0102747
(850) 245 - 4444 ext. 8242 Telephone
(850) 245 - 4683 Facsimile
Lucas.May@flhealth.gov

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the forgoing Notice of Filing Late Exhibit has been furnished this 17 Day of April, 2014 to

Respondent, Christopher Swityk, Register # 53913-018, FCI Estill, Post Office Box
699, Estill, South Carolina, 29918-0699 by postage-paid U.S. Mail.



Lucas L. May
Assistant General Counsel

FILED

2014 APR 14 AM 11:42

Acknowledgment of Swearing Witness

DIVISION OF
ADMINISTRATIVE
HEARINGS

Name: Liz Carlson

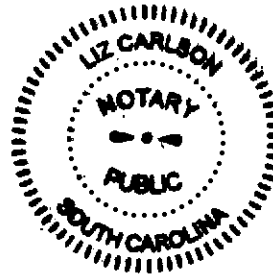
South Carolina Notary Public Number: _____

Commission Number: _____

Commission Expiration Date: 9-10-2014

On March 26, 2014, I Liz Carlson swore Mr. Christopher Steven Switlyk as a witness in DOAH case number 14-0883PL, Department of Health case number 2011-20634, before the State of Florida, Division of Administrative Hearings. Mr. Switlyk is personally known to me.

Signed Liz Carlson



**STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS**

DEPARTMENT OF HEALTH,

Petitioner,

v.

DOAH Case No. 14-00883PL

DOH Case No. 2011-20634

CHRISTOPHER SWITLYK, R.PH.,

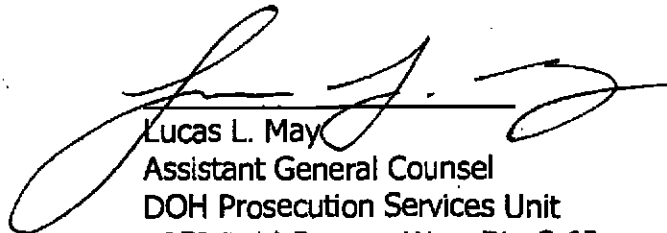
Respondent.

Petitioner's Notice of Filing Composite Exhibit 6

COMES NOW Petitioner, the Department of Health, and files this "Petitioner's Notice of Filing Composite Exhibit 6" that includes:

1. Email from Sherri Sivik, records custodian for the Pinellas County Sheriff's Office.
2. Pinellas County Sheriff's Office, Detention and Corrections Bureau, 2011 Inmate Handbook

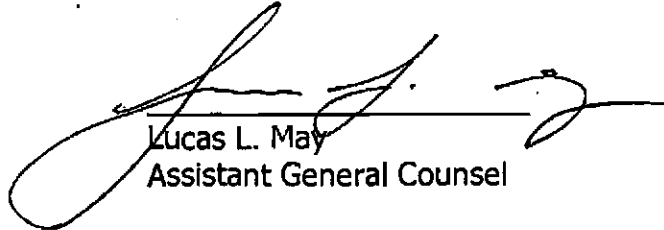
Respectfully submitted,



Lucas L. May
Assistant General Counsel
DOH Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, Florida 32399-3265
Florida Bar #0102747
850.245.4444 Phone
850.245.4683 FAX

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Notice of hat a true and correct copy of Petitioner's Notice of Filing Composite Exhibit 6 has been furnished rhis 11 day of April, 2014 to Respondent , Christopher Switlyk, Register #53913-018, FCI Estill, Post Office Box 699, Estill, South Carolina, 29918-0699 by postage-paid U.S. Mail.



Lucas L. May
Assistant General Counsel

May, Lucas

From: Troupe, Victor R.
Sent: Friday, April 11, 2014 9:25 AM
To: May, Lucas
Cc: Agett, Babette
Subject: FW: public record request-inmate handbook
Attachments: 2011 Inmate Handbook.pdf

Mr. May

Attached is the inmate handbook

From: Sivik, Sherri [<mailto:ssivik@pcsonet.com>]
Sent: Friday, April 11, 2014 7:47 AM
To: Troupe, Victor R.
Subject: public record request-inmate handbook

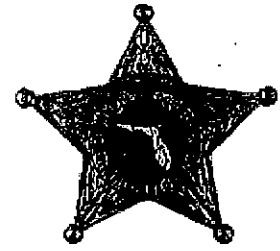
Mr. Troupe:

Please find the attached records responsive regarding your public record request April 2, 2014. Please note that the inmate handbook was not updated until 2013, therefore the 2011 handbook is being sent as this was still in effect for 2012. These records were produced without any information excised, exempt or withheld pursuant to Ch. 119. Thanks.

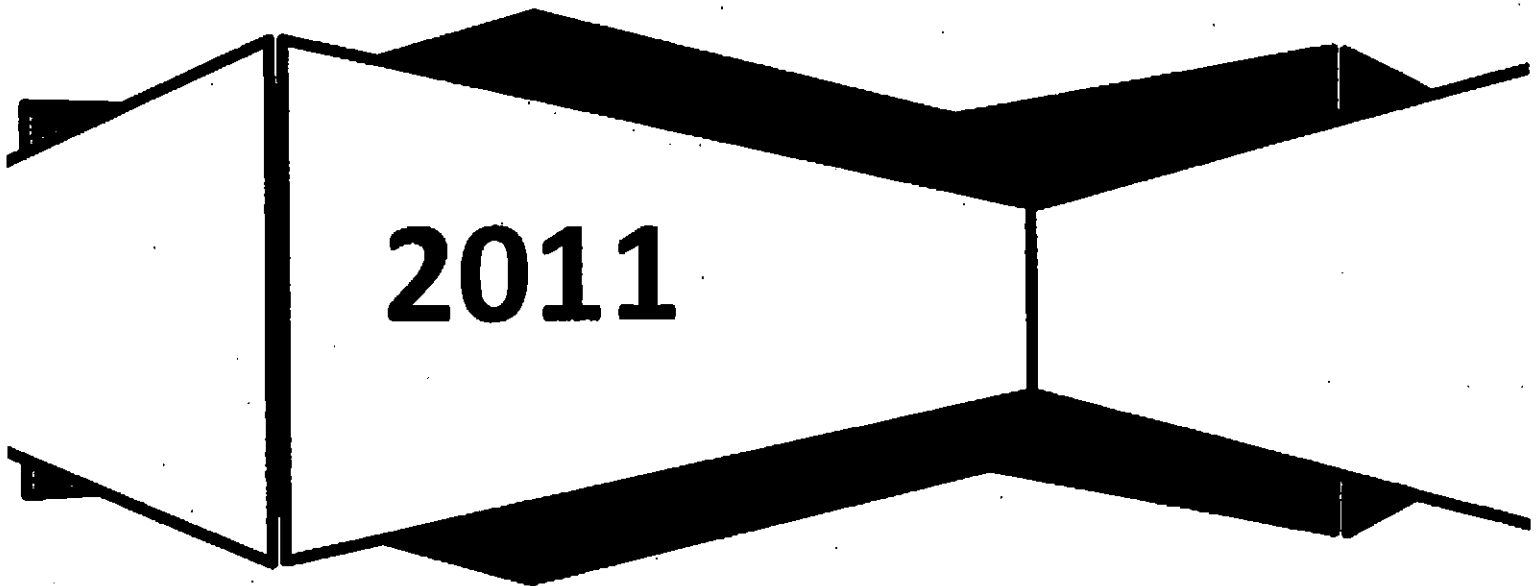
Sherri Sivik, Clerk ✓
Public Records Processing Unit
Pinellas County Sheriff's Office

Petitioner's
Exhibit 6

**Pinellas County Sheriff's Office
Detention and Corrections Bureau**



Inmate Handbook



Revised March 2011



Sheriff Jim Coats

Pinellas County Sheriff's Office

"Leading The Way For A Safer Pinellas"


To The Inmate:

The Florida Legislature has established administrative and operational requirements to be maintained by all county detention facilities. Additionally, the State Jail Standards Committee has established specific operational standards. In Pinellas County, the Sheriff is charged with the responsibility of maintaining the county's jail facilities.

It is my policy that the Pinellas County Jail system shall operate in full compliance with all State Laws and the Florida Model Jail Standards.

The maintenance of a jail that provides safe, secure and sanitary conditions requires the cooperation of all confined persons. Every effort will be made to provide you with adequate confinement and nutrition while you are in jail. Your courtesy and attention to the rights of your fellow inmates will help make your stay in jail less complicated. You are encouraged to take advantage of the library, religious, social and education programs offered to all inmates.

Whether your time here is long or short, I sincerely hope this is your last stay in the Pinellas County Jail.


JIM COATS, Sheriff
Pinellas County, Florida

JC:ds



Sheriff Jim Coats

Pinellas County Sheriff's Office

"Leading The Way For A Safer Pinellas"

To The Inmate:

This Inmate Handbook is provided so you may have a better understanding of the operations, programs and services of the Pinellas County Jail.

It is our objective to provide a secure, safe and sanitary jail. You are expected to assist in this effort by keeping yourself and your living area clean at all times. It is also expected you will respect the rights of your fellow inmates and obey staff charged with your supervision.

Sheriff Jim Coats provides a number of opportunities for inmates to use their time productively. A variety of religious programs and recreational activities are available. In addition, those individuals who can meet the necessary qualifications can use various education and / or training opportunities.

During your confinement in the Pinellas County Jail, the same laws that exist in our society will govern you. Any violation of federal, state or municipal ordinance will result in prosecution of those involved. Any violation of the rules and regulations of the jail will be dealt with appropriately. It is our hope when you leave the Pinellas County Jail system, you will be a better person. It is up to you.

A handwritten signature in black ink, appearing to read "Daniel G. Simovich, Jr.".

Daniel G. Simovich, Jr., Major
Detention and Corrections Bureau Commander

**PINELLAS COUNTY SHERIFF'S OFFICE
DETENTION AND CORRECTIONS BUREAU**

INMATE ORIENTATION HANDBOOK AND RULES

I. Introduction

- A. The Pinellas County Jail Complex contains several buildings. Each building of the complex has the same mailing address: 14400 49th Street North, Clearwater, FL 33762-2877, Phone (727) 464-6415.
- B. The various housing divisions within the complex house a wide array of inmates, including but not limited to, felons, misdemeanants, females and sentenced inmates. No individual shall be discriminated against because of race, color, national origin, gender or disability. Inmates shall have equal access to all programs and privileges unless deemed to be a threat to the safety of staff, other inmates or the security of the facility. Reasonable accommodations are provided for persons with a disability.
- C. All rules and staff direction must be obeyed. The housing deputies shall direct and control all housing unit activities. Inmates must conduct themselves in an orderly manner at all times with respect to the rights of other inmates and staff.
- D. Emergencies or safety drills can occur that may require inmates to evacuate or relocate to another area. It is important to remain calm and listen to the instructions given by detention personnel. Not following instructions may lead to disciplinary action.
- E. **SMOKING AND TOBACCO PRODUCTS ARE PROHIBITED.**
- F. Searches are necessary to control the introduction of contraband and to prevent escapes. Inmates must comply with the search of their person and personal property at any time. Inmates do not have to be present while staff is conducting a search of their cell area and/or belongings. Inmates will cooperate with deputies to expedite this process.
- G. Each person incarcerated at the Pinellas County Jail must have a photograph and fingerprints taken. Each inmate will be provided with an identification card to wear at all times on the chest area (not on the sleeve), with the photograph showing.
- H. Anytime there is a call for a headcount appearance, inmates are to proceed to their cell location immediately. Inmates are to remain quiet until the count is complete and they are excused. Inmate counts will be at the discretion of the deputies.

ii. Booking Process

- A. All non-federal inmates booked into the Pinellas County Jail will be charged an Inmate Subsistence Fee to cover administrative costs.
- B. If an inmate's cash account balance is not sufficient to cover this charge, a lien will be placed against the inmate's cash account. The balance owed will be deducted from any deposits received. The debit balance will be carried for a period of three years from date of release.
- C. The subsistence fee will be refunded to the inmate if he/she produces proof of No Information, Nolle Prose or a "Not Guilty" verdict for the docket number the subsistence fee was collected on. Reimbursement may only be requested provided the inmate has no other cases under that docket number that are pending or adjudicated.
- D. Upon arrival, inmates receive a medical screening. Please inform staff of any special medical or emotional needs during this process. If you have an emergency medical problem, please contact a deputy immediately. He or she will contact the proper medical person to handle your medical problem. For your safety, do not remove your identification card.
- E. At the time of booking, all money in an inmate's possession will be credited to his/her personal inmate account, except for foreign coins and/or foreign paper money which will be placed in his/her personal property. No inmate will keep in his/ her possession any money, checks, money orders or any other legal tender. Any unauthorized funds discovered are forwarded to the Inmate welfare fund.

- F. During the booking process you will be screened by a nurse, interviewed by classification staff, photographed, fingerprinted and issued a jail identification badge. Identification badges are required to be worn and properly displayed on the chest at all times after issued.
- G. If you are not released on your own recognizance or do not bond out and are assigned housing at the jail, personal clothing will be exchanged and an inmate uniform or alternative clothing will be issued. Make no alterations to clothing. Inmates will be expected to reimburse the facility for intentional damage or loss to clothing.
- H. Bed linens, towels, one drinking cup, soap, one toothbrush, one toothpaste, one comb and footwear (if needed) will be issued. Feminine hygiene items will be provided. Razors will be provided and exchanged daily in accordance with Bureau directives.
- I. A replacement cost will be charged for missing, destroyed or damaged jail issued property or any jail property. It is in your best interest to keep the issued items in good condition.
- J. **Posting Bond/Purging Child Support Payments**

How to post a bond for a Pinellas County Jail Inmate:

If a Pinellas County Jail inmate's charges have a bond amount, the inmate can post a bond or have someone else post the bond to facilitate his/her release.

How to post an Inmate's bond using a credit or debit card:

The Pinellas County Jail is now accepting bond payments through the GovPayNow program. Check with a deputy to find out the limit that may be charged. The limit is on a per charge basis, and not applicable to any charge with a bond over the allowed limit. Be advised a non-refundable service fee to GovPayNow will be added to all transactions.

How to purge an inmate's child support payment:

If a Pinellas County Jail inmate has been arrested for failure to pay child support, the inmate can purge the child support payment or have someone else purge the child support payment in order to facilitate the release of the inmate.

How to purge an Inmate's overdue child support payment using a credit or debit card:

The Pinellas County Jail is now accepting payment for child support purges through the GovPayNow program. Payments are accepted for the full amount of the purge.

Make sure to have the Inmate's Information ready before proceeding to www.GovPayNow.com:

This information is available in the "Who's in Jail" function on the Sheriff's Office website, or through the Clerk of the Circuit Court.

- The defendant's name
- The defendant's docket number
- The case number

The Pay Location code is **6343** for inmate bond payments.

The Pay Location code is **6143** for inmate child support purges.

There are three ways to pay with a credit or debit card:

- Online at www.GovPayNow.com (Click on link)
- By phone at 1-877-EZBAIL5
- In person at the Pinellas County Jail Bond Counter

Other bond payments accepted:

Bonds of any amount can be paid using the following payment options:

1. **Surety Bonds** are accepted from registered bonding agents. A list of registered bonding agents is located in the enclosed case just outside of the Public Lobby area. You may also refer to the

telephone book or internet. The Pinellas County Sheriff's Office cannot and will not recommend a bonding agent.

2. **Cash bonds** are accepted in the full amount of the bond. In order to post a cash bond, you will need to present a valid photo I.D. All bank checks, travelers' checks and money orders must be made payable to the **Clerk of the Circuit Court**. No personal checks will be accepted. This payment must be on a separate check or money order if more than one bond is being posted at the same time.

Important Notice

F.S. 903.286 requires the Clerk of the Court to withhold from the return of a cash bond posted on behalf of a criminal defendant by a person other than a bail bond agent, sufficient funds to pay any unpaid court fees, court costs, and criminal penalties. This means that if the defendant for whom you are posting bond owes costs and penalties, those fees will be taken out of the bond money you posted. You may receive only a portion or none of the posted bond money even though the defendant makes all timely court appearances. F.S. 903.26(2)(b) states that if a defendant fails to appear at the time, date and place of required appearance, the bond money will be forfeited.

III. Medical Services

- A. Upon arrival, inmates shall receive a medical and mental health screening. Please inform the nurse of any special medical or emotional needs during this process.
- B. All inmates have the opportunity to request health care on a daily basis. If you wish to see a qualified healthcare provider regarding a medical or mental health concern, please submit a Medical Request (Form 82) to the nurse on duty.
- C. Non-emergency requests will be triaged and scheduled for the next available sick call by a qualified healthcare professional.
- D. **How to Inform Staff of a Medical Emergency** - If you have an emergency medical problem, please contact the floor deputy on duty immediately. He or she will contact a qualified healthcare provider to handle your medical problem.
- E. **No Inmate will be refused medical treatment.** Please inform medical staff of any special medical or emotional needs you may have.

IV. Indigent Inmate Supplies

- A. Indigent inmates are defined as inmates who are without funds or who have \$1.00 or less at time of admittance. These individuals may receive necessary health, hygiene and writing materials after 14 days of indigent status.
- B. Once such an individual establishes an inmate account and has sufficient money posted to the account (more than \$1.00), they will not be considered indigent again until their account remains at \$1.00 or less for a period of 14 days from the date of the last entry.
- C. Indigent items are distributed in an Indigent Kit. The Indigent Kits contain the following:

Standard Indigent Kit:

1. One (1) 8 ½ x 11 legal pad
2. One (1) black ink pen
3. Four (4) stamped post cards
4. One 1.5 oz tube of toothpaste
5. One 1.5 oz deodorant
6. One (1) toothbrush

Clothing Indigent Kit:

Male

1. Two (2) t-shirts
2. Two (2) boxer shorts

Female

1. Two (2) bras
2. Two (2) panties

Note: Indigent kits, both the Standard and the Clothing, will only be ordered and distributed as a full kit, no half kits or variations thereof will be given.

- D. Inmates shall request a Pinellas County Detention Facility Indigent Kit order form from detention staff. The inmate will complete the form and return it to detention staff on the morning prior to their respective divisions' commissary receiving day. Detention staff shall forward the order forms to Inmate Accounting for verification of indigent status.
 1. If the inmate qualifies as indigent, Inmate Accounting will forward the order form for processing.
 2. If the inmate does not qualify for indigent supplies, Inmate Accounting will note such on the Indigent Kit order form. The form will be returned by the Commissary vendor.
- E. Eligible indigent inmates may request and receive the Standard Indigent Kit once every 30 days. Eligible indigent inmates may request and receive the Clothing Indigent Kit only one (1) time each 365 days.
- F. Any inmate in need of footwear shall submit an Inmate Request Form to the appropriate floor deputy. The floor deputy shall assess each individual situation, process the Inmate Request Form accordingly, and provide shower slides as needed.
- G. Indigent inmates will be continuously furnished with soap/shampoo, as will all general population inmates.
- H. If an indigent inmate needs legal envelopes to mail legal/privileged correspondence, he/she will submit an Inmate Request Form to the law library. The law library clerk will verify the inmate's indigent status by checking the Cactas computer system. Once verified, the law library clerk will process the request in Cactas and distribute the envelopes. The indigent legal mail will be forwarded back to the law library for indigent status confirmation/verification and logging prior to being sent to the mail room. Each qualified indigent inmate may request up to four legal envelopes every 30 days.

V. Dress Code and Personal Hygiene

- A. An issued uniform will be required anytime an inmate exits his/her housing area, to include visitations, religious services, medical services, social services, educational classes and attorney visits, etc.
- B. All inmates will maintain a high degree of personal cleanliness. Showers and toiletry items are available. Each division schedules haircuts; ask the housing deputy about the schedule. Inmates with upcoming court appearances have priority.
- C. All inmates will be given the opportunity to shower/bathe daily, but are required to bathe at least twice weekly. Housing unit deputies will require inmates to be neat and clean before work.
- D. Linen exchange is once per week. Issued uniform exchange is twice per week. Inmates are responsible for any linen and uniform issued. Personal laundry is on a twice per week schedule. Inmates assigned to jobs within the jail will receive clean clothes each day they work. The laundry services are under the supervision of the staff; a laundry schedule will be available based on cell and unit assignment.

VI. Replacement of Hygiene Items

- A. Housing area deputies will replenish or exchange bath soap, razors and feminine hygiene items.
- B. Items issued such as toothbrushes, toothpaste and combs must be purchased through commissary at the inmate's expense when replacements are needed. Indigent inmates will be given personal hygiene items once every 30 days.
- C. Inmates are not permitted to hoard Bureau issued personal hygiene items.

VII. General Housekeeping

- A. Inmates are responsible for keeping their cell and the immediate area around the cell clean and neat at all times.
- B. Beds will be made anytime they are not in use.
- C. Inmates are responsible for damages to their cell, which are a result of negligence or malicious destruction.
- D. Trash will be placed in the containers provided and is removed daily from living quarters. No trash bags are allowed except as needed to line the inside of the receptacles.
- E. Inmates cannot place personal items, clothing or linen on the bars, windows, bunks or vents.
- F. Do not post or attach anything to walls, mirrors, windows, bunks or on lights.
- G. Inmates cannot write, draw or mark on walls, ceilings, tables, chairs, bunks or any other facility owned property.
- H. Immediately report any inoperative equipment (such as light, sink, toilet, etc.) to a deputy.
- I. When there are too many flammable materials such as paper and plastics, a fire hazard exists. Excess items are to be discarded or they will be confiscated by detention staff as a safety precaution. The facility is inspected regularly and adheres to all state fire safety codes.

VIII. Meals

- A. The jail offers three meals a day; there are no extra helpings or trays. Inmates must eat the meals at mealtime. No food from your tray can be saved, given, traded or sold to other inmates.
- B. Inmates will have the opportunity to exchange or clean his/her drinking cup daily.
- C. Only food items purchased through commissary may remain in the housing unit.
- D. If, for medical reasons, an inmate requires a special diet, medical will review the request and advise if approved or denied. If approved, medical will notify the food service provider to provide the required diet.
- E. If an inmate requires a religious diet, he/she must complete an Inmate Request Form to the Bureau Chaplain stating the name of the religion and the type of diet. The chaplain will review the request and advise of the approval or disapproval of the request.

IX. Inmate Accounts and Commissary

- A. Only other facility's checks, certified checks, cashier's checks or money orders of at least \$1.00 are acceptable for deposit into the inmate's account. No cash will be accepted from visitors for deposit into an inmate's account. Any deposit received containing damaged or unreadable money orders, personal checks or cash will be returned to the sender if the name and address has been provided.
- B. An automated online deposit system (Access Corrections) is anticipated to be available to the general public during the summer of 2011. This system allows individuals, in the general public, the ability to electronically deposit money directly into each inmate account. The website is <http://www.accesscorrections.com>. In addition, kiosks will also become available to the general public at the jail's visitation center and public lobby.
- C. No inmate will keep in his or her possession any money, checks, money orders or any other legal tender. Any unauthorized funds discovered are forwarded to inmate accounting for processing.
- D. An inmate may transfer or release funds from his/her account to the public by completing the "Inmate's Permission for Money Release Form." Any other requests will be at the discretion of the Division Commander.
- E. The commissary is a privilege provided for the exclusive use and benefit of all inmates. Inmates may use money in his/her inmate account to purchase commissary items. The commissary provider deducts

purchases from the Inmate account. A list of items available from the commissary is in each housing unit or a list may be requested from a deputy.

- F. Inmates may place orders to the commissary twice weekly.
- G. Each order may be no more than \$100.00 combined clothing and food.
- H. Inmates may go over the \$100.00 limit in order to purchase a radio.
- I. Inmates' family and friends may order commissary items online via Secure Pak. These items will be delivered during normal commissary distribution. Items can be ordered at www.fipackages.com.
- J. Damages or shortages must be identified upon delivery to you. By signing, you acknowledge and understand the terms of commissary orders and authorize funds to be deducted from your trust fund account to pay for the order. Once the order is accepted it is a final sale! All inmates have 60 days from purchase to request any information regarding a commissary sale or credit. For nutritional information write to the following address: Keefe Commissary Network, P.O. Box 23353, St. Petersburg, FL 33742.

X. Notary Public Services

The Pinellas County Jail will make a Notary Public available when requested by an inmate. Contact the shift sergeant or social worker for a Notary Public.

XI. Good Time/Gain Time

- A. Good Time awards are granted to all sentenced inmates. Any discrepancies should be addressed on an Inmate Request Form to Inmate Records. Good Time awards are not to exceed five (5) days per month.
 - 1. Good Time is awarded at the time of sentence verification. Records of Adjusted Release Dates are in all housing areas containing county-sentenced inmates. No inmate release will take place until verification is completed.
 - 2. Good time is calculated on the balance of the sentence after deducting gain time and credit for time served as determined by the courts. Good time is calculated at the time of sentence verification.
 - 3. If an inmate fails to comply with established facility rules and regulations and is disciplined, including transfer to another facility offering a more secure environment, the inmate can also lose good time. receive time in detention or a combination of actions.
 - 4. Inmates whose offense dates are prior to November 1, 2001 (when the five days per month good time policy was implemented), will have good time calculated according to the days worked. This calculation will be one day off of the sentence for every day of work completed.
- B. Gain Time - county sentenced prisoners earn Gain Time at a rate of five days for every 30 days of sentence.
 - 1. Gain time is not allowed for any sentence of 29 days or less.
 - 2. The Inmate Records Section computes gain time at the time they receive notification of sentencing.
- C. Certain county inmates are not eligible to receive either good or gain time. Included in these categories are the following: Inmates incarcerated on Civil Contempt of Court Orders, inmates sentenced to a specific time period and those inmates stipulated by the sentencing judge not to receive good time awards.
- D. Any part of good or gain time shall be subject to forfeiture for any violation of law, rule, or regulation of the institution.

XII. Mail

Inmates may write and receive unlimited correspondence. However, if the inmate is under any restrictions or disciplinary actions, mail may be limited with the exception of legal mail.

- A. Mail is delivered and picked up once a day, except on weekends and postal holidays.
- B. All incoming mail must have the inmate's full name, docket number, housing location and a return address or it will be returned to the Post Office.
- C. Incoming and outgoing inmate mail will be monitored by the staff for security reasons. Staff will inspect incoming mail to intercept cash, checks, money orders or contraband. Any monies found will be placed

in your money account. If contraband is found in the correspondence, the entire letter or package will be returned to the sender or handled according to policy or statutory law. Inmates will be notified in writing of the rejected correspondence.

D. Any legal or privileged mail received will be opened in the presence of the inmate to confirm it is legal or privileged mail. If the mail is not legal mail, it becomes contraband and is handled appropriately.

E. All outgoing mail must include a return address as follows:

Full name, identification number, housing assignment
Pinellas County Jail
14400 49th Street North
Clearwater, Florida 33762-2877

F. Detention staff will not interfere with outgoing mail except to open and inspect it to determine if it contains contraband or interferes with the security and orderly operation of the facility.

G. Publications:

1. Inmates may receive printed material and publications (books, magazines, newspapers, etc.) he/she purchases from, and are mailed by, the publisher or established book retailer. Book clubs are not considered an established book retailer.
2. Materials that may affect the order, security and safety of the facility are not allowed. The Pinellas County Jail does not forward subscriptions upon release or transfer of the inmate.
3. There is a limit of three books, three magazines and three days of newspapers at one time. Excessive items are put with the inmate's property or seized and disposed of as contraband.
4. The receiving mail clerk will forward any unacceptable publications or material to the Bureau Commander for review and disposition.

XIII. Telephones

A. Three-way calling is not permitted and is a violation of inmate conduct. **Your telephone calls may be recorded.**

B. The Pinellas County Jail provides telephones for inmate convenience as a means to contact attorneys, bondsmen and family. All calls are on a "collect call" basis.

C. Inmates can purchase pre-paid phone cards that will enable them to make local and long distance calls. The deputy on duty can provide information on how to purchase one.

D. Criminal charges or disciplinary action may be placed against persons found destroying, altering or damaging telephones and/or making obscene, threatening or harassing telephone calls.

E. Inmates may not charge calls to a credit card or other number. Fraudulent long distance calls will result in prosecution.

F. T.D.D. Machines are available for the hearing impaired, upon request.

G. Inmates are encouraged to use either an Inmate Request Form or the US Mail if there is a need for communication within the Pinellas County Sheriff's Office. If there is an absolute necessity to contact any agency or a section of the Sheriff's Office by telephone, a request should be made with a detention supervisor or a member of the Detention Investigations Unit (D.I.U.)

H. There are enough telephones to accommodate the number of inmates housed in each area. However, during times of high demand, be aware other inmates need to use the phone. No continuous calling is allowed during these times.

I. If an inmate feels he/she needs to make an emergency phone call, an Inmate Request Form addressed to the counselor is to be completed.

XIV. Disciplinary Procedure

A. When an infraction of the rules is alleged to have occurred the following will happen:

1. A disciplinary report will be processed.

2. The incident will be investigated and the inmate will be provided written notice of the charges against him/her at least 24 hours prior to a hearing.
3. A deputy will speak with the affected inmate, notify him/her of his/her rights, take a statement concerning the violation and answer any questions the inmate may have.
4. A hearing will be held as soon as possible.
5. The inmate will receive a copy of the committee's written decisions.

A detention supervisor may place an individual in an administrative confinement cell for the safety of the inmate or the security of the facility, pending an investigation or disciplinary hearing.

- B. **Appeals** – If an inmate disagrees with the disciplinary action rendered by the committee, he/she has the right to file an appeal to the Bureau Commander. To do this, make a Request for an "Administrative Remedy Form." This form must be filed within five calendar days from the date of the notification of the Disciplinary Committee's decision. The Bureau Commander will review all appeals and the ruling will be binding.

XV. Prohibited Conduct and Penalties

Inmates are responsible for adhering to all policies, rules and regulation of the Pinellas County Jail, as well as Federal, State and Local laws. The following infractions carry a maximum penalty of 30 days. The Disciplinary Committee or Hearing Officer may elect to impose a lesser penalty.

1. Adulteration of any food or drink.
2. Assault and/or battery on any person.
3. Attempting or planning escape.
4. Conduct that disrupts or interferes with the security or orderly running of the institution.
5. Correspondence or conduct with a visitor in violation of posted regulations.
6. Counterfeiting, forging or unauthorized reproduction of any document, article of identification, money, security or official paper.
7. Destroying, altering or damaging government property or the property of another person.
8. Encouraging others to refuse to work.
9. Encouraging others to riot.
10. Engaging in, or encouraging a group demonstration.
11. Engaging in sexual acts with others.
12. Escape.
13. Extortion, blackmail, protection, demanding or receiving money or anything of value in return for protection against others to avoid bodily harm, or under threat of informing.
14. Failing to properly stand count.
15. Fighting with another person.
16. Giving or accepting anything of value from another inmate, a member of his/her family, or his/her friend.
17. Giving or offering any official or staff member a bribe or anything of value.
18. Inappropriate conduct (i.e. gestures, language, comments and noises) directed at staff or other inmates.
19. Indecent exposure.
20. Interfering with the taking of a count.
21. Loaning of property or anything of value for profit or increased return.
22. Making sexual proposals or threats to another.
23. Making intoxicants or being intoxicated.
24. Malingering, feigning an illness.
25. Manipulating housing.
26. Misuse of authorized medication.
27. Possession of contraband as defined.
28. Possession or introduction of any explosive or ammunition.
29. Rioting.
30. Setting a fire.
31. Smoking or tobacco use.
32. Stealing (theft).
33. Tampering with or blocking any locking device.
34. Threatening another with bodily harm or any offense against his/her person or his or her property.
35. Violation of Work Release.
36. Wearing a disguise or mask.
37. Mutilating or altering issued clothing.
38. Possession of anything not authorized for retention or receipt by the inmate and not issued to him through regular Bureau channels.
39. Failing to perform work as instructed by a supervisor.

40. Gambling, preparing or conducting a gambling pool, possession of gambling paraphernalia.
41. Lying or providing a false statement to a staff member.
42. Tattooing or self-mutilation.
43. Unauthorized contacts with the public.
44. Being in an unauthorized area, including the marked areas of any recreation area.
45. Being unsanitary or untidy, failing to keep one's person and one's quarters in accordance with posted standards.
46. Failure to follow safety or sanitation regulations.
47. Refusing to obey an order of any staff member.
48. Refusing to work or participating in work stoppage.
49. The exchanging or tampering with any part of an Inmate Identification card. Inmates may also be charged with the replacement cost of his or her identification card.
 - a. First Infraction - 15 Days
 - b. Second Infraction - 30 Days
50. Unauthorized use of mail or telephone.
51. Using any equipment or machinery contrary to the instructions or posted safety standards.
52. Using abusive or obscene language.
53. Participating in an unauthorized meeting or gathering.
54. Absence from work or any assignment without approval.

Indecent Exposure Sanction:

1. First Offense will include, at a minimum:
 - a. Thirty days mandatory disciplinary confinement (such as loss of all privileges, recreation reduced to three days per week, loss of social visitation and phone calls, etc.).
 - b. During the 30 days of mandatory disciplinary confinement, all personal clothing (including shoes) will be placed in property.
 - c. Additionally, during confinement, all pictures and reading material will be placed in property.
2. Second Offense will include at a minimum:
 - a. Thirty days mandatory disciplinary confinement (i.e. loss of all privileges, recreation reduced to three days per week, loss of social visitation and phone calls, etc.).
 - b. During the 30 days of mandatory confinement, all personal clothing (including shoes) will be placed in property.
 - c. Additionally, during disciplinary confinement, all pictures and reading material will be placed in property.
 - d. Upon completion of Disciplinary Confinement, notification will be made to Classification and the inmate will be placed on "Close Custody" status.
3. Third or Subsequent Offense will include at a minimum:
 - a. Notification will be made to D.I.U. to initiate a formal criminal complaint.
 - b. Thirty days mandatory disciplinary confinement (i.e. loss of all privileges, recreation reduced to three days per week, loss of social visitation and phone calls, etc.).
 - c. All personal clothing (including shoes), pictures and reading material will be placed in property for the duration of the disciplinary confinement.
 - d. Upon completion of Disciplinary Confinement, notification will be made to Classification and the inmate will be returned to "Close Custody" status.
 - e. Permanent loss of commissary except for health and comfort items.

XVI. Contraband

Searches are necessary to control the introduction of contraband and to prevent escapes. Inmates must comply with the search of their person and personal property at any time. Inmates do not have to be present in the cell at time of a search. Inmates will cooperate with deputies to expedite this process.

Included below is a list of items that can be considered contraband. Items not listed here may be considered contraband at the discretion of staff.

- A. Any item or article not issued or sold to an inmate, or is found to be altered or used for a purpose other than what it was intended for. These items will be removed and destroyed.
- B. Any item detailing weapons or explosive manufacturing, or gives information that could aid in planning or making an escape or producing any item which could injure another.

- C. Gang symbols or related items such as drawings, literature, etc., which relate to gangs.
- D. Pornographic photographs, magazines, centerfolds, etc. shall be considered contraband.
- E. Food left over from meals.
- F. Laundry lines or hangers.
- G. Non-Bureau issued phone cards.
- H. Credit cards.
- I. Maps, catalogs, travel brochures or calendars.
- J. Cleaning equipment or materials.
- K. Tape recorders or tape machines.

XVII. Inmate Identification Badges

- A. Identification badges are required to be worn and properly displayed on the chest area at all times with the photo facing out. Inmates without their identification badges will be returned to their housing units and face disciplinary action. Identification badges are to be turned in at the Release Desk for destruction at the time of the inmate's release.
- B. Lost, stolen or damaged identification badges will result in formal disciplinary action and a monetary charge for the I.D. replacement will be deducted from the inmate's money account.

XVIII. Programs and Services

There are various comprehensive educational and vocational programs provided.

- A. Program participation is voluntary except for work assignments, programs required by State Statute or as court ordered. Monthly program schedules are posted in each housing area.
- B. Some of the programs and services offered include basic education-GED classes, weekly services for various faith groups, crisis intervention counseling, HIV/AIDS education, juvenile education, vocational programs and recreation.
- C. Televisions are equipped with closed caption for the hearing impaired. If closed caption is required, contact the administrative staff via an Inmate Request Form to activate this function.

XIX. Visitation

- A. All visitors are required to schedule their visits and may do so up to one week in advance. Reservations are made by calling (727) 464-6842.
- B. Inmates are allowed seven 40 minute visits per week. The hours of visitation are Sunday – Saturday 11:30am – 7:40pm.
- C. Three individuals may visit: one adult with two children or two adults with one child. No more than two adult visitors at any one time.
- D. All visitors must present a valid photo identification card (driver's license or state-issued identification card) for admittance to visitation.
- E. All visitors at the height of 36" or above will be required to have their facial images screened via Facial Recognition Screening prior to their scheduled visit.
- F. Regulations concerning dress and conduct for all visitors are on display.
- G. All visitors must comply with these regulations or face the possibility of terminating their visit.
- H. Attorneys may visit their clients at any time. However, they are encouraged to conduct their visits during the regular work week at normal business hours.

- I. Behavior problems involving children will not be tolerated. If such problems occur, the children and the accompanying adult will be asked to leave the area.
- J. Funds are accepted during visitation hours; only certified check, money order or cashier's check is accepted. The funds will be deposited in the inmate's personal account on the next business day (Monday through Friday).
- K. When a conflict in scheduling exists between a scheduled visit and other programs, the inmate shall have the option of attending the program or visitation. Inmates choosing to attend a program over visitation shall not be removed from the program to attend their visit.

XX. Library Services

A. Law Library

1. To receive information from the Law Library, an inmate must submit a request to the Law Librarian. The requested material will then be delivered within three days (excluding weekends and holidays).
2. There is a fee of 10 cents per page for the copies; the cost will be deducted from the inmate's money account. Indigent inmates may receive up to 50 copies per month, free of charge.
3. The Law Library keeps 10 copies of the Florida Model Jail Standards and inmates may review them by using the request form.
4. Information concerning immigration law and legal services is available by request.

B. Physical Access to Law Library

1. Only inmate who are Pro-Se in their criminal case and who comply with all other facility rules, regulations and requirements will be considered for physical access to the law library.
2. Approved Pro-Se inmates will make their request to gain physical access to the Law Library on an Inmate Request Form; the request will be forwarded to the law library.
3. The law library clerk shall construct a daily list of inmates wishing to physically access the Law Library from the Inmate Request Form.
4. Prior to an inmate's first physical visit to the law library, he/she will receive an orientation to include familiarization of all rules and regulations pertaining to such access; the inmate will be required to sign an acknowledgment of their receipt and understanding of the orientation.
5. Pro-Se inmates will be provided a reasonable amount of time in the library. The division commander or designee may approve additional time or priority time.
6. No more than eight inmates may physically access the law library at the same time.
7. Pro-Se status inmates will be given up to three green storage boxes for legal material. No additional storage boxes are permitted in the housing area; any additional boxes will be placed in Inmate Property.
8. In the event a Pro-Se inmate is deemed a security risk for any reason, or otherwise fails to comply with the facility rules, regulations and requirements, he/she will not be permitted physical access to the law library. However, the Pro-Se inmate will still receive access to legal materials by completing an Inmate Request Form. A law library clerk will process the request and deliver requested items to the inmate cell side.
9. Any inmate found intentionally damaging, defacing or removing legal materials or supplies shall be disciplined to include limiting continued access to legal materials for a set period of time.

C. Recreational Reading

1. Any inmate desiring books or periodicals from the library must submit an Inmate Request Form stating the type of books or periodicals desired. This form should be given to a floor deputy.
2. Any books or periodicals requested that are not available will be substituted with a similar selection.
3. There is a limit of three books and three magazines at one time per inmate. Return previously distributed books and/or magazines before distribution of additional books and/or magazines.

D. Upon release, turn in all jail issued books and periodicals.

- E. Inmates may request Bibles, Qurans or other Holy Scriptures from the library or chaplain's office. They are provided for your use as available.

XXI. Property

- A. Inmates will be held accountable for the deliberate destruction or damage of Issued Jail property.
- B. Inmates are prohibited from giving or exchanging Issued inmate clothing or linens to another inmate.
- C. Personal property, as listed below, will be permitted in cells if it does not pose a threat to the health and safety of the inmate or the security of the facility.
1. Authorized hygiene items such as soap, toothbrush and toothpaste, comb and razor (when issued).
 2. One plastic bowl with lid purchased through the commissary (not available through Secure Pak).
 3. Clothing items received from the Indigent Inmate Program or purchased through the commissary in the amounts listed:
 - a. Male - Five pairs of under shorts, five white tee shirts (without logo or design), five pairs of socks, and one pair of thermal underwear, solid white, cream or beige in color.
 - b. Female - Three bras or sports bras (no under-wire bras), five pairs of panties, five white tee shirts (crew neck only) and one pair of thermal underwear, solid white, cream or beige in color.
 4. Prescription eyeglasses, contact lenses, eye prosthesis and dentures. No dark tinted eyeglass or sunglasses allowed unless medically needed and a member of the medical staff verifies the need. These items are your responsibility and you must maintain them in an appropriate manner. **Do not place them in a container that may be considered contraband, such as a styrofoam cup or trash bag.**
 5. Medically necessary lotions and soaps will be in new, unopened containers when brought to the jail complex. A member of the medical staff must authorize these items before they will be released to you.
 6. You may have and/or display up to three family pictures, in good taste, no larger than 3" x 5". No Polaroid™ photographs are permitted through the mail.
 7. Limit of three each: books, magazines and newspapers.
 8. Magazines and books must be sent directly from the publisher or an authorized bookstore. If any other method is used, the books and/or magazines will be considered contraband and the complete package will be returned to the sender. The mailroom staff will label these books with your name and docket number.
 9. Newspapers are by subscription only. The publisher sends newspapers by third class mail so several days' worth may arrive at one time. However, stockpiling newspapers can create a fire hazard therefore, after you read each newspaper, throw the newspaper away.
 10. If detention staff feels there is an excessive amount of newspapers, they will remove all but the three most recent days and throw them away as trash.
 11. One radio, one pair of headphones and only the number of batteries needed to operate the radio plus a replacement set, per inmate are allowed. All items must be purchased from commissary and are not available through Secure Pak. Staff will confiscate as contraband any altered radio and/or headphone.
 12. Addresses and telephone numbers.
 13. Pencils, paper, stamped envelopes, pens and colored pencils purchased through the commissary or received through the Indigent Program are permitted. Any of these items sent through the mail will be considered contraband and will be returned to the sender.
 14. Legal materials, papers and letters. Pro-Se status inmates will be given up to three green storage boxes for legal materials. Any additional storage boxes will be at the discretion of the Division

Commander. Only three boxes at one time are permitted in the housing area; any additional boxes will be placed in inmate property.

- D. Court Clothes – Inmates will be allowed to retain one set of personal clothing in the Property Room for court appearances and/or for use upon discharge.
- E. Court Attendance – Inmates attending court are not permitted to have any personal or jail issued property in their possession with the exception of legal materials. All inmates are subject to a search and any contraband found will be disposed of per policy.
- F. Bulk Property
 - 1. Any item that will not fit through the inmate property release pass-through box will be transported to the Property and Evidence Section by the arresting officer.
 - 2. Any weapons, bicycles or tools determined to be a potential safety or security risk by the Division Commander, or any unusually cumbersome items that may have been taken by the arresting officer will be stored at the Pinellas County Sheriff's Office, Property and Evidence Section, 4707 145th Avenue North, Clearwater, FL 33762-2877, Phone 727-464-6391.
 - a. Bulk property stored at the Inmate Property Section of the Pinellas County Jail will only be kept in inventory for **30 days after the date you are transferred to another facility or released.**
 - b. Bulk property stored at the Property and Evidence Section will only be kept in inventory for **30 days after the date of your incarceration.**

G. Procedure for Release of Property

- 1. Pickup From Jail by Outside Person
 - a. Inmates must complete, in ink, an "Inmate's Permission for Property Release Form." Any form not completed in ink or filled out properly will be returned to the inmate.
 - b. The person designated by an inmate to receive his/her property must present a valid photo identification (Drivers License, Florida I.D. card, etc) before any property will be released to them.
- 2. By Mail
 - a. Inmates may request property be shipped via US Mail either during their incarceration or within 30 days of their release/transfer from the Pinellas County Jail.
 - b. A completed "Inmate's Permission for Property Release Form" and pre-paid postage (at the inmate's or recipient's expense) must be received by the Property Section prior to shipment of the property.
 - c. Property shipping information must include name, street address and phone number of accepting party.

Note – When property is released, the inmate must release everything (excluding clothing) located in the Property Section. Partial items may not be released. The exception to this is the release of a single credit card. Clothing may be released to an outside party only if sentenced to prison.

H. Personal Property Accepted at State Facilities:

Inmates sentenced to State Prison will be transported with only those items authorized by the State. This regulation is strictly enforced. State prisons will destroy excess items in accordance with State Statutes. Inmates are limited to taking only that property which will fit in an 8" x 11" x 12" box. If an inmate has unauthorized items, he/she must arrange for them to be released by mail or picked up by an outside person as outlined above.

- 1. **Central Florida Reception Center** – Only the following will be accepted:
 - a. One Address Book (wallet size).
 - b. Prostheses (Dentures are included) – final approval by Medical Staff.
 - c. One Bible or one related religious tract.
 - d. One calendar (wallet size).
 - e. Fifty plain white envelopes.
 - f. One pair prescription eyeglasses.
 - g. Legal material – active cases only.
 - h. Fifty sheets of notebook paper lined or unlined.

- i. Four pencils, wooden, non-mechanical (no Papermate-type rolling or mechanical-type ink pens).
 - j. Ten personal letters.
 - k. Fifty photographs, wallet size, no nudity.
 - l. One book (or equivalent) of postage stamps.
2. Lowell Reception Center – Only the following will be accepted:
- a. One wallet sized address book.
 - b. One pair of eyeglasses w/case (prescription only).
 - c. Fifty personal photographs (no nudity or obscenities).
 - d. Fifty envelopes.
 - e. One book of postage stamps.
 - f. Four pencils.
 - g. Fifty sheets of white notebook paper lined or unlined.
 - h. Legal material.
 - i. Bible.
 - j. Engagement ring (not exceeding \$100.00 in value).
 - k. Wedding band (not exceeding \$100.00 in value).
 - l. Watch (not exceeding \$50.00 in value).
 - m. Religious medallion w/chain (not exceeding \$50.00 in value).
 - n. Four pens (non-refillable, non-retractable).
 - o. Personal Hygiene items, one each (brand new and unopened).
 - Shampoo
 - Conditioner
 - Deodorant
 - Bar of soap and case
 - Toothbrush and case (no caps)
 - p. No body piercing jewelry of any kind is permissible.
 - q. Hair styles including braids, plats, extensions or hair weaves, should be removed prior to being transferred to Lowell CI.

All property in excess of the specified above limits will be disposed of upon arrival at these facilities. These items shall be discarded, mailed out at inmate's expense or picked up by a family member.

I. Transported Before Release of Property

If an inmate is transported to another facility before completing an "Inmate's Permission for Property Release Form", the inmate must mail a notarized letter authorizing all of his/her remaining property be released to the designated person. This letter must give a list of the items to be released, the name, complete address and relationship of the person authorized to receive the property. *(It is the inmate's responsibility to notify the person designated to claim the property).* Mail the letter to Pinellas County Jail, Property Section, 14400 49th Street North, Clearwater FL 33762-2877.

The person designated to receive the property must present a valid photo identification (drivers license, Florida I.D. card, etc.) before any property will be released to them. The notarized authorization letter will be kept on file in the Property Section. This process must be completed within 30 days from the date of transfer to another facility.

J. Personal Property Upon Transfer to Federal Custody

- 1. Inmates may not take any property (e.g., legal materials, personal property, etc.) with them when being transferred to Federal custody.
- 2. It is the inmate's responsibility to arrange the release of his/her property utilizing the "Inmate's Permission for Property Release Form" or shipment of the property within 30 days from the date of transfer.
- 3. Items of property at Pinellas County Jail not released after 30 days from the date of transfer to Federal custody are considered abandoned and will be disposed of in accordance with agency policy.

K. Release of Money Upon Transfer

- 1. State Facility: Money will be mailed within 7-10 business days from the date of transfer.
- 2. County Facility: A check is written for cash funds on-hand at the time of transfer and given to the Transport Officer for delivery to the receiving facility.
- 3. Federal facilities: Checks are provided to the U.S. Marshal Service.

XXII. Inmate Grievance Procedures

Most grievances can be taken care of quickly and efficiently by voicing the complaint to any deputy. Inmates are encouraged to use this method before filing a formal complaint.

- A. If unable to resolve the grievance in this matter, submit an Inmate Request Form to the Shift Commander or Shift Supervisor asking for a "Request for Administrative Remedy Form." "The Request for Administrative Remedy Form" must be filed within three business days from the date of the incident, unless it is not feasible to file within such a period.
- B. The concerned supervisor will have up to five days from receipt of the complaint to act on the matter and provide a written response.
- C. If the complaint is of an emergency nature and threatens immediate health or welfare, a reply must be made no later than 48 hours of receipt of the complaint.
- D. If dissatisfied with the response given to a complaint, the inmate may file an appeal to the Bureau Commander using a Request for Administrative Remedy Form within three business days of receipt of the response. The Bureau Commander will forward a receipt and reply within five days from receipt. The appeal should be attached to the response of the original grievance.

XXIII. Religion

The Pinellas County Detention and Corrections Bureau provides inmates of all faith groups with reasonable and equitable opportunities to pursue religious beliefs and practices, within the constraints of budgetary limitations and consistent with the security and operational concerns of the facility. Because of security reasons, any inmate transferred from a state or federal institution will be required to place all religious items in property. The Bureau Chaplain must approve all religious paraphernalia to ensure it meets Pinellas County Jail criteria for safety and security. If the item(s) does not meet the criteria, the Chaplain's office will issue approved required items as available. If any religious concerns arise, contact the Chaplain utilizing an Inmate Request Form for information or guidance. The ability to attend worship or a group study conducted by a religious volunteer is contingent upon behavior. Violations will be dealt with according to established disciplinary procedures.

A. The following items are authorized, if they meet the Pinellas County Jail criteria:

1. **Rosary and prayer beads** are for praying and are not an essential need in the religious sense. Therefore, inmates may have a single rosary or string of beads of the approved breakaway style in their possession for their personal use. Inmates may not wear a rosary or prayer beads around the neck or wrist at any time. Rosary or prayer beads worn around the neck or wrist will be considered jewelry and will be taken as contraband. Inmates must keep their rosary or prayer beads in the housing unit and properly stored unless attending religious services; they are not to be taken to court. No metal beads and/or medallions are permitted. If the rosary or prayer beads are altered in any manner, they become contraband and will be confiscated.
2. **Headgear** must follow these restrictions:
 - a. **Koofi Cap** - If worn for everyday use, it must be made of white cloth that is either plain or crocheted. Inmates may wear Koofi caps only when attending the Jumah prayer service (not to and from), during the Quranic study (not to and from) and in their assigned housing area.
 - b. **Yarmulke** - If worn for everyday use, it must be made of black cloth. Inmates may wear Yarmulkes in their assigned housing area or for religious services (not to and from).
 - c. **Scarves or shawls** worn by female inmates may not be larger than 24 x 24 inches and may not cover the face. Inmates may wear these head coverings in their assigned housing area or for religious services (not to and from).
3. **Prayer rugs** - The Chaplain's Office will provide a piece of a blanket or a durable cloth to use when the inmate's faith practice requires it. This facility does not allow inmate colorful cloths or rugs designated for this practice. If one is in an inmate's possession, it will be placed in Property. Do not take towels and blankets used for bedding to the chapel or otherwise use them for prayer rugs.
4. **Bibles, Qurans or other Holy Scriptures** may be requested from the Chaplain's office and provided for use as available.

B. The following items are not authorized:

1. No inmate may possess scented oil, holy water or ashes. Chapel leaders and religious volunteers may receive authorization from the Bureau Commander to use these substances for the anointing of inmates during services or while visiting.
2. No open flame candles or battery powered candles. Only paper facsimiles are authorized.

XIV. Alternative Sentencing Programs

Assignment into an Alternative Sentencing Program is based on an inmate meeting the qualification criteria, if not prohibited by the judge at the time of sentencing. For additional information, contact the Alternative Sentencing Unit Supervisor via an Inmate Request Form.

- A. **Electronic Monitoring Program** - This program allows selected, low risk, offenders to be fitted with an ankle bracelet and monitored while completing the terms of their sentence. It provides a more positive transition back into the community and reduces the cost of incarceration to the County. Inmates must meet the qualification criteria to be considered for the program. If not eligible or, if once on the program, the inmate violates the conditions, he/she will be returned to jail to serve the remainder of the sentence on straight time.
- B. **Day Reporting Program** - This jail diversion program targets low risk, non-violent county sentenced offenders to perform community services at various governmental and non-profit agencies in Pinellas County. This is with the community service agency's approval and is in lieu of serving jail time. Inmates must meet the qualification criteria to be considered for the program. If not eligible or, if once on the program, the inmate violates the conditions, he/she will be returned to jail to serve the remainder of the sentence on straight time.

XV. Inmate Marriages

The Bureau Commander retains final authority on all inmate marriage requests. The following is a list of steps for inmates interested in the procedure for marriage while housed in the Pinellas County Jail.

- A. All inmate marriage requests will be directed to the Bureau Commander via an Inmate Request Form. Such requests will be liberally allowed. However, the Bureau Commander may deny a marriage request if there is information the marriage will cause a threat to security, order or public safety.
- B. If allowed, the petitioner must obtain a marriage license from the Clerk of Courts' office by following their license procedures.
- C. All inmate marriages shall be conducted through video visitation. Once the marriage license has been obtained, the requestor should contact the Pinellas County Jail's Video Visitation Center to make arrangements with a date and time for the marriage ceremony.
- D. The requestor must provide a Notary Public or a clergy member who can legally perform the marriage ceremony.
- E. A social worker will assist the requestor in obtaining any necessary signatures.

XVI. Reports of Sexual Abuse/Assault

The Pinellas County Sheriff's Office is committed to upholding the Eighth Amendment Rights of all detainees as required by the Prison Rape Elimination Act of 2003 (117 STAT. 972 PUBLIC LAW 108-79, September 4, 2003).

- A. Any sexual activity involving inmates, including consensual acts, is strictly prohibited and no individual has the right to pressure another to engage in sexual acts. Involvement or knowledge of such acts should be reported immediately.
- B. Following these tips will not guarantee you are not attacked, but may help decrease risk.
 1. Carry yourself in a confident manner.
 2. Remain alert and be aware of your surroundings.
 3. Avoid isolated areas whenever possible.
 4. Do not project fear or anxiety around other inmates.

5. Do not accept an offer from another inmate to be your protector.
 6. Involve yourself in positive activities (educational, self-help, religious programs, etc.)
 7. Trust your instincts; if you feel unsafe, voice concerns to a staff member.
- C. Violations of sexual abuse and/or sexual assault will be investigated and prosecuted to the fullest extent of the law, including administrative sanctions and/or criminal prosecution.
 - D. Reporting – Any incidence of sexual abuse or sexual assault while in custody should be reported immediately. A report of sexual assault can be made directly to a staff member or via an Inmate Request Form; to speak with a detention supervisor, chaplain or social worker or, use a Form 82 to speak with healthcare staff.
 - E. Confidentiality - If an inmate reports sexual abuse or assault, confidentiality will be maintained with regard to all information obtained during the course of the investigation. Only those with a legitimate "need to know" will be provided facts for investigation and prevention purposes.
 - F. Protecting the Victim – Every effort will be made to protect the victim from further harm. If he/she cannot, or will not identify the individual(s) involved in the sexual assault, he/she does not give up the right to receive protection from the assailant(s).
 - G. Medical Assistance - Sexual abuse/assault victims will be evaluated and provided medical treatment and follow-up care, as appropriate.
 - H. Counseling - Most people need help recovering from the emotional effects of a sexual assault. A qualified mental health professional will provide crisis intervention counseling and coping skills and will monitor for the necessity of long term support. Any inmate at risk for, or having a history of victimization or sexually aggressive behavior, and is interested in self-initiated counseling may contact any staff member or complete an Inmate Request Form.
 - I. False Accusations - Pursuant to Florida Statute, it is unlawful to falsely accuse any person of sexual assault/rape and is punishable by law.

XVII. Release Preparation

Upon Release From:

- A. **Housing Area** – Gather all belongings when called for release. Inmates are responsible to remove all of his/her belongings, personal as well as jail issued. The released inmate will be taken to a dress-out area and his/her property will be returned; money will be returned at a separate location.
- B. **Court** – If an inmate goes to advisory court and is released by the judge, he/she will return to their assigned housing area to gather belongings and wait for the Inmate Records Section to complete the proper clearance of paperwork. This process could take several hours. To be eligible for the "release from court" process, the "Application for Release Pending Not Guilty Verdict" form must be completed. This form will be sent to Inmate Records for processing prior to your court date. When a judge has ordered the release at the conclusion of the court proceeding, the bailiff will initiate the release process. Upon approval and proper clearance for release, the bailiff will affect the release from the court room. **EXCEPTION:** If the inmate is in jail-issued clothing, he/she will return for normal release procedures.
- C. Social workers are available to discuss pertinent outside agency admission criteria and referral procedures for inmates upon release.
- D. Helpline Information and Referral Telephone (24 hours a day, 7 days a week): 211 (Tampa Bay Cares, Inc.) provides information regarding housing, shelter and many other services for released offenders.
- E. In accordance with Florida Statutes, a released inmate may be required to provide a DNA sample prior to release from jail.

TRULINCS 53913018 - SWITLYK, CHRISTOPHER - Unit; EST-A-A

FROM: 53913018
TO: May, Lucas
SUBJECT: question about 10 day timeframe
DATE: 03/26/2014 09:18:20 PM

FILED
2014 APR 10 AM 11 20
DIVISION OF
ADMINISTRATIVE
HEARINGS

Mr May,

I need some clarification about the 10 days Judge Johnston gave me to submit my exhibits.

Is it 10 days from today? (Which would be April 5th.)

Or does he mean 10 mailing days?

Also, since they do not mail documents out Friday, Saturday and Sunday here only Monday, Tuesday, Wednesday and Thursday would count as mailing days for me. (Then that would come to April 14th.)

And do I need to have it in the mail within 10 mailing days?

Meaning that as long as it is post-marked within 10 days will that be fine?

Or do these documents actually have to get to him and you within 10 days of today?

The reason I am asking about this deadline is because the Prison Commissary store is closed until next Tuesday.

It closes for a week only twice a year to take inventory and this week happens to be an inventory week so they are closed all week. Thus, I am unable to buy copy cards to make copies of everything I need to send until next Tuesday at the earliest.

This Tuesday I will buy at least 4 or 5 copy cards so I can make copies of the exhibits I want to submit within 10 days to you and Judge Johnston. However, sometimes the Commissary Store doesn't even have these copy cards in stock so please keep that in mind. If I am able to buy the copy cards on Tuesday I will be able to mail the documents which I actually have copies of here out on Wednesday afternoon. Then they may reach both of you by that Saturday, which is April 5th, but possibly not until that following Monday, which is April 7th. Thus, please clarify the 10 day timeframe for me when you get a chance. I will print out this email and mail a copy of it to you, and to Judge Johnston as well.

Also, since I was not expecting this hearing to be conducted today since I thought that my Motion to Postpone would be granted I was not prepared to testify or come up with exhibits to submit for my case. I had to literally do it all off the top of my head, which Ms Carlson will be able to verify since she was sitting across from me during our entire conversation. Thus, I would like to also ask to submit as an exhibit a list of all of the cooperation I did with the government throughout my case, which I feel should be taken into account as a mitigating factor for this case.

Also, and I mentioned this during the deposition of Mr Salem, I would also like to submit evidence of me being blackmailed and extorted during the alleged conspiracy. I have emails and pictures of text messages, (which the government also has), that show that one of my co-conspirators actually tried to hire someone to kill me, and was also extorting me during the alleged conspiracy. I believe this is very relevant to this case and this is also part of my criminal appeal, and will likely be brought up whenever I get back to court for it.

Also, and I know I touched on my excessive drinking during the timeframe of when my case arose from, but after our phone call I thought about it and I wish I had put more emphasis on it, because it really did severely affect my judgment back then, and my poor decision making. It was a big contributing factor to what happened, and if I wasn't drinking so much everyday and night back then, and tending to my responsibility of owning a pharmacy like I should have more, and actually physically being there instead of letting people I obviously put too much trust into running it for me, all of this would not have happened, and I wouldn't be sitting here in prison writing you this email and fighting for just a chance to get my license back after this nightmare is all over. I did not even start drinking excessively until late 2008, and it kind of just spiraled out of control, and got worse and worse. For the majority of the time I owned that pharmacy I did not have my priorities in order and I am the first to admit that I screwed up royally back then. However, I have gotten far more blame placed on me for things I didn't even know about happening in my criminal case, which I will hopefully be able to address when I get back in front of a judge for my appeal.

I wish I could relay all the facts of what really happened when I owned that pharmacy to you and Judge Johnston, but it is literally impossible for me to do that with me being in here, especially without all of the video evidence I have showing what really went on. I just really think it is unfair for the Department of Health to want to take my license forever when the suspension range is 1 year probation up to revocation. If you even know the beginning of how much I have already been punished for this alleged conspiracy you would probably understand how I feel. Thank you for your understanding in this matter.

Sincerely,

-Chris Switlyk

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

DEPARTMENT OF HEALTH,

Petitioner,

v.

DOAH CASE NO.: 14-0883PL

DOH CASE NO.: 2011-20634

CHRISTOPHER SWITLYK, R.Ph.,

Respondent.

**PETITIONER'S NOTICE OF FILING OBJECTIONS TO RESPONDENT'S
FILING OF MOTION TO VACATE, SET ASIDE, OR CORRECT SENTENCE**

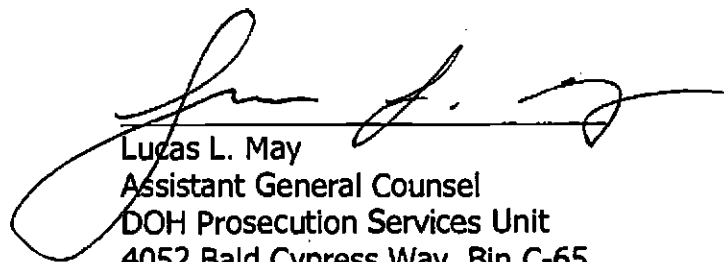
Petitioner, Department of Health, by and through the undersigned counsel, files this Notice of Filing Objections to Respondent's Filing of Motion to Vacate, Set Aside, or Correct Sentence, and states:

1. Petitioner has not received Respondent's proposed exhibits 1, 2, 3, 4, 5, 7, or 8. To the extent Respondent offers exhibits for admission into evidence, Petitioner reserves the right to raise objections at that time.
2. Petitioner objects to Respondent's Motion to Vacate, Set Aside or Correct Sentence, pursuant to Title 28 U.S.C. § 2255 on the following bases:
 - a. Respondent's Motion contains hearsay. Respondent includes statements allegedly made by his attorneys and other individuals. These statements were made out-of-court and are offered by Respondent to prove the truth of the matter asserted. No exceptions are applicable and therefore the Motion should be excluded from evidence. *Fla. Stat. § 90.802.*

b. Respondent's Motion is not relevant to the current proceeding. The current proceeding concerns whether Respondent entered guilty pleas as described in Petitioner's Amended Administrative Complaint. Respondent's Motion does not deny the entering and acceptance of guilty pleas. Furthermore, any requested relief is speculative and therefore not relevant to the current proceeding.

Fla. Stat. § 90.401.

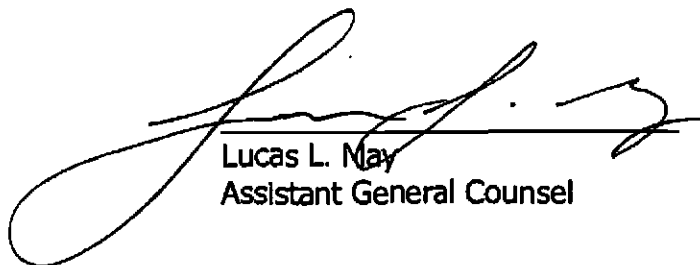
Respectfully submitted,



Lucas L. May
Assistant General Counsel
DOH Prosecution Services Unit
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Florida Bar No.: 0102747
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the forgoing Notice of Filing Late Exhibit has been furnished this 9 Day of April, 2014 to Respondent, Christopher Switlyk, Register # 53913-018, FCI Estill, Post Office Box 699, Estill, South Carolina, 29918-0699 by postage-paid U.S. Mail.



Lucas L. May
Assistant General Counsel

IN THE UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF FLORIDA

FILED

2014 MAR 31 AM 11 34

UNITED STATES OF AMERICA
DIVISION OF
ADMINISTRATIVE
HEARINGS

v.

CASE NO: 8:10-CR-530-T-33AEP

CHRISTOPHER SWITLYK

MOTION TO VACATE, SET ASIDE, OR CORRECT SENTENCE

COMES NOW, the Defendant, CHRISTOPHER SWITLYK, proceeding on his own behalf, and pursuant to 28 United States Code 2255, and hereby requests this Honorable Court to issue an Order setting aside the judgement and sentence of conviction and as grounds therefore would state the following:

I. CONTENTS OF MOTION

Pursuant to 18 United States Code 2255 the instant motion includes the following:

- 1) The undersigned is attacking the judgment and sentence rendered on February 21, 2013.
- 2) There has been no appeal taken attacking the legality of the judgment and sentence.
- 3) There have been no previous Motions for Post-Conviction Relief.
- 4) The undersigned is seeking to vacate the judgement and sentence as a result of ineffective assistance of counsel.
- 5) This motion is filed timely.

II. SUMMARY OF THE CASE / FACTS

- 1) The defendant was one of many defendants charged in this alleged conspiracy. Some of these defendants were included in his indictment and others were indicted separately. These include: Louis Fernandez Jr, Louis Fernandez III, Kimberly Curtiss, Marco Beltran, Brian Weiler, Dr Ronald Heromin, Dr John Lanning, Dr James Shelburne, and Retsidistwe Griffith.
- 2) The defendant had been represented by several attorneys throughout the process, including (in order): Dirk Weed, Todd Foster, Gregory Kehoe, Steven Crawford, and Jeffrey Brown.

III. PROCEDURAL HISTORY

- 1) On 05/20/2010, a search warrant was executed on the defendant's pharmacy, VIP Pharmacy, and a pain clinic belonging to his co-defendants, Tampa Wellness Centre, and the defendant was subsequently arrested on a state charge.
- 2) On 05/20/2010 & 05/21/2010, the defendant was represented by attorney Dirk Weed, who convinced him to immediately start cooperating with the government, and do whatever the agents wanted him to do. This included having the defendant voluntarily close his pharmacy, voluntarily turn over all of his prescription medications worth about 1 million dollars, and voluntarily turn over all of his money (several million dollars in cash and in his bank accounts).
- 3) On 05/24/2010, the defendant met with attorney Todd Foster, who began to represent him, and represented the defendant through the following 17 months.

- 4) On 11/03/2010, another pain clinic was raided which belonged to co-defendants of the defendant, Superior Injury Center, and Beltran and Curtiss were arrested on state charges.
- 5) On 12/14/2010, an Indictment was returned charging the defendant, inter alia, Count One, conspiring to possess a controlled substance with the intent to distribute.
- 6) On 12/16/2010, the defendant was notified of his indictment and arrest warrant. The defendant immediately voluntarily surrendered himself to the U.S. Marshals, and was granted release pending trial by Judge Pizzo.
- 7) On 10/21/2011, attorney Greg Kehoe filed a notice of appearance and began representing the defendant.
- 8) On 12/28/2011, attorney Greg Kehoe filed a Motion to Withdraw from the defendant's case due to the government threatening to seize his fees the defendant was paying him.
- 9) On 01/13/2012, the Motion to Withdraw was conducted before Judge Porcelli, who offered to court-appoint Kehoe so he could continue to represent the defendant. Kehoe refused to accept the court's offer and the defendant was forced to hire other legal counsel.
- 10) On 01/19/2012, a Conflict Hearing was held before Judge McCoun to discuss the Conflicts of Interest of the defendant's previous attorney, Todd Foster, who represented him for 17 months. These conflicts included Foster's representation of the defendant, Heromin (see Case No: 8:11-cr-550-T-33TBM), and Griffith (see Case No: 8:11-cr-323-T-17TBM).
- 11) On 02/06/2012, attorney Steve Crawford filed a notice of appearance and began representing the defendant.

- 12) On 05/01/2012, the defendant's bond was revoked while being represented by Crawford.
- 13) On 05/16/2012, a Bond Revocation hearing was conducted before Judge Pizzo, which resulted in detention of the defendant.
- 14) On 06/06/2012, attorney Jeff Brown filed a notice of appearance and began representing the defendant.
- 15) On 06/18/2012, Brown filed an Emergency Motion for Order to Show Cause why the defendant should not be returned to the general population of the jail.
- 16) On 06/28/2012, Judge Porcelli granted the Motion for Order to Show Cause why the defendant should not be returned to the general population of the jail. A Miscellaneous Hearing on this matter was scheduled for 07/06/2012.
- 17) On 07/05/2012, the Miscellaneous Hearing was canceled as the issues were resolved on this date, and the defendant was finally able to communicate with his new attorney (Brown), and was able to actually start having meetings with Brown about his case instead of about his housing conditions.
- 18) On 08/31/2012, Judge Covington denied the Joint Motion to Continue Trial for the defendant.
- 19) On 09/05/2012, the defendant plead guilty to the Indictment while he was represented by Brown.
- 20) On 01/19/2012, Judge Covington sentenced the defendant's codefendants as follows: Fernandez Jr to 24 months, Fernandez III to 63 months, Curtiss to 48 months, and Beltran to 188 months.
- 21) On 02/11/2013, Judge Covington denied the Joint Motion to Continue Sentencing for the defendant.

22) On 02/21/2013, Judge Covington sentenced the defendant to 108 months while being represented by Brown. Immediately after the defendant's sentencing hearing, AUSA Peluso and Brown had an "off the record discussion" with Judge Covington at her bench about the conflicts of the defendant's previous attorney, Todd Foster, having severe negative impacts on the defendant throughout his case.

23) On 09/26/2013, a Motion for Forfeiture of a Preliminary Order for Substitute Assets was filed by the government, regarding 62 1-ounce gold Kruggerand coins which belonged to the defendant, worth approximately \$87,804.40 at the time, which had been seized by the DEA earlier that month.

24) On 11/26/2013, a Motion for Final Judgement of Forfeiture for Substitute Assets regarding the defendants gold coins was filed by the government, and granted by Judge Covington.

IV. NATURE OF RELIEF SOUGHT

The nature of the relief sought is to allow the defendant to withdraw his plea, and to set aside and vacate the judgments in the case at issue herein, based on the fact that the defendant's counsels rendered ineffective assistance of counsel; or in the alternative, to be resentenced while the Court takes into consideration all of the issues raised in this motion, which in combination likely contributed to the defendant receiving a much longer sentence than he would have received had none of these issues transpired.

V. MEMORANDUM OF LAW

In *Strickland v. Washington*, 466 U.S. 688, 104 S.Ct 2052, 80 L.Ed 2d 674 (1984), the United States Supreme Court defined two requirements for a claim of ineffective assistance of counsel. *Id.* at 687, 104 S. Ct at 2064. First, the defendant must show that counsel's performance was deficient. *Id.* This requires showing that counsel made errors so serious that counsel was not functioning as the "counsel" guaranteed to the defendant by the Sixth Amendment. *Id.* Second, the defendant must show the deficient performance prejudiced the defense. *Id.* Therefore, the first prong of this test requires that the defendant show counsel's performance "fell below an objective standard of reasonableness." *Id.* at 688, 104 S.Ct at 2065.

Under the second prong of *Strickland*, the defendant must show that the deficient performance prejudiced by the defense. This requires showing that counsel's errors were so serious as to deprive the defendant of a fair trial, a trial whose result is reliable.

The Sixth Amendment's right to counsel exists to ensure a fair trial, and counsel's function is to make the adversarial process work in that particular case. "The benchmark for judging claims of ineffectiveness ... is whether the conduct of counsel 'so undermined the proper functioning of the adversarial process that the trial cannot be relied on as having produced a just result.'" *Strickland*, 466 U.S. at 686, 104 S.Ct 2052. An attorney's performance must be reasonable under the prevailing professional norms,

considering all of the circumstances, and viewed from the attorney's perspective at the time of trial. Id. A defendant must meet both parts of the test, performance and prejudice, in order to obtain post-conviction relief. To establish prejudice, the defendant must show "that there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different."

Strickland, 466 U.S. at 104 S.Ct. 2052. "The concern of the court evaluating an ineffectiveness claim should be whether the result of a particular proceeding is unreliable because of a breakdown in the adversarial process." Id.

VI. GROUNDS FOR RELIEF

GROUND 1: AN ACTUAL CONFLICT OF INTEREST DENIED THE DEFENDANT HIS SIXTH AMENDMENT RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL.

SUPPORTING FACTS FOR GROUND 1:

The defendant attests that his counsel Todd Foster labored under an actual conflict of interest which adversely affected his performance during the plea and cooperation process of his case during the entire seventeen (17) months he represented the defendant (05/24/2010 to 10/20/2011). Todd Foster rendered ineffective assistance of counsel throughout his representation by blatantly ignoring multiple conflicts he had with representing Dr Ronald Heromin, Nirav Patel, Brian Weiler, and later Retsidistwe Griffith, while also representing the defendant, which severely prevented him from any opportunities for timely cooperation against those individuals, as well as others.

Despite knowing that the defendant had actually sent three of his firm's other clients to them, namely Heromin, Patel and Weiler, Foster assured the defendant that these conflicts would not have any negative impact on his representation of the defendant. Foster took over the defendant's case in late May of 2010, and despite him immediately expressing his desire to cooperate, Foster did not bring the defendant to proffer until August of 2010. At the start of the defendant's initial proffer, Foster told the government that he did not want the defendant to discuss his

other client, Heromin, because of a conflict of interest, which the government expressed concerns with at that point. More importantly, Heromin was listed as Confidential Witness #7 in the affidavit in support of the defendant's search warrant and arrest. In fact, Heromin, while represented by Foster, proffered incriminating information against the defendant, but Foster subsequently still agreed to represent the defendant after his arrest.

Also, during the defendant's initial proffer, Agent Shearer stated that they "could spend a whole day just talking about Nick (Nirav) Patel, and his pharmacies" since the defendant "worked for Nick longer than anyone else has and was good friends with him." The defendant had a significant amount of incriminating information about Patel (as well as Heromin), which was relevant and current at the time, but was not allowed to share any of it with the government at his initial proffer and throughout Foster's representation. When the defendant was asked to talk about Patel at his initial proffer, Foster interceded and indicated that the defendant would not be allowed to talk about Patel either because he was also a client of his firm, to which Agent Shearer replied, "That's unfortunate for Chris, because that could really hurt him." After his initial proffer, the defendant questioned Foster about the government's concerns over his apparent conflicts, and how they could "hurt him", to which Foster told him to "not worry about it", and that the government was just mad about the defendant now having an attorney that wouldn't let them "push him around anymore" like Weed let them do when he represented him.

On top of Foster's conflicts severely hindering the defendant's ability to cooperate, Foster also prevented the defendant from directly communicating with any government agents, officials, detectives, and prosecutors, which also compounded this problem. Then the fact that, instead of Foster trying to secure as much credit as possible for all of the money the defendant had voluntarily turned over for "extraordinary acceptance of responsibility" (as a 5K2.0), or for "substantial assistance" (as a 5K1.1), which is what the defendant continually asked him to do, Foster spent the vast majority of the time he represented the defendant improperly aggressively fighting the government to return the defendant's money to Foster's firm since he was entitled to keep 40% of it, with the other 60% going towards the unpaid portion of his fee. Thus, Foster created another conflict of interest due to the significant financial incentives he gave himself in the second page of the engagement contract he drew up detailing the terms of his representation of the defendant for his criminal case. These terms pertaining to the recovery of the defendant's money from the government, which Foster insisted on having in the defendant's engagement agreement, motivated Foster to put recovering the defendant's money in front of any of his best interests throughout Foster's representation of the defendant.

The combination of these 3 factors created a barrier between the defendant and the DEA agents, which severely prevented him from being able to earn substantial assistance through cooperation efforts which would have been available to the defendant while he was out on bond. These included, but

were not limited to, the defendant being able to make controlled sales and buys, cooperation against the individuals Foster's conflicts excluded him from, and cooperation against other individuals and businesses which the defendant had current and relevant incriminating information about during this timeframe. Had Foster not had these conflicts, and had not prevented the defendant from communicating directly with the government, and had not aggressively fought the same people who the defendant wanted to cooperate with to return the defendant's money, there is a reasonable probability that the outcome of the defendant's sentencing hearing would have been different.

In Summary, the defendant asserts the following errors were committed by defense counsel Todd Foster during the 17 months he represented him (05/24/10 to 10/20/11), in support of Ground 1:

- 1) blatantly ignoring multiple conflicts he had with representing the defendant, Heromin, Patel, Weiler, and later Griffith, which severely prevented the defendant from benefiting from timely cooperation against those individuals and others
- 2) improperly preventing the defendant from directly communicating with any government agents, officials, detectives, and prosecutors, which prevented the defendant from pursuing numerous cooperation matters
- 3) instead of securing as much credit as possible for all of the money the defendant had voluntarily turned over for "extraordinary acceptance of responsibility" (5K2.0), or for "substantial assistance" (5K1.1), which is what the defendant continually asked him to do, Foster spent the vast majority of the time he represented the defendant improperly fighting the government to return his money due to Foster's own financial interest in it

These 3 factors in combination severely prevented the defendant from earning significant substantial assistance during Foster's representation, as well as the subsequent issues concerning Foster raised in Ground 2.

GROUND 2: THE DEFENDANT WAS DENIED HIS SIXTH AMENDMENT RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL DURING THE PLEA AND COOPERATION PROCESS.

SUPPORTING FACTS FOR GROUND 2:

The defendant attests that his counsel Todd Foster was ineffective for improperly advising him to assist with another pharmacy, as well as for advising him to protect his girlfriend at the time, Tiffany Phan, and misadvising him not to report her criminal activities. As soon as Foster took over the defendant's case, he was very upset that the defendant had just voluntarily turned over absolutely everything he had to the government, and he immediately advised the defendant to reopen his pain management clinic, Tampa Total Health, as well as to assist in the opening and operations of additional independent retail pharmacies. Foster told the defendant that he needed to make as much money as he could, as quickly as he could, in order to pay off his substantial \$750,000.00 fee for representing him, and that this was the only conceivable way that he would be able to do that. Despite the defendant voicing his concerns to Foster about potential risks of still being involved in these types of businesses while being out on bond for charges related to his old pharmacy, Foster assured the defendant, Phan and Norman Clement, that he saw absolutely no way that the defendant could possibly suffer from any negative consequences from remaining in that field of business in order to make money to pay his legal bills and for the living expenses of

him and Phan.

Foster even had extensive discussions with Norman Clement, the owner of Pronto Pharmacy, during which he expressed his legal opinions on this matter, telling him the same things he told the defendant and Phan. Foster also personally called attorney Bruce Lamb, and sent the defendant to his firm, Ruden McClosky, in order for him to get a contract drawn up to secure the defendant's financial interest in Pronto Pharmacy (which he was charged \$5,000.00 for). Foster even told the defendant that it would help his pending case if he remained involved in these types of businesses because "it would open up endless avenues of cooperation for him by staying in the loop." Not only did the defendant not receive a single benefit in his case from continuing to work in this field, but it did the exact opposite, and caused the defendant severe negative consequences, even though he never did anything illegal while he was out on bond, especially related to those businesses. The defendant was only trying to legally earn money to pay for his massive legal fees since he had voluntarily turned over absolutely everything he had to the government, which is what they wanted him to do, and also because the government seized \$400,000.00 the defendant had in an escrow account at a title company which the agents had initially promised him and Dirk Weed that they would let him keep for living expenses and legal fees while his case was in progress.

At the defendant's initial August 2010 proffer, the government was unhappy that his pain management clinic was back open, and they were not willing to consider using it in

any cooperation matters whatsoever. Also related to this matter, from the start of his representation of the defendant, and throughout it, Foster improperly advised him to protect Phan because he knew that she was the one who was running his pain clinic, and then later Pronto Pharmacy. Thus, also during the defendant's initial proffer meeting with the government, when they asked him for incriminating information about Phan, Foster prevented him from discussing any of her criminal activities which were known to him. Foster even strongly recommended that the defendant hire Phan an attorney (Timothy Taylor), in order to protect her to make sure that she would not be indicted for her role in the alleged conspiracy. Foster continually advised the defendant to protect Phan however he could because Foster was protecting the sources of how his fees were being paid, despite that his advice on the matter was against the defendant's best interests.

Following Foster's advice on becoming involved with Pronto Pharmacy, and also on protecting Phan, ultimately caused the defendant severe negative consequences. Phan later became a Confidential Witness against the defendant and the information that she provided to the government concerning Pronto Pharmacy was used to file a new Criminal Complaint against him. Had Foster not insisted that the defendant protect Phan, she would have never had the chance to later cooperate against him. Soon after the government found out that the defendant was involved with another pharmacy, it angered them to the point of permanently revoking his bond on May 1, 2012. The defendant alone, was arrested and charged

with a criminal complaint on that date for assisting with a pharmacy, which his friend owned, which was actually ran by Phan, which he would have never even become involved with, if it was not for Foster's awful advice concerning this matter.

A subsequent attorney of the defendant, Steve Crawford, compounded this problem for the defendant, which was created as a result of him following Foster's awful advice. The defendant made it very clear to Crawford since the very first time he met with him on January 26, 2012, that the top priority in his case was for Crawford to immediately secure a meeting for the defendant with the government so he had the chance to clear up any misconceptions that they had about his involvement with Pronto Pharmacy. Crawford assured the defendant that he would immediately get him a meeting with the government to do this, as well as to finally get the defendant on track to participate in numerous cooperation matters, which he had been prevented from pursuing while Foster represented him.

Instead of immediately focusing on arranging a meeting with the government for the defendant, Crawford first spoke with Norman Clement, the owner of Pronto Pharmacy, and even sent a Private Investigator, Kevin Kawlary, there to ensure that the business was being legally operated. Crawford then improperly advised the defendant that there was nothing wrong with him being involved with Pronto Pharmacy, and with him physically being there to train the new pharmacy technician who took over for Phan, instead of telling the defendant to steer clear of the place, at least until after he and the defendant met with the government. Despite the defendant's

repeated requests for Crawford to please bring him in to meet with the government, he refused to do this, and actually prevented him from ever meeting with them while he represented the defendant.

Then, despite being warned by AUSA Peluso that if he did not bring the defendant in to meet with her "that week" (the last week of April of 2012), that she would be "filing something" against him, Crawford blatantly ignored her warning and never let the defendant know about it. Instead of Crawford doing what the defendant had asked him to do since first meeting with him on January 26, 2012, Crawford actually canceled a pre-set proffer meeting and told the defendant that Peluso was the one who pushed it back again. The entire time Crawford represented the defendant, even after he paid Crawford his requested \$50,000.00 fee in full in early February of 2012, he never did any of the things the defendant actually hired him to do. Crawford promised the defendant that he would immediately help him resolve the government's issues regarding Pronto Pharmacy, become completely familiar with his case, make significant positive progress in the plea and cooperation process of it, and set up multiple cooperation meetings with the government for him. Instead of promptly addressing any of those important matters for the defendant, Crawford chose to focus on rehashing the excessive billing by the defendant's previous 2 attorneys, and even insisted that he write letters to send them demanding refunds from them. The defendant made Crawford well aware that his bond was in jeopardy before he even took over his case, but Crawford did nothing to try to remedy the problem, and instead made it

worse, and actually provoked the government to file a new criminal complaint against him and permanently revoke his bond. Then as soon as the defendant's bond was revoked, Crawford wanted the defendant to pay him an additional \$150,000.00 to represent him for the new criminal complaint, after the defendant had paid him \$50,000.000 to handle his original case which was much more complex.

Once the defendant's bond was revoked it was obviously much harder for him to get back into cooperation mode with the government and his relationship with them was severely damaged by this whole situation. Even after the defendant's subsequent attorney was able to get him to agree to plead guilty, and he was allowed to cooperate with the government again, it was a million times harder for him to be able to effectively and efficiently cooperate with them than if he were out on bond. This included the defendant's ability to make controlled sales and buys, his ability to help the government make numerous cases from further being able to review the 5 months worth of his VIP Pharmacy surveillance footage, his ability to help make cases through numerous contacts and current information he knew at the time, his ability to effectively and efficiently work on numerous projects showing the massive amount of illegal activities which were conducted at Patel's pharmacies, and his ability to work on the project AUSA Peluso assigned to him for the government's case against Heromin (which he was never able to finish), among many other cooperation matters the defendant could have participated in if he was allowed to fully cooperate with the government while he was actually out on

bond. The defendant's cooperation possibilities were severely restricted by his incarceration, which occurred as a result of the defendant following Foster's awful advice, and then Crawford doing nothing to try to remedy the situation when he had the chance to do so. Numerous levels of cooperation credit as a 5K1.1 were lost as a direct result of this issue, ultimately causing the defendant's sentence to be much longer than it should be if it never happened. Thus, there is a reasonable probability that the outcome of the defendant's sentencing hearing would have been different if these issues had not transpired.

In Summary, the defendant asserts the following errors were committed during his representation by defense counsels, Todd Foster and Steve Crawford, in support of Ground 2:

Todd Foster rendered ineffective assistance of counsel during the 17 months (05/24/10 to 10/20/11) he represented the defendant by:

- 1) improperly advising the defendant to reopen his pain management clinic, Tampa Total Health, and to becoming involved with the opening and operations of additional independent pharmacies, namely Pronto Pharmacy, in order to pay for his excessive fee of \$750,000.00; the defendant's involvement with Pronto Pharmacy eventually led to the revocation of his pre-trial release on May 1, 2012
- 2) improperly advising the defendant to protect Tiffany Phan, who the government wanted incriminating information on during his initial proffer, which he knew, but instead Foster told the defendant to protect Phan because she was the key to helping run his clinic, and later Pronto Pharmacy, and even instructed the defendant to pay for an attorney (Timothy Taylor) to represent Phan to make sure that she would not be indicted; (Phan later became a CW against the defendant and was the main contributor to the government's Criminal Complaint they used to revoke his bond on 05/01/2012.)

Steve Crawford rendered ineffective assistance of counsel during the 4 months (02/06/12 to 06/05/12) he represented the defendant by:

- 1) preventing the defendant from meeting with the government to resolve their outstanding issues and misconceptions about his involvement with Pronto Pharmacy throughout his representation
- 2) improperly advising the defendant that it was perfectly fine for him to be involved with Pronto Pharmacy and for him to physically be there to train the new employee who replaced Phan
- 3) blatantly ignoring clear warnings from AUSA Peluso that if he did not bring the defendant in to meet with her in late April of 2012, that she would be filing something, which resulted in the defendant's bond being permanently revoked

GROUND 3: THE DEFENDANT WAS DENIED HIS SIXTH AMENDMENT RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL DURING THE SENTENCING PROCESS.

SUPPORTING FACTS FOR GROUND 3:

The defendant attests that Jeff Brown was ineffective during his sentencing by allowing it to start at least 20 minutes early, before the arrival of 3 government agents, who would have testified on his behalf if Brown had waited to start the hearing on time, and had prepared them to testify. The defendant requested Brown to contact the 3 agents who agreed to come to his sentencing to discuss possible beneficial testimony that they would have offered during the defendant's sentencing hearing, but Brown declined to do so. The defendant also asked Brown to contact other government officials that he had also worked with on other cases for the same purpose, but Brown had also declined to do this as well.

On the afternoon of the defendant's sentencing hearing, he told Brown that he was able to contact 3 government agents on his own (HHS Agent Brian Harris, OIG Agent Peter Martinez & TPD Narcotics Detective Vincent Leto), who agreed to come to it, and at the time were willing to talk to AUSA Peluso, Agent Shearer and Judge Covington on the defendant's behalf. All 3 of these agents would have said positive things about the defendant if they were given the chance to do so, and they even wanted to address the issue of his bond possibly being reinstated. They knew that Judge Covington had allowed 3 co-defendants of the defendant who

were sentenced the previous month to remain out on bond because they were still cooperating with the government on pending cases. Thus, not only did the 3 government agents intend to positively contribute to the defendant's sentencing hearing, but they also wanted to request that his bond be reinstated so that he could further assist them with their respective cases.

The defendant begged Brown to please delay the start of his sentencing hearing until after the 3 government agents had time to arrive and talk to Brown, Peluso and Shearer. However, Brown declined to ask the court for a brief recess and started the defendant's sentencing hearing at least 20 minutes earlier than it was scheduled to start, right after Carroll Delo, Jane, Delo, Jeanne Bush and Dr Jennifer Levine arrived, but none of the government agents who could have been crucial to the defendant's sentencing hearing had arrived yet.

Brown told the defendant that since he did not have the chance to talk to any of the agents about coming to the defendant's sentencing hearing himself, and since they were not there at least 20 minutes before it was scheduled to start at 3:00PM, he told the defendant that he did not think they were coming. Even so, the defendant asked Brown to please just wait to start his sentencing hearing until at least the scheduled start time of 3:00PM to see if they would show up by then, because the defendant did not want them to walk in during the middle or the end of it, without getting a proper chance to positively contribute to it, which is EXACTLY what happened, when they all arrived at 3:00PM. If Judge Covington had the chance to hear testimony from those 3 government

agents (as well as others), related to how much the defendant had been assisting them with their cases, it could have reasonably convinced her to agree to authorize levels off under U.S.S.G. 5K1.1 for all of the cooperation he had done up to that point. Thus, there is a reasonable probability that the outcome of the defendant's sentencing hearing would have been different if this issue had not transpired.

In Summary, the defendant asserts the following errors were committed by defense counsel Jeff Brown during the 9 months he represented him (06/06/12 to 03/15/13), particularly prior to and during his 02/21/2013 sentencing hearing, in support of Ground 3:

1) refusing to contact the 3 government agents who planned to come to the defendant's sentencing hearing in order to prepare them to positively contribute to it, as well as refusing to contact several other government agents and prosecutors which the defendant worked with, who could have positively contributed to his sentencing hearing, despite the defendant requesting him to do this

2) failing to delay the start of the defendant's sentencing hearing until after the 3 government agents who were coming on his behalf arrived, preventing them from having any chance of being able to speak with Brown and AUSA Peluso before it began

3) allowing the defendant's sentencing hearing to start at least 20 minutes early, before the 3 government agents even arrived, and since Brown never spoke with any of them about testifying during it, he never called any of them to testify when they finally did arrive, on time at 3:00PM. By that time, the defendant's sentencing hearing was nearly finished.

GROUND 4: THE DEFENDANT WAS DENIED HIS SIXTH AMENDMENT RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL DURING THE SENTENCING PROCESS.

SUPPORTING FACTS FOR GROUND 4:

The defendant attests that Jeff Brown was ineffective for failing to request the government to move for a sentence reduction under U.S.S.G. 5K1.1 and Fed.R.Crim.P. 35(b) due to his enormous amount of cooperation, as well as failing to request the government to move for a sentence reduction under U.S.S.G. 5K2.0 for everything the defendant had voluntarily turned over. Brown falsely represented to the defendant that he would definitely be getting a 5K1.1 motion for all of the cooperation he had worked on up to the day of his sentencing hearing, and estimated that the amount of levels off for it to be between 4 to 8 levels, on top of an additional 7 to 12 levels off for everything the defendant had voluntarily turned over to the government as a 5K2.0 motion. Brown went over all of the cooperation matters with the defendant which he had worked on while he was out on bond, as well as while he was in custody. Brown had the defendant type up a list and a chart detailing all of his cooperation meetings, cooperation efforts, cooperation projects, as well as cooperation which he was still working with the government on. Brown reviewed the documentation summarizing all of the defendant's cooperation with him and submitted it to AUSA Peluso only a few days before the defendant was scheduled to be sentenced.

Despite Brown waiting so long to secure credit for all

of the cooperation the defendant had done up to that point, all the way up to the day before his sentencing was scheduled to take place, Brown assured the defendant that he would be getting at least 4 levels off for it all, despite that several of the cases he was cooperating on were still pending. A joint motion to delay the defendant's sentencing hearing was filed because the trials for 2 of the cases the defendant was told he would participate in were delayed, but Judge Covington denied this motion to postpone the defendant's sentencing date. Thus, Brown told the defendant that on top of the cooperation credit he would get at his sentencing hearing as a 5K1.1 motion, that he would also get additional cooperation credit as a Rule-35 motion for each case he testifies at after he is sentenced. During the 7 months before the defendant was sentenced, Brown assured the defendant that he would represent him for any Rule-35 motions or other related matters after he was sentenced, "up until the day the defendant was to get out of jail or prison". Brown repeatedly told the defendant that his representation for those post-sentencing matters would be included in the substantial fee the defendant had already paid him in early June of 2012, especially since his sentencing hearing was occurring much earlier than Brown had initially thought it would.

Brown also assured the defendant that he would be getting at least 7 levels off his sentencing offense level as a 5K2.0 motion for "extraordinary acceptance of responsibility" because the defendant had voluntarily turned over absolutely all of his money, his medications, his pharmacy's DEA license, and voluntarily closed his pharmacy,

all at the earliest available opportunity he had in the government's investigation. The defendant went through extensive records with Brown showing that he had legally earned nearly all of the money which he had voluntarily turned over to the government and allowed them to keep as part of his plea bargain. Brown also told the defendant that he had been in contact with Dirk Weed, who was the attorney who represented the defendant on 05/20/10 & 05/21/10, who advised and assisted the defendant with voluntarily turning over absolutely everything he had to the government. Brown told the defendant that Weed had confirmed the promises the DEA agents made to the defendant in his presence in exchange for him agreeing to voluntarily turn everything over to them, and that he planned to have Weed come to the defendant's sentencing hearing to testify to this matter in order to ensure that the defendant received the amount of credit he was promised.

Brown did not come see the defendant the day before his sentencing hearing, or even in the holding cell before it.

Instead, on the day of the defendant's sentencing hearing, Brown brought the defendant out to the courtroom and told him that afternoon, just a few minutes before his hearing began, that the government decided to authorize only 4 levels off as a 5K1.1 (instead of as a 5K2.0), for everything that the defendant had voluntarily turned over and absolutely nothing off for all of the cooperation the defendant had worked on up to that point at that time. Brown told the defendant before he started his sentencing hearing not to worry about it though, because he was confident that he would be able to get

Judge Covington to authorize at least 6 levels off during the hearing for what he turned over, as well as 3 to 4 levels off for all of the defendant's cooperation he had completed so far. The defendant asked Brown if Weed was coming to his sentencing hearing to ensure that he was given the amount of credit he was promised. Brown told the defendant that he had been "really busy" and was not able to arrange for Weed to come. Brown also had not even bothered to try to at least get a signed affidavit from Weed which he could have presented to the court in support of his argument for this matter.

During the sentencing hearing Brown made an argument about why the defendant deserved at least 6 levels off for everything that he had voluntarily turned over, but he left out major facts that would have supported it. The defendant requested that Brown bring up the fact that he legally earned nearly all of the money which he had voluntarily turned over, and that he had a tremendous amount of records to prove that it was made from licensed pharmacists filling thousands of valid prescriptions, which were written by licensed doctors for valid patients. The defendant requested that Brown bring up the fact that none of his co-defendants had voluntarily turned over anything to the government, but yet 3 of them received more lenient sentences than the defendant, despite successfully hiding all of their illegal earnings from the government. The defendant requested that Brown bring up the fact that the DEA agents made promises to the defendant as to how much credit he would get for turning everything over at the earliest available opportunity, which Weed could have supported if Brown had bothered to arrange it. Thus, Brown's

argument was promptly denied by Judge Covington, and the defendant received only 4 levels off for everything he had turned over, even though he had always been promised to get much more credit than that for the previous 33 months. If Brown had made these arguments, especially if he had Weed come to the sentencing hearing as Brown had promised the defendant he would, there is a reasonable probability that the defendant would have received more than 4 levels off for everything he had turned over, and that it would have been properly applied as a 5K2.0 instead of as a 5K1.1 as well.

During the sentencing hearing Brown also mentioned some of the defendant's cooperation that he had done, but declined to ask Judge Covington for any credit for it. Thus, the defendant was not given any credit whatsoever for the thousands of documented hours of work he had put into all of his cooperation efforts throughout the previous 33 months. After the sentencing hearing, Brown told the defendant that it was "not the right time to ask for credit for his cooperation", and that the defendant would definitely be getting multiple Rule-35 motions later that year, which he would handle for him (which Brown never pursued for the defendant due to the defendant not complying with his new absurd financial demands). Brown could have easily made a proficient argument to the court explaining why the defendant deserved to be awarded some credit on the day of his sentencing hearing for all of the cooperation he had done up to that point, especially considering all of the supporting information the defendant had provided to Brown related to this, and especially since the defendant had even arranged

that 3 government agents come to his hearing on his behalf, which Brown had declined to use to the defendant's benefit. If Brown had made these arguments, there is a reasonable probability that the defendant would have received a reduction in his sentence as a 5K1.1 for all of the cooperation he had done since 05/20/2010, up until the day of his sentencing on 02/21/2013. Thus, there is a reasonable probability that the outcome of the defendant's sentencing hearing would have been different if these issues had not transpired.

In Summary, the defendant asserts the following errors were committed by defense counsel Jeff Brown during the 9 months he represented him (06/06/12 to 03/15/13), particularly prior to and during the defendant's 02/21/2013 sentencing hearing, in support of Ground 4:

1) falsely representing that the defendant would get credit for "substantial assistance" as a 5K1.1 motion for all of the cooperation he had worked on before his bond was revoked, as well as for all of the cooperation he worked on while in custody, up until he was sentenced

2) falsely representing how much credit the defendant would get for voluntarily turning over all of his money, his medications, and his pharmacy's DEA license to the government at the earliest opportunity he had, as well as for voluntarily closing his pharmacy that same day for them

3) when trying to secure as much credit for the defendant as possible for all of the money the defendant voluntarily turned over to the government, Brown did not bring up the fact that he legally earned nearly all of it, despite the defendant providing Brown with an enormous amount of records that he could have provided to the government and to Judge Covington to support this fact

4) when trying to get as much credit for the defendant as possible for all of the money the defendant voluntarily turned over to the government, Brown did not bring up the fact that the co-defendants each made millions of dollars while they conducted illegal activities during the alleged conspiracy, and that all of them hid all of their money from the

government and voluntarily turned over none of it like the defendant did

5) failing to have Dirk Weed, who was the attorney who advised and assisted the defendant with voluntarily turning over absolutely everything he had at the earliest available opportunity to the government, to come to the sentencing hearing in order to testify about the promises which were made to the defendant in his presence in exchange for agreeing to turn everything over, despite Brown telling the defendant that he was going to arrange this, or at least get an affidavit from Weed supporting this fact

GROUND 5: THE DEFENDANT WAS DENIED HIS SIXTH AMENDMENT RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL DURING THE SENTENCING PROCESS.

SUPPORTING FACTS FOR GROUND 5:

The defendant attests that his counsel Jeff Brown was ineffective in failing to challenge the amount of oxycodone pills attributed to him at sentencing, as well as improperly advising the defendant that his starting base offense level from agreeing to the plea offer would be a level 36. Furthermore, related to this matter, at the defendant's sentencing, Brown declined to discuss the sentences given to his co-defendants the previous month, or that 2 of them received minor role reductions, and at least 1 of them received a reduced pill count. Also related to this matter, Brown promised the defendant that he would not be subject to any sentencing enhancements if he agreed to the plea bargain, and then Brown failed to properly object to the 2-level sentencing enhancement the probation officer applied to the defendant. Brown told the defendant that he also planned to file a motion for a downward departure (5K2.13), based on his diminished capacity during the alleged conspiracy, but he did not even bother to arrange for the main supporting witness, Dr Edgar, to assist with this argument. The defendant asked Brown to please file a request for a downward departure (5K2.0), based on the fact that his former defense counsel, Todd Foster, had actual conflicts of interest which significantly prejudiced him. Brown agreed to include an

argument for this matter in the defendant's sentencing memorandum, but he did not include and/or present the most important evidence to support this motion. The defendant also asked Brown to please also file a motion for a downward departure (5K2.12), based on the fact that the defendant was unable to stop and/or prevent a lot of the illegal activities which occurred at his pharmacy because of serious coercion, blackmail, and/or duress during the alleged conspiracy, but Brown refused to put any effort into doing this, and he told the defendant that 2 downward departure requests were more than enough.

Brown told the defendant before he even agreed to the plea offer that Diane Tremmel, who was the probation officer assigned to conduct his PSI meeting and calculate the defendant's sentencing offense level, would be using the 15mg dosage strength of the oxycodone pills for everyone involved in the conspiracy in order to give us "a conservative estimate", thus, equating to a starting base offense level of 36 for the defendant. At the defendant's change of plea hearing, before it started, the defendant was assured by Brown, that AUSA Peluso would not recommend that any sentencing enhancements be applied to the defendant, and even had Peluso personally tell this to the defendant. Brown assured the defendant that if the probation officer tried to apply any sentencing enhancements to him, that both, he and Peluso, would object to them and have them removed from his PSR before the defendant would be sentenced.

The defendant notified Brown that he hired Tess Lopez, who was a Sentencing Mitigating Specialist, to assist with the

defendant's PSI and sentencing process. The defendant pleaded with Brown in early September of 2012 to please schedule his PSI meeting with Tremmel at a time when Lopez could also attend, but Brown refused to allow Lopez to be at, or be involved with the defendant's PSI meeting. The defendant also asked Brown that they prepare for his PSI meeting, and for Brown to please bring the defendant's laptop to it, so that he could show Tremmel some video clips of everything that was really going on at his pharmacy, including a lot of things which went on behind his back, which would have given Tremmel a better idea of what everyone's true role was in the alleged conspiracy. However, Brown refused to do any type of preparation for the defendant's PSI meeting, and refused to bring any evidence that would have been favorable to him to this meeting. At the PSI meeting with Tremmel, despite the defendant wishing to explain his side of the situation (the alleged conspiracy), Brown refused to allow him to discuss any aspects of the case with Tremmel. As a result of Brown preventing Lopez from participating in the defendant's PSI meeting, and refusing to prepare for it, and also from preventing the defendant from talking to Tremmel about his case, Tremmel wrote up a very unfavorable PSR for the defendant.

The PSR which Tremmel wrote up for the defendant contained a 2-level sentencing enhancement for abusing a position of trust, as well as a starting offense level of 38 for the defendant, instead of a 36 as Brown had estimated it would be. Brown told the defendant that he was wrong about the dosage of pills which Tremmel decided to use to calculate

the defendant's offense level and that he was obviously misinformed about it. However, during the month before the defendant's sentencing hearing, Brown informed the defendant that the government had reduced the pill count from 150,000 to 50,000 pills for at least one of his co-defendants, Kimberly Curtiss, as well as given minor role reductions to her and Louis Fernandez Jr. Brown told the defendant that he would be able to use this information to argue for, at the very least, a reduction of his pill count from 150,000 to 50,000 pills as well, so that he would start at a base offense level of 36 as Brown had originally promised the defendant he would. Brown also told the defendant that he would file a thorough written objection to the sentencing enhancement and hold a separate hearing to argue the validity of it BEFORE the defendant's sentencing hearing to make sure that he made every effort he could to have it removed.

The defendant went over a significant amount of video evidence with Brown which proved that the roles of neither, Kimberly Curtiss or Louis Fernandez Jr, could have realistically been considered to be minor during the alleged conspiracy. The defendant asked Brown to please bring this matter up in his sentencing memorandum and during his sentencing hearing when requesting departures for him. The defendant also asked Brown to bring up the sentences of his co-defendants in his sentencing memorandum and during his sentencing hearing, especially for Curtiss and Fernandez Jr, who received very lenient sentences.

Brown told the defendant that in order to make the best argument he can for his request for a downward departure

for diminished capacity under 5K2.13, that he would have Dr Edgar come to his sentencing hearing to testify why it should be taken into serious consideration by Judge Covington. Dr Edgar was the defendant's Psychiatrist who was prescribing him medications for his conditions, and who the defendant was also seeing on a regular basis for counseling before his bond was revoked. Brown felt that including Dr Edgar in the defendant's sentencing hearing would add invaluable strength to his diminished capacity argument.

Pertaining to Brown's motion for a downward departure under 5K2.0, due to Foster's conflicts causing the defendant prejudice, Brown was too lazy to go over all of the evidence to support this motion, which the defendant had, and was available to him, and to incorporate very important evidence into this motion, or into his argument like the defendant had asked him to do. The defendant had multiple email communications, letters, and even court documents, which he wanted Brown to reference in support of this motion. The defendant also wanted Brown to order the court transcripts for the 01/19/2012 Conflict Hearing in front of Judge McCoun (Case No. 8:11-cr-550-T-33TMB), which was held as a result of the Conflict Motion AUSA Peluso filed on 01/13/2012 (same case), but Brown told the defendant that he had more than enough evidence to support his argument from the court transcripts for the defendant's Preliminary Hearing held in front of Judge Jenkins on 05/16/2012 (Case No. 8:12-mj-1250-T-AEP). Thus, despite the defendant requesting Brown to please provide the court more evidence to support this motion, which was readily available to him at the time, Brown instead compiled a weak

and incomplete motion to appease the defendant for this matter. Then, Brown was not ready to provide Judge Covington supporting documentation when she asked for it during the defendant's sentencing hearing, which Brown could have easily done if he complied with the defendant's simple requests concerning this matter. Judge Covington told Brown that "to really flush out those issues requires more than what you filed." If Brown had reviewed all of the overwhelming evidence for this matter, and brought and/or provided copies of it to the court, as the defendant asked him to do, there is a reasonable probability that this motion for a downward departure would have been granted, especially considering that the majority of the 01/19/2012 Conflict Hearing focused on Foster's conflicts from representing the defendant, as clearly shown in the court transcripts which the defendant has subsequently had transcribed.

Brown told the defendant that he thought his motion for a downward departure for diminished capacity was very strong and that he was confident that relief would be granted for it, as well as for his motion for a downward departure for Foster's conflicts causing him prejudice. Brown told the defendant that if he also made a motion for a downward departure under 5K2.12 for him being under serious coercion, blackmail and/or duress during the alleged conspiracy, like the defendant wanted him to, that it would somehow weaken his other 2 requests for downward departures. The defendant showed Brown a significant amount of evidence that a strong argument could have definitely been made for a 5K2.12 motion for him, including, but not limited to, text messages from

Beltran threatening the defendant, text messages from Curtiss threatening and extorting the defendant, and even statements from an individual who Beltran tried to hire to kill the defendant. In fact, the defendant was even able to convince that individual, Miguel, who was Beltran's former "right hand man", to come meet with the government (Agent Shearer and Agent Bill Davis), on October 8, 2010, on the defendant's behalf, during which Miguel told them about Beltran offering to pay him to kill the defendant, as well as numerous other illegal activities Curtiss and Beltran were involved in. Despite the defendant believing that there was more than enough supporting evidence for him to be granted relief due to this mitigating factor, Brown still refused to bother filing a 5K2.12 motion for the defendant, and the 5K2.13 motion he did file was mostly written up by Tess Lopez, along with nearly the entire sentencing memorandum he filed for the defendant.

Brown promised the defendant that he would address all of these issues in order to help mitigate the defendant's sentence, but he failed to follow through with his promises to do so when the defendant's sentencing hearing occurred. Instead of filing a written objection to the sentencing enhancement placed on the defendant, and requesting a separate court hearing to argue it before his sentencing hearing, Brown waited until the last minute, and put together a haphazard and disorganized argument against its validity during the defendant's sentencing hearing. Brown also did not bring up the co-defendant's sentences in the defendant's sentencing memorandum, or during his sentencing hearing, or the minor role adjustments they received, or the reduced pill count for

at least one of them. Brown also did not bother to arrange for Dr Edgar to come to the defendant's sentencing hearing, or even get a signed affidavit from him, despite assuring the defendant that he would do this in order to support his argument for his 5K2.13 motion. Pertaining to the downward departure request (5K2.0 motion) Brown filed for the defendant due to him suffering prejudice due to Foster's conflicts, Brown did not properly prepare for it, and did not bring the necessary documentation to support it, or even bother to review all of it with the defendant. Brown also refused to file a downward departure request (5K2.12 motion) for the defendant for him being subject to serious coercion, blackmail, and/or duress during the alleged conspiracy, despite the defendant providing Brown with enough information and evidence to support this motion. Had Brown followed through with these matters as he promised the defendant he would, there is a reasonable probability that the outcome of the defendant's sentencing hearing would have been different.

In Summary, the defendant asserts the following errors were committed by defense counsel Jeff Brown during the 9 months he represented him (06/15/12 to 03/15/13), particularly prior to and during his 02/21/2013 sentencing hearing, in support of Ground 5:

- 1) falsely representing the base sentencing offense level which the defendant would start at from accepting the government's plea offer as a level 36 instead of a level 38
- 2) guaranteeing the defendant that he would not be subject to any sentencing enhancements if he signed the plea bargain, and also had the prosecutor tell him this as well before his change of plea hearing started
- 3) not bringing up in the defendant's sentencing memorandum, or during his sentencing hearing, that the pill count of at least one of his co-conspirators, Kimberly Curtiss, was changed from 150,000 to 50,000 pills shortly before her sentencing took place
- 4) not bringing up in the defendant's sentencing memorandum, or during his sentencing hearing, that 2 of his co-defendants received Minor Role reductions when they were sentenced, despite the defendant having an enormous amount of video evidence which proved that neither of their roles could have realistically been considered minor, which he had showed to Brown
- 5) not bringing up in the defendant's sentencing memorandum, or during his sentencing hearing, the sentences which his co-defendants received, as well as all of their reductions, in order to support his arguments for downward departures for the

defendant

- 6) failing to review and/or use all of the overwhelming evidence which would have supported the 5K2.0 motion requesting a downward departure for the defendant due to the fact that he suffered prejudice while being represented by Foster due to his actual conflicts of interest, and failing to comply with Judge Covington's request to provide it to her
- 7) failing to have Dr Edgar, who was the Psychiatrist the defendant was seeing on a regular basis for treatment through medication and counseling before his bond was revoked, come to the defendant's sentencing hearing in order to testify to support the 5K2.13 motion for a downward departure for the defendant's diminished capacity during the alleged conspiracy
- 8) failing to file a 5K2.12 motion requesting a downward departure to be given to the defendant due to him being unable to stop and/or prevent a lot of the illegal activities which occurred at his pharmacy because of serious coercion, blackmail, and/or duress, despite the defendant providing Brown with significant evidence to support this motion

GROUND 6: THE DEFENDANT WAS DENIED HIS SIXTH AMENDMENT RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL DURING THE PLEA AND SENTENCING PROCESS.

SUPPORTING FACTS FOR GROUND 6:

The defendant attests that his counsel Jeff Brown was ineffective due to putting his greed and the prospect of his own personal significant financial gains in front of the defendant's best interests throughout his representation. Brown took advantage of the defendant's unfortunate circumstances, especially while he was in solitary confinement, in order to convince the defendant to agree to the terms of Brown's desired discreet payment arrangement, which severely negatively affected the ultimate outcome of the defendant's case. The defendant further attests that his counsel Jeff Brown was ineffective due to violating the attorney - client privilege between them, which caused irreparable damage to the defendant's relationship with the government.

The defendant attests that his counsel Jeff Brown requested that the majority of his significant fee be paid to him with over \$160,000.00 worth of silver bars and gold coins, which belonged to the defendant, in order to keep as much of his payment "off the books" as he could, in case the government also attempted to seize his fees as they did Kehoe's. Brown told the defendant that "the government can't seize what they don't know about", and assured the defendant that he would remain on his case even if the government tried

to seize the documented \$30,000.00 portion of his fee, which the defendant had paid to him in full through checks. Brown drew up and signed, and had the defendant also sign, fraudulent contracts which represented that Brown was paid only \$15,000.00 for each of the defendant's 2 cases if they were resolved with a plea bargain, even though Brown received at least \$160,000.00 more than that "off the books". Brown assured the defendant that for the money, silver and gold he was paid by the defendant in early June of 2012, that he would represent him "until the day the defendant got out of jail or prison", which would include any Rule-35 motions.

Brown knew that the defendant still had a significant amount of gold coins left, and knowing that he would not be able to convince the defendant to give the rest of them to him if the defendant was sentenced to a minimal amount of time, Brown intentionally sabotaged the plea and the sentencing process of the defendant's case in order to ensure that he received a lengthy prison term. Then in early March of 2013, which was shortly after the defendant was sentenced to 9 years in prison, Brown used the defendant's lengthy sentence as leverage to demand the defendant to give him the rest of his gold coins, which were worth about \$150,000.00 at the time. The defendant reminded Brown that he had promised the defendant to represent him "until the day he got out of jail", including for any Rule-35 motions, for everything the defendant had already paid Brown in June of 2012.

Brown told the defendant that he was the only attorney who would even accept the defendant's gold coins as payment, and that he definitely deserved to be given the rest of them

because he had to do a lot more work that he had not initially anticipated in order to make sure that the defendant would get out of jail within the next year. Brown became angry with the defendant for not immediately complying with his new financial demands. At the conclusion of the argument which Brown initiated with the defendant over wanting the rest of his gold coins, Brown ultimately told the defendant that if he was not given the rest of his gold coins that, not only would he not help with making sure that the defendant received the promised reductions in his sentence via Rule-35 motions, but that he would instead make sure that the defendant never received any credit for all of the cooperation he did, and also make sure that the government would not use him to testify in any cases.

Brown also told the defendant that if he did not agree to give the rest of his gold coins to him then he would make sure that the government would get them anyway. Brown began following through with his threats shortly after the defendant refused to comply with his new financial demands, starting with using his influence to make sure that the defendant was no longer allowed to use an office in the DIU department of the jail, where he had been brought to work on cooperation matters for the previous 6 months nearly everyday.

The defendant met with AUSA Peluso and Agent Shearer in DIU to discuss the Heromin case in early April of 2013, shortly after Brown broke the promises he made the defendant, and made his new financial demands. During this meeting, the defendant attempted to tell Peluso incriminating information about Brown but was stopped by Agent Shearer before he was able to explain anything. Peluso told the defendant not to

worry about Brown not representing him anymore and that he was still going to be called as a witness for the Heromin and Weiler trials, and that he was still going to get a sentence reduction as a Rule-35 motion for all of the cooperation he has done. Peluso and Shearer both told the defendant that "nothing has changed" and that they would see him again before Heromin's trial began. After Peluso and Shearer left DIU after meeting with the defendant, where Brown had him banned from using an office there about a month earlier, it was confirmed by Deputy Squalini that Brown was the one who instructed him, Sergeant Petruzzi, and Deputy Johnson, to not bring the defendant down there to work on anything anymore since he was no longer his client. Squalini also told the defendant that same day Brown told them this that he removed everything the defendant had at DIU which he was still using to work on the cooperation projects there, including his files, laptop and printer.

The defendant then sent Brown 2 letters, one in April of 2013, and another in early May of 2013. The defendant asked Brown to please come see him in both of these letters. In the latter letter, the defendant told Brown that if he was refusing to come see the defendant and straighten everything out between them within the next 2 weeks, then he would turn Brown in for his unethical and illegal actions. The defendant let Brown know that if Brown did not intend to keep his promises he made to the defendant pertaining to his representation for the significant amount of money, silver and gold he already received, than the defendant would not keep his promise to Brown about not telling anyone how much, and

with what, Brown was paid to represent him, which Brown wanted to be kept as discreet as possible for obvious reasons. Since Brown never bothered to come see the defendant, he then sent a letter to AUSA Peluso on May 16, 2013, asking her to please come see him because he wanted to discuss illegal activities committed by Brown. However, Peluso never came to see the defendant to discuss anything with him after receiving that letter, and was likely warned by Brown that she would be getting a letter like this from the defendant. Then in June of 2013, the defendant was informed by attorney Lucas Fleming that Brown's brother was a DEA agent in the Tampa office, and warned him that Brown likely had influence in the right places to follow through on the threats he made against the defendant, and that it sounded like things "could get out of hand" for the defendant.

Shortly after the defendant was told by Fleming about Brown's influences, a friend of the defendant, Jeanne Bush, had her houses raided in late June or early July of 2013 by numerous armed DEA agents. Apparently they were looking for gold coins which belonged to the defendant, which Bush did not have at that time. Then shortly after that, the house of the defendant's ex-girlfriend, Carroll Delo, was also raided by armed DEA agents for 2 straight days, to also look for gold coins which belonged to the defendant. Then Delo gave the gold coins she was holding for the defendant to Bush in late August or early September of 2013. Then the DEA agents raided Bush's house again in early September of 2013, and took 62 1-Ounce gold Kruggerand coins from her, which belonged to the defendant.

Also during this timeframe, the defendant was unexpectedly transferred from the Pinellas County Jail to a Federal Prison in South Carolina, without ever getting the chance to talk to Peluso about any of these matters, all the while still fully expecting to testify at the upcoming trials for Heromin and Weiler, and still fully expecting to be getting a Rule-35 sentence reduction for everything he had worked on. There is sufficient evidence that Brown did in fact proceed to follow through with all of the threats he made towards the defendant, doing whatever he could to cause the defendant harm, before the defendant had the chance to cause Brown any problems by turning him in for the things he did wrong himself.

Thus, after Brown had spent the previous 8 months promoting the defendant to be an excellent witness for the government, about a month after he was sentenced, Brown began doing the exact opposite, and did whatever he could to ruin the credibility of the defendant in the eyes of the government in order to keep himself out of trouble. Due to the defendant refusing to give Brown the rest of his gold coins, and because the defendant told Brown that he would reveal his illegal activities, Brown did whatever he could to protect himself in order to avoid suffering from any negative consequences as a result of his actions, which included carrying out his previous threats against the defendant.

Attorney Darlene Barror spoke with AUSA Peluso earlier this month and was told by her that she had changed her mind about giving the defendant a Rule-35 motion, and also changed her mind about using the defendant as a witness for any

upcoming cases. Peluso told Barror that information was brought to her attention concerning the defendant (which was privileged to his attorneys, namely Brown), which is what changed her mind about these matters. However, the defendant attests that he has never directly told Peluso any of this information in question, and that what she did hear was severely misconstrued and twisted around, likely by Brown. There is also documented proof that Brown also revealed similar privileged information to other attorneys, including, but not limited to, attorney Jeff Siskind.

Also, besides Carol Delo, her family and Jeanne Bush, Brown was the only other person who knew that the defendant had saved a significant amount of gold coins, which Delo was holding onto for him, which she eventually gave to Bush, which Brown wanted all for himself. Obviously Delo and Bush did not voluntarily disclose to the government that they were holding onto gold coins belonging to the defendant, and they definitely did not want their houses raided by the DEA multiple times. Thus, the only reasonable explanation as to the DEA's actions, and their seizure of the defendant's gold coins, over 6 months after he was sentenced and nearly 3 & 1/2 years after his case began, is that Brown had also revealed privileged information about them as well. This is a serious matter, especially if Brown's brother actually is an active DEA agent out of the Tampa field office, as attorney Fleming subsequently told the defendant after Brown stopped representing him and threatened him. Thus, the only logical person who could have been responsible for revealing this additional privileged information, concerning the defendant's

gold coins, which Brown wanted for himself, would have been Brown.

The defendant attests that there is a significant amount of proof that Brown's representation of the defendant was ineffective throughout the 9 months he represented him, especially during the plea and sentencing process of his case.

Brown's ulterior personal financial motives severely conflicted with him doing what was best for the defendant throughout his representation. Thus, there is a reasonable probability that the outcome of the defendant's case and his sentencing hearing would have been different if these issues had not transpired.

In Summary, the defendant asserts that the following errors were committed by defense counsel Jeff Brown during the 9 months he represented him (06/15/12 to 03/15/13), as well as for several months after he represented him, in support of Ground 6:

- 1) taking advantage of the defendant's unfortunate circumstances in order to get him to pay the majority of his significant fee with over \$160,000.00 worth of silver bars and gold coins, which belonged to the defendant, in order to keep as much as his payment "off the books" as he could in case the government attempted to seize his fees as well, telling the defendant that "the government can't seize what they don't know about", and assuring the defendant that he would remain on his case even if the government tried to seize the \$30,000.00 portion of his fee which he documented receiving from the defendant via checks in the fraudulent engagement contracts he drew up, which he and the defendant both signed on 06/06/2012
- 2) putting his own financial interests and the potential for him to be able to get additional discreet significant payments from the defendant in front of the defendant's best interests throughout his representation of the defendant
- 3) violating the attorney - client privilege he had with the defendant by revealing privileged information to the government, as well as to other attorneys, which he was told by the defendant while he represented him, in order to lessen the credibility of the defendant so that he would not be eligible for reduction of his 108 month sentence via Rule-35

1 2 3

motions, as the defendant was previously promised he would be by Brown and his prosecutor, AUSA Peluso, as well as to also help keep himself out of trouble for committing unethical and potentially illegal activities himself

VII. ARGUMENT

The facts and circumstances establish that the defendant has met his burden to state a claim for ineffective assistance of counsel in violation of the Sixth Amendment set forth under Strickland v. Washington, 466 U.S. 668, 104 S.Ct.2052, 80 L.Ed.2d 674 (1984). In applying Strickland, the defendant has shown from the facts above that there were several serious errors committed. In addition, the defendant has shown that he sustained prejudice by being sentenced to an extended number of years in prison. These failures, coupled with doing virtually nothing, are tantamount to errors so serious that counsel was not functioning as the "counsel" guaranteed to the defendant by the Sixth Amendment. Because the various lawyers did not effectively represent the defendant's best interests throughout his case, and actually created new problems for him as well, defense counsel's failures prejudiced the defendant. Since counsels did not properly represent the defendant throughout this case, the Sixth Amendment's right to counsel was absent and did not function to make the adversarial process work. See Strickland.

The defendant has shown that "that there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." It is clear that the defendant's sentence is unreliable because of a breakdown in the adversarial process, particularly due to his counsel's actual conflicts of interest, and due to the serious errors his various counsels made during the plea process, cooperation process, and

sentencing process of his case.

Therefore, the facts in this case established that defense counsel's performance "fell below an objective standard of reasonableness" and the resulting prejudice was that the defendant was sentenced to an extended term of prison.

WHEREFORE, the defendant prays that this Honorable Court enter an Order setting aside the judgment and sentence of conviction.

I HEREBY CERTIFY THAT THE ABOVE STATEMENTS ARE TRUE AND CORRECT UNDER PENALTY OF PERJURY.

Dated this 20th day of February, 2014.



CHRISTOPHER SWITLYK

CERTIFICATE OF SERVICE

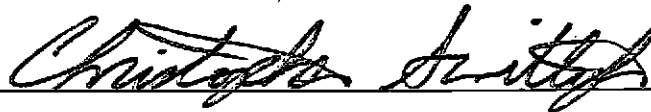
I, CHRISTOPHER SWITLYK, hereby certify under the penalty of perjury, 28 U.S.C. § 1746, that a true and correct copy of the forgoing "Motion to Vacate, Set Aside, or Correct Sentence" was deposited in the prison's legal mailing system on this 20th day of February, 2014, addressed to:

Kathy J. M. Peluso
United States Attorney's Office
Middle District of Florida
400 N Tampa Street, Suite 3200
Tampa, FL 33602

I further attest that first-class postage has been prepaid.

Executed on this 20th day of February, 2014.

signature/



CHRISTOPHER SWITLYK

STATE OF FLORIDA DIVISION OF ADMINISTRATIVE HEARINGS

DEPARTMENT OF HEALTH, ~~Petitioner,~~

FILED

v.

2014 MAR 31 AM 11 34

DOAH CASE NO: 14-0883PL

DOH CASE NO: 2011-20634

DIVISION OF
CHRISTOPHER SWITLYK, ~~Respondent.~~
ADMINISTRATIVE HEARINGS /

MOTION TO SUBMIT EVIDENCE INTO THE RECORD

COMES NOW, the defendant, CHRISTOPHER STEPHEN SWITLYK, proceeding on his own behalf, respectfully asks this Honorable Court to accept this enclosed copy of the Defendant's Appeal of his Criminal Case into evidence for this case.

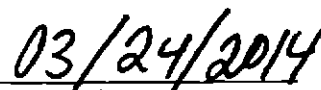
The defendant's criminal case and resulting sentence are obviously the main factors which are taken into consideration by the Department of Health and the Court when deciding the outcome of this case. The defendant's appeal of his criminal case contains significant information and details about the progression of his criminal case, as well as about the extremely ineffective assistance by his previous counsels. As shown in this appeal, the ineffective and unethical representation by the defendant's previous attorneys played a major role in why he was given such a harsh initial sentence.

WHEREFORE, the defendant, CHRISTOPHER STEPHEN SWITLYK, prays this Honorable Court grant him this Motion to Submit Evidence into the Record.

Respectfully submitted,



CHRISTOPHER STEPHEN SWITLYK



DATE

CERTIFICATE OF SERVICE

I, CHRISTOPHER SWITLYK, hereby certify under the penalty of perjury, 28 U.S.C. § 1746, that a true and correct copy of the forgoing "Motion to Submit Evidence into the Record" was deposited in the prison's legal mailing system on this 24th day of March 2014, addressed to:

Lucas May, Assistant General Counsel
Florida Department of Health
Prosecutorial Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, FL 32399-3265

I further attest that first-class postage has been prepaid.

Executed on this 24th day of March, 2014.

signature/



CHRISTOPHER STEPHEN SWITLYK

FILED

2014 MAR 24 PM 12 15

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

DIVISION OF
ADMINISTRATIVE
HEARINGS

DEPARTMENT OF HEALTH, Petitioner,

v.

DOAH CASE NO: 14-0883PL

DOH CASE NO: 2011-20634

CHRISTOPHER SWITLYK, R.Ph., Respondent.

MOTION TO POSTPONE THE HEARING

COMES NOW, the defendant, CHRISTOPHER STEPHEN SWITLYK, proceeding on his own behalf, respectfully asks this Honorable Court to postpone the hearing in the above referenced cases currently scheduled for March 26, 2014 at 9:30AM.

The defendant was just notified of this hearing during a telephone deposition conducted on March 13, 2014. After that deposition concluded, the defendant was told that he is permitted to submit documents which he would like the Court to consider pertaining to his case before the March 26th hearing. The defendant was told that this includes any documents and medical records that indicate that there were mitigating factors present which should be taken into consideration regarding his case.

Since the defendant was informed about being able to submit exhibits to the Court only a few days ago, he sincerely requests that the Court please delay the ensuing March 26th hearing so that he has additional time to submit relevant evidence. Also since the defendant is currently incarcerated,

he asks the Court to please take this obstacle into consideration. It will obviously take the defendant much more time for him to acquire the documentation he wishes to submit to the Court while he is in prison than if he were free.

The defendant has started the process of obtaining documents pertaining to his case which he wishes to submit to the Court. This includes mailing written requests to 4 of the defendant's previous doctors requesting copies of his medical records, including:

- 1) Dr David Myers, M.D., Psychiatrist
Professional Resource Network, Inc.
825 West Linebaugh Avenue
Tampa, FL 33612
- 2) Dr Donald Taylor, M.D., Psychiatrist
15310 Amberly Drive, Suite 250
Tampa, FL 33647
- 3) Dr James Edgar, M.D., Psychiatrist
508 South Habana Avenue, Suite 390
Tampa, FL 33609-4144
- 4) Dr Jennifer Barror-Levine, Psychologist
The NeuroPsychiatric Institute
4107 West Spruce Street, Suite 100
Tampa, FL 33607

As soon as the defendant receives his medical records from these doctors he will forward copies of them to the Court and to Mr May. The defendant also has a friend sending him additional documentation pertaining to his case as well, which he will also forward copies of to the Court and to Mr May as soon as he receives them.

Please bear with the defendant and allow him sufficient time to submit evidence and documents to the Court that may change the outcome of his case if they are taken into account. The defendant has not practiced pharmacy since May of 2010, which is nearly 4 years ago now. March 13, 2014 is the first time the defendant has spoken to anyone at the Prosecutorial Services Department of the Florida Department of Health about his case, so reaching an outcome to this case is obviously not an urgent matter.

The defendant sincerely asks the court to please delay this upcoming March 26, 2014 hearing for a few months in order for him to have as fair of a chance as he can at defending himself, despite his unfortunate circumstances. Thus, due to the reasons listed within this motion by the defendant, he sincerely requests that the Court please postpone the March 26, 2014 hearing at least 120 days.

WHEREFORE, the defendant, CHRISTOPHER STEPHEN SWITLYK, prays this Honorable Court grant him this Motion to Postpone the Hearing, or any other relief the Court deems just and proper.

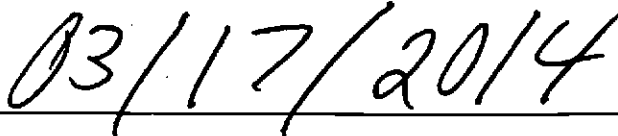
Respectfully submitted,

signature/



CHRISTOPHER STEPHEN SWITLYK

date/



CERTIFICATE OF SERVICE

I, CHRISTOPHER SWITLYK, hereby certify under the penalty of perjury, 28 U.S.C. § 1746, that a true and correct copy of the forgoing "Motion to Postpone the Hearing" was deposited in the prison's legal mailing system on this 17th day of March 2014, addressed to:

Lucas May, Assistant General Counsel
Florida Department of Health
Prosecutorial Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, FL 32399-3265

I further attest that first-class postage has been prepaid.

Executed on this 17th day of March, 2014.

signature/



CHRISTOPHER STEPHEN SWITLYK

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

DEPARTMENT OF HEALTH,

Petitioner,

v.

DOAH CASE NO.: 14-0883PL

DOH CASE NO.: 2011-20634

CHRISTOPHER SWITLYK, R.Ph.,

Respondent.

NOTICE OF FILING LATE EXHIBIT

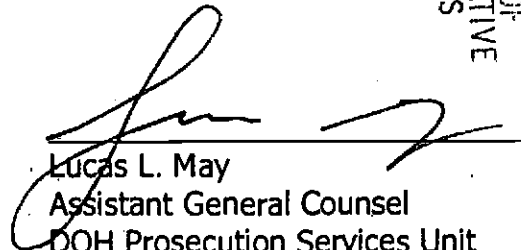
Petitioner, Department of Health, by and through the undersigned counsel, files this Notice of Filing Late Exhibit, and states:

1. A final hearing will be held Wednesday, March 26, 2014, concerning the above referenced case.

2. Petitioner is late filing its:

Exhibit 5 – Deposition transcript of Ronald B. Salem, R.Ph.

Respectfully submitted,

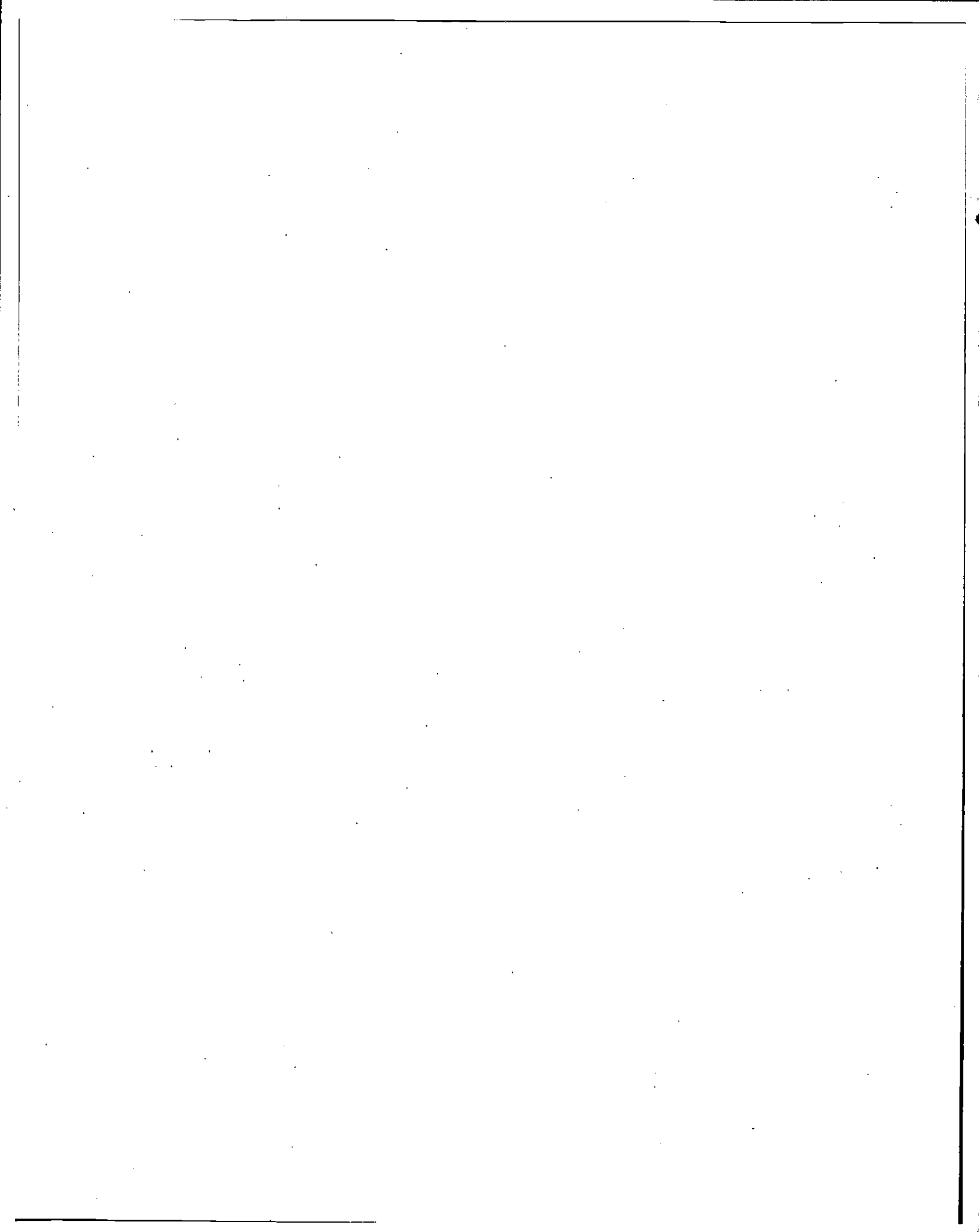


Lucas L. May
Assistant General Counsel
DOH Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, Florida 32399-3265
Florida Bar No.: 0102747
(850) 245 - 4444 ext. 8242 Telephone
(850) 245 - 4683 Facsimile
Lucas.May@flhealth.gov

DIVISION OF
ADMINISTRATIVE
HEARINGS

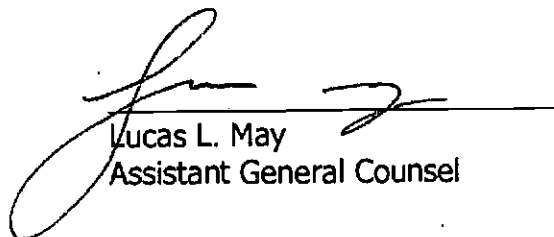
14 MAR 24 PM 12:51

FILED



CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the forgoing Notice of Filing Late Exhibit has been furnished this 21st Day of February, 2014 to Respondent, Christopher Switlyk, Register # 53913-018, FCI Estill, Post Office Box 699, Estill, South Carolina, 29918-0699 by postage-paid U.S. Mail.



Lucas L. May
Assistant General Counsel

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

DEPARTMENT OF HEALTH,

Petitioner,

v.

DOAH CASE NO.: 14-0883PL

DOH CASE NO.: 2011-20634

CHRISTOPHER SWITLYK, R.Ph.,

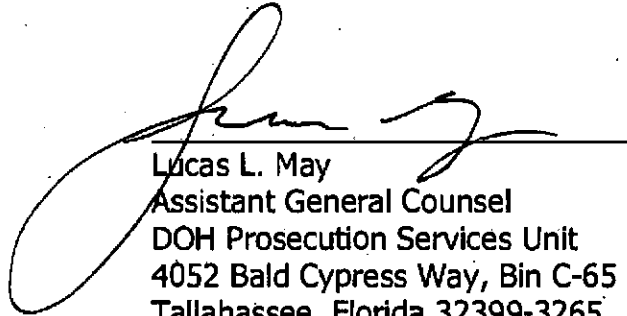
Respondent.

PETITIONER'S WITNESS LIST

Petitioner, Department of Health, by and through undersigned counsel, hereby files Petitioner's Witness List as follows:

1. Tammy Collins, Acting Executive Director
Board of Pharmacy
4052 Bald Cypress Way, Bin C-04
Tallahassee, Florida 32399-3258
2. Ronald B. Salem, R.Ph.
Department Expert
PharMerica
7970 Bayberry Road, Suite 4
Jacksonville, Florida 32256
(Deposition transcript will be offered in lieu of live testimony)
3. Petitioner reserves the right to call any witnesses called by Respondent, to include Respondent.

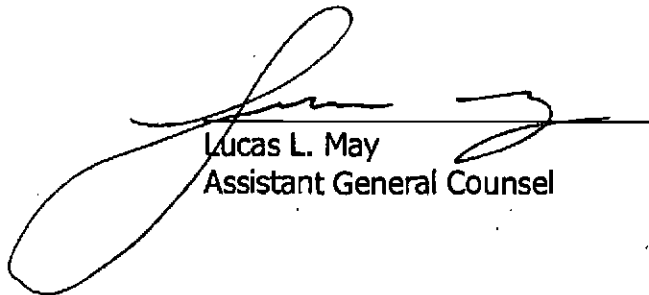
Respectfully submitted,



Lucas L. May
Assistant General Counsel
DOH Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, Florida 32399-3265
Florida Bar No.: 0102747
(850) 245 - 4444 ext. 8242 Telephone
(850) 245 - 4683 Facsimile
Lucas.May@flhealth.gov

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the forgoing Petitioner's Witness List has been furnished this 21st Day of February, 2014 to Respondent, Christopher Switlyk, Register # 53913-018, FCI Estill, Post Office Box 699, Estill, South Carolina, 29918-0699 by postage-paid U.S. Mail.



Lucas L. May
Assistant General Counsel

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

DEPARTMENT OF HEALTH,
BOARD OF PHARMACY,

Petitioner,

vs.

Case No. 14-0883PL

CHRISTOPHER STEPHEN SWITLYK,
R.P.H.,

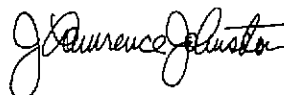
Respondent.

ORDER ALLOWING APPEARANCE BY TELEPHONE

Based on the matters discussed during the telephonic hearing today, the Petitioner's Motion for Respondent to Appear Telephonically at Hearing and Petitioner's Motion to Take Telephonic Deposition of Ronald B. Salem, Expert Witness for Petitioner, are granted.

The Respondent's ore tenus motion to postpone the hearing in this case until the federal court rules on his motion pending in that court is denied. If the federal court vacates the Respondent's federal convictions, those actions can be brought to the attention of this tribunal and of the Board of Pharmacy to the extent that actions taken in this case are dependent on the federal convictions.

DONE AND ORDERED this 13th day of March, 2014, in Tallahassee, Leon County, Florida.



J. LAWRENCE JOHNSTON
Administrative Law Judge
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-3060
(850) 488-9675
Fax Filing (850) 921-6847
www.doah.state.fl.us

Filed with the Clerk of the
Division of Administrative Hearings
this 13th day of March, 2014.

COPIES FURNISHED:

Lucas Lawrence May, Esquire
Department of Health
Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, Florida 32399
(eServed)

John Perrin, Esquire
Suite 424
2401 West Bay Drive
Largo, Florida 33770

Christopher S. Switlyk
Register No. 53913-018
FCI Estill
Post Office Box 699
Estill, South Carolina 29918-0699

**STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS**

DEPARTMENT OF HEALTH,

Petitioner

v.

**DOAH CASE NO. 14-0883PL
DOH Case No. 2011-20634**

CHRISTOPHER STEPHEN SWITLYK, R.P.H.,

Respondent.

**SECOND AMENDED NOTICE OF TAKING TELEPHONIC DEPOSITION IN LIEU
OF LIVE TESTIMONY**

TO: Ronald B. Salem, R.Ph.
7970 Bayberry Road
Suite #4
Jacksonville, Florida 32256

PLEASE TAKE NOTICE that the Petitioner will depose Ronald B. Salem, R.Ph., by
telephone as noted:

WITNESS

Ronald B. Salem, R.Ph.

DATE & TIME

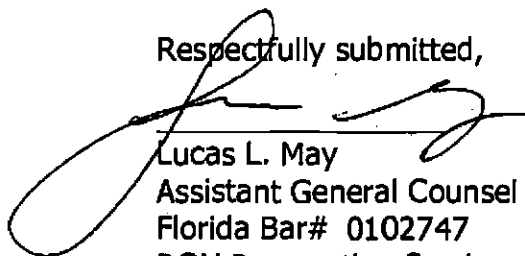
March 13, 2014
@10:00 a.m.

LOCATION

Ronald B. Salem, R.Ph.
7970 Bayberry Road,
Suite #4
Jacksonville, Florida 32256
904-607-3798 Phone

The deposition will be conducted before "Statewide Reporting Service", (904) 353-7706, or by another person authorized by law to administer oaths. The deposition will be used as discovery and at the formal hearing as permitted under the applicable Rules of Civil Procedure. **All Parties wishing to appear by telephone are to call Conference Call Number (1-888-670-3525) and enter Conference Code #3367974014.**

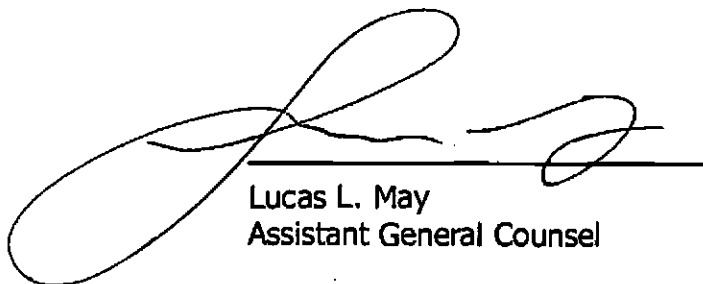
Respectfully submitted,



Lucas L. May
Assistant General Counsel
Florida Bar# 0102747
DOH Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, Florida 32399-3265
850-245-4640
850-245-4681 - fax

CERTIFICATE OF SERVICE

I CERTIFY that a true and correct copy hereof has been furnished to : Ronald B. Salem, R.Ph., 7970 Bayberry Road, Suite #4, Jacksonville, Florida 32256, by U.S. mail and via email, this 12th day of March, 2014 and to Christopher S. Switlyk, Register #53913-018, FCI Estill, Post Office Box 699, Estill, South Carolina, 29918-0699 by U.S. mail and via facsimile.



Lucas L. May
Assistant General Counsel

cc: For The Record Court Reporting
(850) 222-5491 Phone
(850) 224-5316 Fax

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

DEPARTMENT OF HEALTH,

Petitioner

v.

DOAH CASE NO. 14-0883PL
DOH Case No. 2011-20634

CHRISTOPHER STEPHEN SWITLYK, R.P.H.,

Respondent.

**AMENDED NOTICE OF TAKING TELEPHONIC DEPOSITION IN LIEU OF LIVE
TESTIMONY**

TO: Ronald B. Salem, R.Ph.
7970 Bayberry Road
Suite #4
Jacksonville, Florida 32256

PLEASE TAKE NOTICE that the Petitioner will depose Ronald B. Salem, R.Ph., by
telephone as noted:

WITNESS

Ronald B. Salem, R.Ph.

DATE & TIME

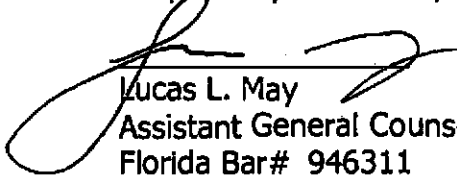
March 13, 2014
@10:00 a.m.

LOCATION

Ronald B. Salem, R.Ph.
7970 Bayberry Road,
Suite #4
Jacksonville, Florida 32256
904-607-3798 Phone

The deposition will be conducted before "For The Record Reporting", (850) 222-5491,
or by another person authorized by law to administer oaths. The deposition will be used
as discovery and at the formal hearing as permitted under the applicable Rules of Civil
Procedure. **All Parties wishing to appear by telephone are to call Conference Call Number
(1-888-670-3525) and enter Conference Code #3367974014.**

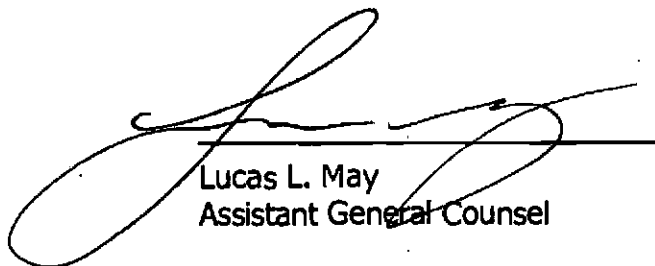
Respectfully submitted,



Lucas L. May
Assistant General Counsel
Florida Bar# 946311
DOH Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, Florida 32399-3265
850-245-4640
850-245-4681 – fax

CERTIFICATE OF SERVICE

I CERTIFY that a true and correct copy hereof has been furnished to: Ronald B. Salem, R.Ph., 7970 Bayberry Road, Suite #4, Jacksonville, Florida 32256, by U.S. mail and via email, this 10th day of March, 2014 and to Christopher S. Switlyk, Register #53913-018, FCI Estill, Post Office Box 699, Estill, South Carolina, 29918-0699 by U.S. mail and via facsimile.



Lucas L. May
Assistant General Counsel

cc: Statewide Reporting Service
(904) 353-7706 – telephone
(904) 353-2507 - Fax

**STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS**

DEPARTMENT OF HEALTH,

PETITIONER,

v.

**DOAH CASE NO. 14-0883PL
DOH CASE NO. 2011-20634**

CHRISTOPHER STEPHEN SWITLYK, R.P.h.,

RESPONDENT.

**PETITIONER'S MOTION FOR RESPONDENT TO
APPEAR TELEPHONICALLY AT HEARING**

COMES NOW the Petitioner, the Department of Health, and moves the Administrative Law Judge to enter an order allowing Respondent, Christopher Stephen Switlyk, to appear telephonically in the hearing set for this cause, and as grounds therefore states the following:

1. On or about February 28, 2013, Petitioner filed a two count complaint against Respondent. On or about December 19, 2013, Petitioner filed its first Amended Complaint against Respondent. On or about January 13, 2014, Petitioner requested a formal hearing at the Department of Administrative Hearings (DOAH). The case was referred to DOAH on or about February 24, 2014.

2. This case has been set for hearing on March, 26 2014, at 9:30 a.m.

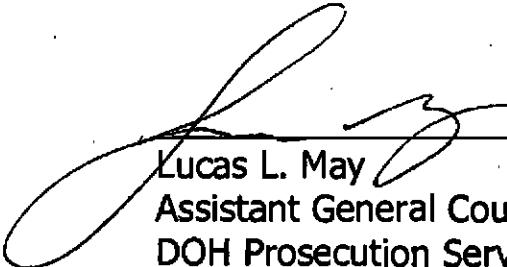
3. Respondent is currently incarcerated in a Federal prison located in South Carolina. As such, Respondent will not be able to attend the scheduled hearing in person.

4. Should Petitioner call Respondent as a witness, Petitioner shall be responsible for having a person authorized by law to swear the witness present at Respondent's location at the time of his hearing.

5. Petitioner has contacted the Federal prison that is detaining Respondent. Representatives from the prison have stated that Respondent would be able to attend the hearing by telephone.

WHEREFORE, Petitioner requests that this honorable administrative law judge enter an order allowing Respondent, Christopher Stephen Switlyk, to appear telephonically in the hearing set for this cause.

Respectfully submitted this 7th day of March, 2014.

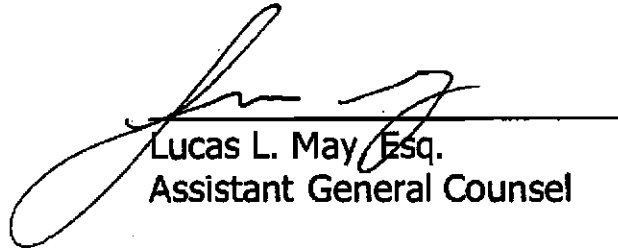


Lucas L. May
Assistant General Counsel
DOH Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65

Tallahassee, Florida 32399-3265
Florida Bar No.: 0102747
(850) 245 - 4444 ext. 8242 Telephone
(850) 245 - 4683 Facsimile
Lucas.May@flhealth.gov

CERTIFICATE OF SERVICE

I CERTIFY that a true and correct copy of Petitioner's Motion for Respondent to Appear Telephonically at Hearing has been furnished via U.S. Mail to Christopher S. Switlyk, Register #53913-018, FCI Estill, Post Office Box 699, Estill, South Carolina, 29918-0699 and by facsimile on this 7th day of March, 2014.


Lucas L. May Esq.
Assistant General Counsel

**STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS**

DEPARTMENT OF HEALTH,

PETITIONER,

v.

**DOAH CASE NO. 14-0883PL
DOH CASE NO. 2011-20634**

CHRISTOPHER STEPHEN SWITLYK, R.P.h.,

RESPONDENT.

**MOTION TO TAKE TELEPHONIC DEPOSITION
OF RONALD B. SALEM, EXPERT WITNESS FOR PETITIONER**

COMES NOW the Petitioner, the Department of Health, and moves the Honorable J. Lawrence Johnston, Administrative Law Judge, to enter an order approving the taking of the deposition of Ronald B. Salem, R.P.h., (Deponent) by telephone conference call pursuant to Rule 1.310(b)(7), Florida Rules of Civil Procedure as follows:

1. Rule 1.310(b)(7), Florida Rules of Civil Procedure, provides for the taking of a deposition by telephone upon order of the court.
2. Deponent is a registered pharmacist and past member of the Florida Board of Pharmacy. The Petitioner wishes to introduce Mr. Salem's

deposition, in lieu of live testimony, as expert testimony in the above captioned proceeding

3. The Deponent resides in Jacksonville, Florida. Counsel for Petitioner is located in Leon County, Florida. Respondent is located in South Carolina.

4. A telephonic deposition of the Deponent is desirable, in the interests of economy, and will not unfairly prejudice either party.

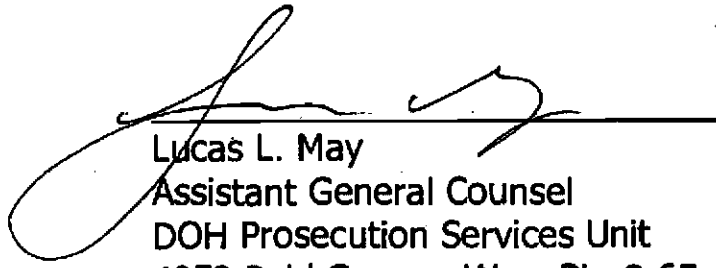
5. Petitioner shall be responsible for having a court reporter on site for the purpose of transcribing the deposition. Petitioner shall also be responsible for having a person authorized by law to swear the witness present at the site.

6. Petitioner has contacted the Federal prison, which detains Respondent, and has been assured that the date and time set for deposition are appropriate for Respondent's appearance by telephone.

7. Petitioner is not aware of any objections to this Motion.

WHEREFORE, Petitioner requests the entry of an order authorizing the deposition of Ronald B. Salem, R.P.h., by telephone conference call on March 13, 2014 at 10:00 a.m.

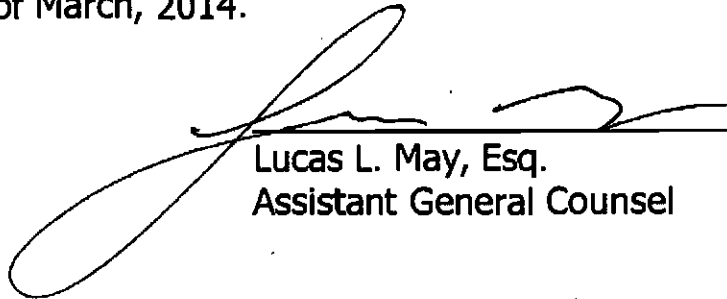
Respectfully submitted this 7 day of March, 2014,



Lucas L. May
Assistant General Counsel
DOH Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, Florida 32399-3265
Florida Bar No.: 0102747
(850) 245 - 4444 ext. 8242 Telephone
(850) 245 - 4683 Facsimile
Lucas.May@flhealth.gov

CERTIFICATE OF SERVICE

I CERTIFY that a true and correct copy of Petitioner's Motion to Take Telephonic Deposition of Ronald B. Salem, Expert Witness for Petitioner has been furnished via U.S. Mail to Christopher S. Switlyk, Register #53913-018, FCI Estill, Post Office Box 699, Estill, South Carolina, 29918-0699 and by facsimile on this 7th day of March, 2014.



Lucas L. May, Esq.
Assistant General Counsel

**STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS**

DEPARTMENT OF HEALTH,

Petitioner

v.

**DOAH CASE NO. 14-0883PL
DOH Case No. 2011-20634**

CHRISTOPHER STEPHEN SWITLYK, R.P.H.,

Respondent.

NOTICE OF TAKING DEPOSITION IN LIEU OF LIVE TESTIMONY

TO: Ronald B. Salem, R.Ph.
7970 Bayberry Road
Suite #4
Jacksonville, Florida 32256

PLEASE TAKE NOTICE that the Petitioner will depose Ronald B. Salem, R.Ph., by telephone as noted:

WITNESS

Ronald B. Salem, R.Ph.

DATE & TIME

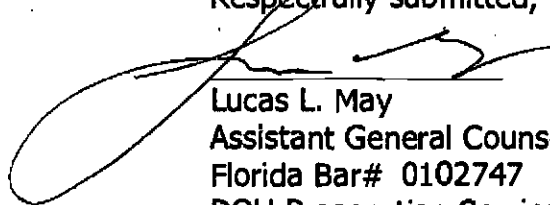
March 13, 2014
@10:00 a.m.

LOCATION

Ronald B. Salem, R.Ph.
7970 Bayberry Road,
Suite #4
Jacksonville, Florida 32256
904-607-3798 Phone

The deposition will be conducted before "For The Record Reporting", (850) 222-5491, or by another person authorized by law to administer oaths. The deposition will be used as discovery and at the formal hearing as permitted under the applicable Rules of Civil Procedure.

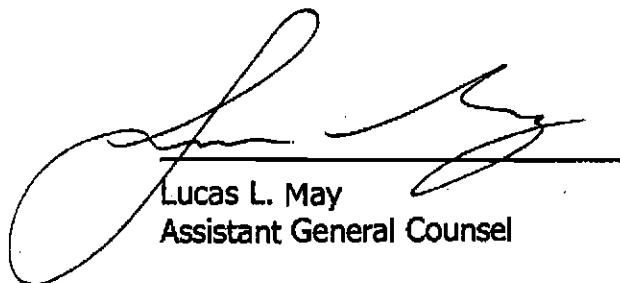
Respectfully submitted,



Lucas L. May
Assistant General Counsel
Florida Bar# 0102747
DOH Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, Florida 32399-3265
850-245-4640
850-245-4681 – fax

CERTIFICATE OF SERVICE

I CERTIFY that a true and correct copy hereof has been furnished to : Ronald B. Salem, R.Ph., 7970 Bayberry Road, Suite #4, Jacksonville, Florida 32256, by U.S. mail and via email, this 7th day of March, 2014 and to Christopher S. Switlyk, Register #53913-018, FCI Estill, Post Office Box 699, Estill, South Carolina, 29918-0699 by U.S. mail and via facsimile.



Lucas L. May
Assistant General Counsel

cc: For The Record Court Reporting
(850) 222-5491 Phone
(850) 224-5316 Fax

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

DEPARTMENT OF HEALTH,
BOARD OF PHARMACY,

Petitioner,

vs.

Case No. 14-0883PL

CHRISTOPHER STEPHEN SWITLYK,
R.P.H.,

Respondent.

ORDER OF PRE-HEARING INSTRUCTIONS

This cause having been scheduled for final hearing, it is, therefore,

ORDERED that:

1. No later than 7 days prior to the final hearing Petitioner and Respondent shall provide each other with a list of the names and addresses of those persons which that party intends to call as witnesses during the final hearing in this cause and shall provide to each other copies of the documents which that party intends to offer as exhibits during the final hearing. Failure to do so may result in the exclusion at the final hearing of witnesses or exhibits not previously disclosed. The witness list shall be filed with the Division of Administrative Hearings no later than 5 days prior to the final hearing.

2. No later than 7 days prior to the final hearing, the parties shall confer with each other to determine whether this cause can be amicably resolved.

DONE AND ORDERED this 5th day of March, 2014, in
Tallahassee, Leon County, Florida.



J. LAWRENCE JOHNSTON
Administrative Law Judge
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-3060
(850) 488-9675
Fax Filing (850) 921-6847
www.doah.state.fl.us

Filed with the Clerk of the
Division of Administrative Hearings
this 5th day of March, 2014.

COPIES FURNISHED:

Lucas Lawrence May, Esquire
Department of Health
Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, Florida 32399
(eServed)

John Perrin, Esquire
Suite 424
2401 West Bay Drive
Largo, Florida 33770

Christopher S. Switlyk
Register No. 53913-018
FCI Estill
Post Office Box 699
Estill, South Carolina 29918-0699

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

DEPARTMENT OF HEALTH,
BOARD OF PHARMACY,

Petitioner,

vs.

Case No. 14-0883PL

CHRISTOPHER STEPHEN SWITLYK,
R.P.H.,

Respondent.

NOTICE OF HEARING

A hearing will be held in this case at the Division of Administrative Hearings (check the reception area for hearing room assignment), the DeSoto Building, 1230 Apalachee Parkway, Tallahassee, Florida, on March 26, 2014, at 9:30 a.m., or as soon thereafter as can be heard. Continuances will be granted only by order of the Administrative Law Judge for good cause shown.

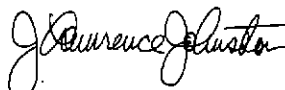
ISSUE: See Amended Administrative Complaint, DOH Case 2011-20634.

AUTHORITY: Chapter 120, Florida Statutes; and Florida Administrative Code Chapter 28-106, Parts I and II.

The parties shall arrange to have all witnesses and evidence present at the time and place of hearing. Subpoenas will be issued by the Administrative Law Judge upon request of the parties. All parties have the right to present oral argument and to cross-examine opposing witnesses. All parties have the right to be represented by counsel or other qualified representative, in accordance with Florida Administrative Code Rule 28-106.106. Failure to appear at this hearing may be grounds for closure of the file without further proceedings.

The agency shall be responsible for preserving the testimony at the final hearing. Fla. Admin. Code R. 28-106.214.

March 5, 2014



J. LAWRENCE JOHNSTON
Administrative Law Judge
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-3060
(850) 488-9675
Fax Filing (850) 921-6847
www.doah.state.fl.us

COPIES FURNISHED:

Lucas Lawrence May, Esquire
Department of Health
Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, Florida 32399
(eServed)

John Perrin, Esquire
Suite 424
2401 West Bay Drive
Largo, Florida 33770

Christopher S. Switlyk
Register No. 53913-018
FCI Estill
Post Office Box 699
Estill, South Carolina 29918-0699

In accordance with the Americans with Disabilities Act, persons needing a special accommodation to participate in this proceeding should contact the Judge's secretary no later than seven days prior to the hearing. The Judge's secretary may be contacted at (850) 488-9675, via 1-800-955-8771 (TDD), or 1-800-955-8770 (Voice) Florida Relay Service.

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

DEPARTMENT OF HEALTH,

Petitioner,

v.

DOAH CASE NO.: 14-0883PL

DOH CASE NO.: 2011-20634

CHRISTOPHER SWITLYK, R.Ph.,

Respondent.

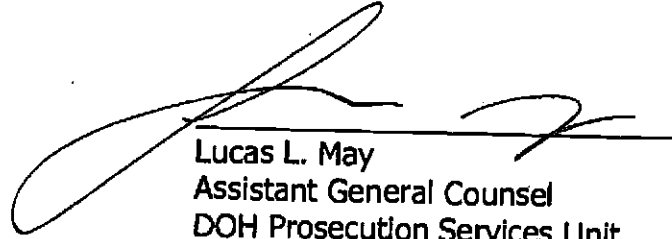
UNILATERAL RESPONSE TO INITIAL ORDER

COMES NOW the Petitioner, Department of Health hereby files this Response to Initial Order issued by the Honorable J. Lawrence Johnston, Administrative Law Judge, on February 25, 2014 and states:

1. There are no related cases before the Division of Administrative Hearings.
2. The estimated length of time to conduct the formal hearing is one half day (1/2 day).
3. The suggested location of the formal hearing is Tallahassee, Florida. Petitioner also unilaterally requests the availability of teleconference. Respondent is incarcerated in Federal prison in South Carolina and Petitioner anticipates that Respondent may require teleconference to appear at the hearing.
4. Petitioner has attempted to confer with Respondent as to his/her availability for a hearing date. The Attorney of Record for Respondent, John Perrin, orally and in writing expressed his desire to the Department to withdraw as counsel for Respondent. Petitioner will confer directly with Respondent.

5. Petitioner is available for formal hearing on March 26 through March 28, as well as April 14 through April 25, 2014.

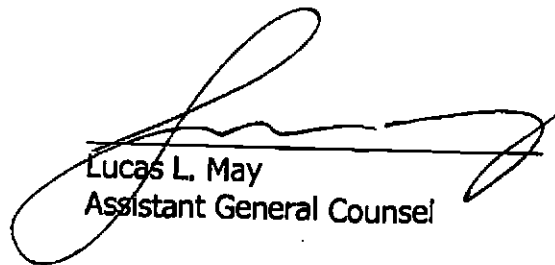
Respectfully submitted,



Lucas L. May
Assistant General Counsel
DOH Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, Florida 32399-3265
Florida Bar No.: 0102747
(850) 245 - 4444 ext. 8242 Telephone
(850) 245 - 4683 Facsimile
Lucas.May@flhealth.gov

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the forgoing Unilateral Response to Initial Order has been furnished this 28th Day of February, 2014 to Respondent, Christopher Switlyk, Register # 53913-018, FCI Estill, Post Office Box 699, Estill, South Carolina, 29918-0699 by postage-paid U.S. Mail.



Lucas L. May
Assistant General Counsel

**STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS**

DEPARTMENT OF HEALTH,

Petitioner

DOAH CASE NO.: 14-0883PL

v.

DOH CASE NO.: 2011-20634

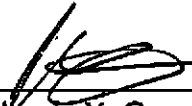
CHRISTOPER STEPHEN SWITLYK, R.Ph.,

Respondent.

NOTICE OF APPEARANCE OF CO-COUNSEL

COMES NOW the undersigned and files this Notice of Appearance of Co-Counsel of record for Petitioner in the above-styled proceeding. The undersigned further requests that she not be copied with all papers and pleadings filed in these proceedings.

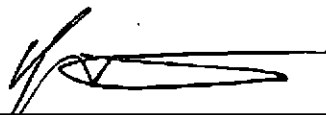
Respectfully submitted,



Yolonda Y. Green
Assistant General Counsel
Florida Bar No. 0738115
DOH Prosecution Services Unit
4052 Bald Cypress Way, Bin C65
Tallahassee, FL 32399-3265
(850) 245-4444 (telephone)
(850) 245-4683 (facsimile)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via: E-mail to Respondent's counsel, John P. Perrin, Esquire, The Perrin Law Firm, P.A., 2401 West Bay Drive, Suite 424, Largo, Florida 33770 , this 26th day of February, 2014.



Yolonda Y. Green
Assistant General Counsel

**STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS**

DEPARTMENT OF HEALTH,

PETITIONER,

v.

**DOAH CASE NO. 14-0883 PL
DOH CASE NO. 2011-20634**

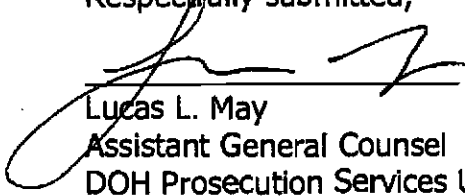
CHRISTOPHER STEPHEN SWITLYK, R.PH.,

RESPONDENT.

**NOTICE OF SERVICE OF PETITIONER'S FIRST REQUEST FOR PRODUCTION,
FIRST SET OF INTERROGATORIES AND FIRST REQUEST FOR
ADMISSIONS TO RESPONDENT**

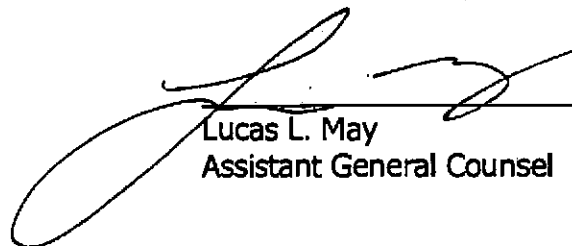
COMES NOW Petitioner, and files this Notice of Serving Petitioner's First Request for Production, First Request for Interrogatories, and First Request for Admissions by Overnight Express mail to Counsel for Respondent, John P. Perrin, Esquire, The Perrin Law Firm. P.A., c/o Christopher Stephen Switlyk, R.PH., 2401 West Bay Drive, Suite 424, Largo, Florida 33770 on this 25th day of February, 2014.

Respectfully submitted,


Lucas L. May
Assistant General Counsel
DOH Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, Florida 32399-3265
Florida Bar #0102747
850.245.4444, ext. 8242
850.245.4683 FAX

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via: E-mail to John P. Perrin, Esquire, The Perrin Law Firm, P.A., c/o Christopher Stephen Switlyk, 2401 West Bay Drive, Suite 424, Largo, Florida 33770 , this 25 day of February, 2014.



Lucas L. May
Assistant General Counsel

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

DEPARTMENT OF HEALTH, BOARD OF
PHARMACY,

Petitioner,

Case No. 14-0883PL
2011-20634

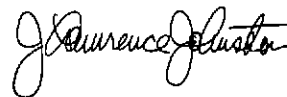
vs.

CHRISTOPHER STEPHEN SWITLYK, R.PH.,

Respondent.

INITIAL ORDER

1. Any document filed with DOAH by a party represented by an attorney shall be filed by electronic means through eALJ located at www.doah.state.fl.us. Parties not represented by an attorney may file by electronic means through eALJ. Any document filed through eALJ shall include the filing party's e-mail address and be served upon all other parties. All pleadings and motions must contain the DOAH style and case number.
 2. THE AGENCY OR, WHERE THE AGENCY IS NOT A PARTY, THE PETITIONER SHALL COORDINATE WITH ALL PARTIES AND PROVIDE THE FOLLOWING INFORMATION WITHIN SEVEN DAYS OF THE DATE OF THIS ORDER. If coordination is not possible, each party shall individually provide the information.
 - a. Any related cases before DOAH and, if so, the DOAH case number;
 - b. Estimated length of time necessary to conduct the final hearing;
 - c. Suggested geographic location for the final hearing. Any of the parties may state a preference for either a hearing conducted in-person or a hearing conducted by video-teleconferencing (VTC). The preference will be given due consideration by the Judge. Additional information about VTC hearings, including VTC locations, is available at www.doah.state.fl.us;
 - d. All dates more than 30 and less than 70 days from the date of this Order on which both parties are available for the final hearing.
 3. In the event a document is NOT electronically filed in accordance with paragraph 1, PARTIES NOT REPRESENTED BY AN ATTORNEY shall file the document on 8.5" x 11" paper at the address below and a copy served upon all other parties. Parties not represented may file electronically through eALJ, facsimile, or mail. CHOOSE ONE METHOD of filing for each document.
 4. EVERY PERSON FILING A DOCUMENT AT DOAH MUST ENSURE THAT NO INFORMATION PROTECTED BY PRIVACY OR CONFIDENTIALITY LAWS IS CONTAINED IN ANY DOCUMENT THAT WOULD BE POSTED TO DOAH'S WEBSITE IN THE REGULAR COURSE OF BUSINESS.
 5. FAILURE TO COMPLY WITH THE PROVISIONS OF PARAGRAPH 2 SHALL WAIVE VENUE RIGHTS, AND THE FINAL HEARING WILL BE SET IN TALLAHASSEE AS SOON AS POSSIBLE.
- DONE AND ORDERED this 25th day of February, 2014, in Tallahassee, Florida.



J. LAWRENCE JOHNSTON
Administrative Law Judge
Division of Administrative Hearings
1230 Apalachee Parkway
Tallahassee, Florida 32399-3060
(850) 488-9675
Fax Filing (850) 921-6847
www.doah.state.fl.us

Filed with the Clerk of DOAH this 25th day of February, 2014.

SUMMARY OF PROCEDURES

This case has been filed with the Division of Administrative Hearings to conduct an evidentiary hearing governed by chapter 120, Florida Statutes, and Florida Administrative Code Chapter 28-106, Parts I and II.

THE PARTIES SHALL TAKE NOTICE THAT:

1. Parties that have not previously registered for electronic filing may register through eALJ at www.doah.state.fl.us. Once your registration has been submitted you will receive electronic notification within 24 hours that your account has been activated. YOUR REGISTRATION MUST BE ACTIVATED BEFORE YOU MAY FILE ELECTRONICALLY.
2. Discovery may be undertaken in the manner provided in the Florida Rules of Civil Procedure and, if desired, should be initiated immediately. Subpoenas may be obtained from the Judge by contacting (850) 488-9675, extension 111. Registered e-filers may obtain subpoenas electronically through the DOAH website under the eALJ link. Discovery must be completed five days before the date of the final hearing unless an extension of time for good cause is granted.
3. The government agency for which a hearing is conducted will make arrangements for preserving the testimony at the final hearing.
4. A party may appear personally or be represented by an attorney or other qualified representative, pursuant to Florida Administrative Code Rule 28-106.106.
5. Florida Administrative Code Rule 28-106.210 provides that requests for continuances must be filed with the Judge at least five days prior to the date of hearing, except in cases of extreme emergency, and will only be granted for good cause shown.
6. Parties will promptly notify the Judge in the event of a settlement or other development which might alter the scheduled hearing.
7. The parties are expected to discuss the possibility of settlement, enter into pre-hearing stipulations of fact and law, identify and limit issues, and exchange exhibit and witness lists prior to the hearing.
8. If all parties agree, this case may proceed as a summary hearing, without discovery, if requested by motion within 15 days from the date of this Order. A Final Order will be entered within 30 days after the hearing.

In accordance with the Americans with Disabilities Act, persons needing a special accommodation to participate in this proceeding should contact the Judge's secretary no later than seven days prior to the hearing. The Judge's secretary may be contacted at the address or telephone numbers on page one, via 1-800-955-8770 (Voice), or 1-800-955-8771 (TDD) Florida Relay Service.

COPIES FURNISHED:

Lucas May Esquire
(850)245-4444

John Perrin Esquire

**STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS**

DEPARTMENT OF HEALTH,

Petitioner

v.

CASE NO. 2011-20634

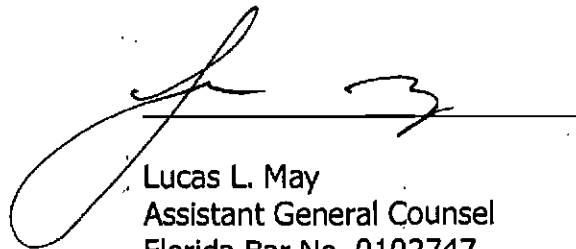
CHRISTOPER STEPHEN SWITLYK, R.Ph.,

Respondent.

NOTICE OF APPEARANCE

COMES NOW the undersigned and files this Notice of Appearance as counsel of record for Petitioner thereby notifying this Administrative Law Judge that the undersigned will be representing the Petitioner in the above-styled proceeding. The undersigned further requests that he be copied with all papers and pleadings filed in these proceedings.

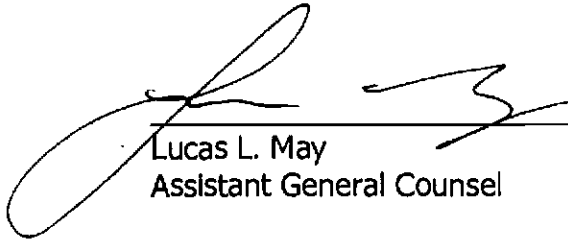
Respectfully submitted,



Lucas L. May
Assistant General Counsel
Florida Bar No. 0102747
DOH Prosecution Services Unit
4052 Bald Cypress Way, Bin C65
Tallahassee, FL 32399-3265
(850) 245-4444 ext 8242 (telephone)
(850) 245-4683 (facsimile)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via: E-mail to John P. Perrin, Esquire, The Perrin Law Firm, P.A., c/o Christopher Stephen Switlyk, 2401 West Bay Drive, Suite 424, Largo, Florida 33770 , this 25 day of February, 2014.



Lucas L. May
Assistant General Counsel

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO. 2011-20634

CHRISTOPHER STEPHEN SWITLYK, R.Ph.,

RESPONDENT.

ADMINISTRATIVE COMPLAINT

COMES NOW, Petitioner, Department of Health, by and through its undersigned counsel, and files this Administrative Complaint before the Board of Pharmacy against Respondent, Christopher Stephen Switlyk, R.Ph., and in support thereof alleges:

1. Petitioner is the state department charged with regulating the practice of pharmacy pursuant to Section 20.43, Florida Statutes; Chapter 456, Florida Statutes; and Chapter 465, Florida Statutes.

2. At all times material to this Administrative Complaint, Respondent was a licensed pharmacist within the state of Florida, having been issued license number PS 36908.

3. Respondent's address of record is 2410 Victoria Gardens Lane, Tampa, Florida 33609-4107.

4. On or about September 5, 2012, in the United States District Court for the Middle District of Florida, in case number 8:10-CR-530-T-33AEP, Respondent entered a plea of guilty to the following:

- a. To knowingly and intentionally distribute and possess with intent to distribute quantities of controlled substances, primarily Oxycodone, a Schedule II Controlled Substance, a felony, in violation of 21 U.S.C. § 841(a)(1);
- b. To knowingly and intentionally dispense and distribute, and cause to be dispensed and distributed, quantities of controlled substances, primarily Oxycodone, a Schedule II Controlled Substance, not for a legitimate medical purpose and not in the usual course of professional practice, a felony, in violation of 21 U.S.C. § 841(a)(1);
- c. To knowingly and intentionally use, and cause to be used, a registration number that was issued to another person in the course of distributing and dispensing controlled substances,

primarily Oxycodone, a Schedule II Controlled Substance, a felony, in violation of 21 U.S.C. § 843(a)(2);

d. To knowingly and intentionally acquire and obtain possession, and cause the acquiring and obtaining of possession, of controlled substances, primarily Oxycodone, a Schedule II Controlled Substance, by misrepresentation, fraud, forgery, deception or subterfuge, a felony, in violation of 21 U.S.C. § 843(a)(3);

e. To knowingly and intentionally open, lease, rent, use and maintain, and cause to be opened, leased, rented, used, and maintained, certain places for the purpose of distributing and dispensing controlled substances, primarily Oxycodone, a Schedule II Controlled Substance, a felony, in violation of 21 U.S.C. § 856(a)(1);

f. To knowingly engaging in monetary transactions, in and affecting interstate and foreign commerce, in criminally derived property of a value greater than \$10,000.00, such property having been from a specified unlawful activity, namely, a conspiracy to traffic in controlled substances,

felonies, in violation of 21 U.S.C. § 846, and 18 U.S.C. § 1957.

5. Respondent failed to report entering a plea of guilty to crimes referenced in paragraph four (4) to the Board of Pharmacy in writing within thirty (30) days of the date he entered the plea on or about September 5, 2012.

COUNT ONE

6. Petitioner realleges and incorporates paragraphs one (1) through five (5), as if fully set forth herein.

7. Section 456.072(1)(c), Florida Statutes (2012), provides that being convicted or found guilty of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the practice of, or the ability to practice, a licensee's profession constitutes grounds for disciplinary action.

8. Respondent is licensed pursuant to Chapter 465, Florida Statutes, and is a health care practitioner as defined in Section 456.001(4), Florida Statutes (2012).

9. On or about September 5, 2012, in the United States District Court for the Middle District of Florida, in case number 8:10-CR-530-T-

33AEP, Respondent entered a plea of guilty to one or more of the following crimes that relate to the practice of, or the ability to practice, pharmacy:

- a. To knowingly and intentionally distribute and possess with intent to distribute quantities of controlled substances, primarily Oxycodone, a Schedule II Controlled Substance, a felony, in violation of 21 U.S.C. § 841(a)(1);
- b. To knowingly and intentionally dispense and distribute, and cause to be dispensed and distributed, quantities of controlled substances, primarily Oxycodone, a Schedule II Controlled Substance, not for a legitimate medical purpose and not in the usual course of professional practice, a felony, in violation of 21 U.S.C. § 841(a)(1);
- c. To knowingly and intentionally use, and cause to be used, a registration number that was issued to another person in the course of distributing and dispensing controlled substances, primarily Oxycodone, a Schedule II Controlled Substance, a felony, in violation of 21 U.S.C. § 843(a)(2);
- d. To knowingly and intentionally acquire and obtain possession, and cause the acquiring and obtaining of

possession, of controlled substances, primarily Oxycodone, a Schedule II Controlled Substance, by misrepresentation, fraud, forgery, deception or subterfuge, a felony, in violation of 21 U.S.C. § 843(a)(3);

e. To knowingly and intentionally open, lease, rent, use and maintain, and cause to be opened, leased, rented, used, and maintained, certain places for the purpose of distributing and dispensing controlled substances, primarily Oxycodone, a Schedule II Controlled Substance, a felony, in violation of 21 U.S.C. § 856(a)(1);

f. To knowingly engaging in monetary transactions, in and affecting Interstate and foreign commerce, in criminally derived property of a value greater than \$10,000.00, such property having been from a specified unlawful activity, namely, a conspiracy to traffic in controlled substances, felonies, in violation of 21 U.S.C. § 846, and 18 U.S.C. § 1957.

10. Based on the foregoing, Respondent violated Section 456.072(1)(c), Florida Statutes (2012), by being convicted or found guilty

of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the practice of, or the ability to practice, a licensee's profession

COUNT TWO

11. Petitioner realleges and incorporates paragraphs one (1) through five (5), as if fully set forth herein.

12. Section 456.072(1)(x), Florida Statutes (2012), provides that failing to report to the board, or the department if there is no board, in writing within thirty (30) days after the licensee has been convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction, constitutes grounds for disciplinary action.

13. Respondent is licensed pursuant to Chapter 465, Florida Statutes, and is a health care practitioner as defined in Section 456.001(4), Florida Statutes (2012).

14. Respondent failed to report entering a plea of guilty to crimes referenced in paragraph four (4) to the Board of Pharmacy in writing within thirty (30) days of the date he entered the plea on or about September 5, 2012.

15. Based on the foregoing, Respondent violated Section 456.072(1)(x), Florida Statutes (2012), by failing to report to the board in writing within thirty (30) days after the licensee has been convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction.

WHEREFORE, the Petitioner respectfully requests that the Board of Pharmacy enter an order imposing one or more of the following penalties: permanent revocation or suspension of Respondent's license, restriction of practice, imposition of an administrative fine, issuance of a reprimand, placement of the Respondent on probation, corrective action, refund of fees billed or collected, remedial education and/or any other relief that the Board deems appropriate.

SIGNED this 28th day of February, 2013.

John H. Armstrong, MD, FACS
State Surgeon General and Secretary of Health



MICHAEL G. LAWRENCE, JR.
Assistant General Counsel
Fla. Bar No. 0011265
Florida Department of Health
Office of the General Counsel
4052 Bald Cypress Way, Bin #C65
Tallahassee, FL 32399-3265

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK Angel Sanders
DATE FEB 28 2013

Telephone: (850) 245-4444, extension 8199
Facsimile: (850) 245-4683
Email: michael_lawrence@doh.state.fl.us

/MGL

PCP: February 28, 2013
PCP Members: Glass & Mullins

NOTICE OF RIGHTS

Respondent has the right to request a hearing to be conducted in accordance with Section 120.569 and 120.57, Florida Statutes, to be represented by counsel or other qualified representative, to present evidence and argument, to call and cross-examine witnesses and to have subpoena and subpoena duces tecum issued on his or her behalf if a hearing is requested.

NOTICE REGARDING ASSESSMENT OF COSTS

Respondent is placed on notice that Petitioner has incurred costs related to the investigation and prosecution of this matter. Pursuant to Section 456.072(4), Florida Statutes, the Board shall assess costs related to the investigation and prosecution of a disciplinary matter, which may include attorney hours and costs, on the Respondent in addition to any other discipline imposed.

ELECTION OF RIGHTS

Case Name: Christopher Stephen Switlyk, R.Ph.

Case No. 2011-20634

PRACTITIONER REGULATION LEGAL

2014 JAN 13 AM 9:23

PLEASE SELECT ONLY 1 OF THE 3 OPTIONS

An Explanation of Rights is attached. If you do not understand these options, please consult with your attorney or contact the attorney for the Prosecution Services Unit at the address/phone number listed at the bottom of this form.

OPTION 1. I do not dispute the allegations of fact in the Administrative Complaint, but do wish to be accorded a hearing, pursuant to Section 120.57(2), Florida Statutes, at which time I will be permitted to submit oral and/or written evidence in mitigation of the complaint to the Board.

OPTION 2. I do not dispute the allegations of fact contained in the Administrative Complaint and waive my right to object or to be heard. I request that the Board enter a final order pursuant to Section 120.57, Florida Statutes.

OPTION 3. X I do dispute the allegations of fact contained in the Administrative Complaint and request this to be considered a petition for formal hearing, pursuant to Sections 120.569(2)(a) and 120.57(1), Florida Statutes, before an Administrative Law Judge appointed by the Division of Administrative Hearings. I specifically dispute the following paragraphs of the Administrative Complaint:

3, 5, 6, 10, 11, 13, 15, 16

In addition to the above selection, I also elect the following:

- X I accept the terms of the Settlement Agreement, have signed and am returning the Settlement Agreement or I am interested in settling this case.
() I do not wish to continue practicing and have signed and returned the Voluntary Relinquishment of licensure form.

Regardless of which option I have selected, I understand that I will be given notice of time, date, and place when this matter is to be considered by the Board for Final Action. Mediation under Section 120.573, Florida Statutes, is not available in this matter.

(Please sign and complete all the information below.)

Christopher Switlyk (handwritten signature)

Respondent's signature: Christopher Switlyk
Address: Register #: 53913-018
Estill
Post Office Box 699
Estilly, SC 29918-0699
Lic. No.: PS36908
Phone No.: Attorney phone #: 727-585-0500
Fax No.: none

Notary Public seal: Authorized by the Act of July 07, 1955, as amended to administer oaths (18 USC 4004) No. 101007 State of Florida

STATE OF FLORIDA
COUNTY OF

Before me personally appeared whose identity is known to be by (type of identification), and who under oath, acknowledges that his/her signature appears above. Sworn to and subscribed by Respondent before me this day of , 201.

Notary Public
My Commission Expires:

PLEASE MAIL AND/OR FAX COMPLETED FORM TO: Christopher A. Jurich, Assistant General Counsel, DOH, Prosecution Services Unit, 4052 Bald Cypress Way, Bin C-65, Tallahassee, Florida 32399-3265. Telephone Number: (850) 245-4444, ext. 8174; FAX (850) 245-4683- TDD 1-800-955-8771.

Mission:

To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.



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Rick Scott
Governor

John H. Armstrong, MD, FACS
State Surgeon General & Secretary

February 24, 2014

The Honorable Robert S. Cohen
Director & Chief Judge
Division of Administrative Hearings
1230 Apalachee Parkway
Tallahassee, Florida 32399-1550

Re: Department of Health v. Christopher Stephen Switlyk, R.Ph.
Case Number: 2011-20634

Dear Judge Cohen:

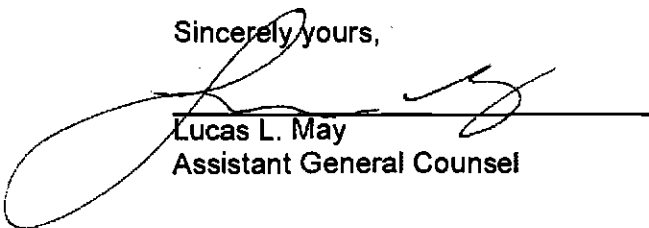
Pursuant to Section 120.57(1), Florida Statutes, I am forwarding via electronic mail one (1) copy of the Department's Amended Administrative Complaint and one (1) copy of Respondent's Election of Rights requesting a hearing in response to the Amended Administrative Complaint. Please assign an Administrative Law Judge to this case.

I am also filing via electronic mail Petitioner's Notice of Appearance.

I will be representing the Petitioner in the above-referenced case and should receive copies of all pleadings and orders filed in this proceeding. Respondent is represented by John Perrin, Esq., 2401 West Bay Drive, Suite 424, Largo, Florida 33770 and has requested that all pleadings and orders be sent to the above address.

Thank you for your assistance in this matter. I can be reached at (850) 245-4444 ext. 8242.

Sincerely yours,



Lucas L. May
Assistant General Counsel

LLM/pb

Attachments:

Election of Rights, Amended Administrative Complaint

Cc: John Perrin, Esq.

Florida Department of Health
Office of the General Counsel • Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65 • Tallahassee, FL 32399-1701
Express mail address: 2585 Merchants Row - Suite 105
PHONE: 850/245-4444 • FAX 850/245-4684

www.FloridasHealth.com
TWITTER: HealthyFLA
FACEBOOK: FLDepartmentofHealth
YOUTUBE: fldoh

Filed February 24, 2014 12:21 PM Division of Administrative Hearings

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK *Angel Sanders*
DATE DEC 18 2013

STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO. 2011-20634

CHRISTOPHER STEPHEN SWITLYK, R.Ph.,

RESPONDENT.

AMENDED ADMINISTRATIVE COMPLAINT

COMES NOW, Petitioner, Department of Health, by and through its undersigned counsel, and files this Amended Administrative Complaint before the Board of Pharmacy against Respondent, Christopher Stephen Switlyk, R.Ph., and in support thereof alleges:

1. Petitioner is the state department charged with regulating the practice of pharmacy pursuant to Section 20.43, Florida Statutes; Chapter 456, Florida Statutes; and Chapter 465, Florida Statutes.

2. At all times material to this Administrative Complaint, Respondent was a licensed pharmacist within the state of Florida, having been issued license number PS 36908.

3. Respondent's address of record is 2410 Victoria Gardens Lane, Tampa, Florida 33609-4107.

4. The Department has reason to believe that Respondent may be located at FCI Estill, Federal Correctional Institution, Attention: Register Number 53913-018, P.O. Box 699, Estill, South Carolina 29918.

5. On or about September 5, 2012, in case number 8:10-CR-530-T-33AEP in the United States District Court for the Middle District of Florida, Respondent entered a plea of guilty to: one count of attempting or conspiring to commit any offense defined in this subchapter, a felony, in violation of 21 U.S.C. § 846; and two counts of knowingly engaging in monetary transactions, in and affecting interstate and foreign commerce, in criminally derived property of a value greater than \$10,000.00, such property having been from a specified unlawful activity, namely, a conspiracy to traffic in controlled substances, felonies, in violation of 18 U.S.C. § 1957.

6. Respondent failed to report entering pleas of guilty to crimes referenced in paragraph five to the Board of Pharmacy in writing within thirty days of the date he entered the plea on or about September 5, 2012.

COUNT ONE

7. Petitioner realleges and incorporates paragraphs one through six as if fully set forth herein.

8. Section 456.072(1)(c), Florida Statutes (2012), provides that being convicted or found guilty of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the practice of, or the ability to practice, a licensee's profession constitutes grounds for disciplinary action.

9. Respondent is licensed pursuant to Chapter 465, Florida Statutes, and is a health care practitioner as defined in Section 456.001(4), Florida Statutes (2012).

10. On or about September 5, 2012, in case number 8:10-CR-530-T-33AEP, in the United States District Court for the Middle District of Florida, Respondent entered a plea of guilty to: one count of attempting or conspiring to commit any offense defined in this subchapter, a felony, in violation of 21 U.S.C. 846; and two counts of knowingly engaging in monetary transactions, in and affecting interstate and foreign commerce, in criminally derived property of a value greater than \$10,000.00, such property having been from a specified unlawful activity, namely, a

conspiracy to traffic in controlled substances, felonies, in violation of 18 U.S.C. 1957.

11. Based on the foregoing, Respondent violated Section 456.072(1)(c), Florida Statutes (2012), by being convicted or found guilty of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the practice of, or the ability to practice, a licensee's profession.

COUNT TWO

12. Petitioner realleges and incorporates paragraphs one through six as if fully set forth herein.

13. Section 456.072(1)(x), Florida Statutes (2012), provides that failing to report to the board, or the department if there is no board, in writing within thirty (30) days after the licensee has been convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction, constitutes grounds for disciplinary action.

14. Respondent is licensed pursuant to Chapter 465, Florida Statutes, and is a health care practitioner as defined in Section 456.001(4), Florida Statutes (2012).

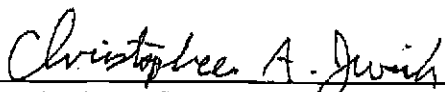
15. Respondent failed to report entering a plea of guilty to the crimes referenced in paragraph five to the Board of Pharmacy in writing within thirty days of the date he entered the plea on or about September 5, 2012.

16. Based on the foregoing, Respondent violated Section 456.072(1)(x), Florida Statutes (2012), by failing to report to the board in writing within thirty days after the licensee has been convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction.

WHEREFORE, the Petitioner respectfully requests that the Board of Pharmacy enter an order imposing one or more of the following penalties: permanent revocation or suspension of Respondent's license, restriction of practice, Imposition of an administrative fine, issuance of a reprimand, placement of the Respondent on probation, corrective action, refund of fees billed or collected, remedial education and/or any other relief that the Board deems appropriate.

SIGNED this 19th **day of** December, 2013.

John H. Armstrong, MD, FACS
State Surgeon General and Secretary of Health.


CHRISTOPHER A. JURICH
Assistant General Counsel
Fla. Bar No. 0099014
Florida Department of Health
Office of the General Counsel
4052 Bald Cypress Way, Bin #C65
Tallahassee, FL 32399-3265
Telephone: (850) 245-4444, ext. 8174
Facsimile: (850) 245-4683
Email: christopher.jurich@flhealth.gov

/CAJ

PCP: December 19, 2013
PCP Members: Mark Mikhael & Jeffrey Mesaros

NOTICE OF RIGHTS

Respondent has the right to request a hearing to be conducted in accordance with Section 120.569 and 120.57, Florida Statutes, to be represented by counsel or other qualified representative, to present evidence and argument, to call and cross-examine witnesses and to have subpoena and subpoena duces tecum issued on his or her behalf if a hearing is requested.

NOTICE REGARDING ASSESSMENT OF COSTS

Respondent is placed on notice that Petitioner has incurred costs related to the investigation and prosecution of this matter. Pursuant to Section 456.072(4), Florida Statutes, the Board shall assess costs related to the investigation and prosecution of a disciplinary matter, which may include attorney hours and costs, on the Respondent in addition to any other discipline imposed.



Rick Scott
Governor

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John H. Armstrong, MD, FACS

Surgeon General & Sec

Vision: To be the Healthiest State in the Nation

STATE OF FLORIDA
BOARD OF PHARMACY

DEPARTMENT OF HEALTH,
PETITIONER,

VS.

CASE NO. 201402880

JAMES V SCHOTT,
RESPONDENT.

NOTICE

TO: JAMES V SCHOTT
4204 WINDTREE DR
TAMPA, FL 33624-1221

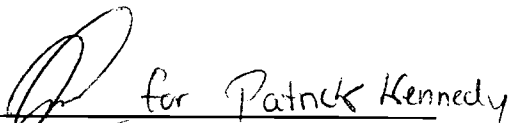
PLEASE TAKE NOTICE that a disciplinary hearing will be heard before the BOARD OF PHARMACY on Wednesday, August 13, 2014, commencing at 9 a.m. The Respondent is required to be present at this meeting. This hearing will be held at DoubleTree by Hilton, 100 Fairway Drive, Deerfield Beach, FL 33441, 1(800) 624-3606..

The purpose of the hearing is to consider a motion for: Settlement Agreement

Note: Cases shown on the agenda as "timed" items may be heard in a different order or may be heard earlier if all parties are present. Cases are scheduled beginning at 9 a.m.; therefore, it is imperative that you arrive promptly at 9 a.m. and be prepared to be at the meeting for several hours until your case is heard.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Hearing has been sent by U.S. Mail to the above address(es) this 10th day of July, 2014.



Board Executive Director
BOARD OF PHARMACY
Florida Department of Health
4052 Bald Cypress Way, Bin #
Tallahassee, FL 32399 -

Florida Department of Health
Division of Medical Quality Assurance
4052 Bald Cypress Way, Bin C10 • Tallahassee, FL 32399-3260
PHONE: (850) 245-4444 • FAX : (850) 245-4791

www.FloridasHealth.com
TWITTER:HealthyFLA
FACEBOOK:FLDepartmentofHealth
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Surgeon General & Secretary

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MEMORANDUM

TO: Patrick W. Kennedy, M.A., Executive Director, Board of Pharmacy
FROM: Christopher Jurich, Assistant General Counsel *CJ 6-17-14 AJ*
RE: **Settlement Agreement**
SUBJECT: DOH v. James V. Schott, R. Ph.
 DOH Case Number 2014-02880
DATE: June 17, 2014

Enclosed you will find materials in the above-referenced case to be placed on the agenda for final agency action for the **August 13, 2014** meeting of the board. The following information is provided in this regard.

Subject: James V. Schott, R. Ph.
Subject's Address of Record: 4204 Windtree Drive
 Tampa, FL 33624-1221
Enforcement Address: 4204 Windtree Drive
 Tampa, FL 33624-1221
Subject's License No: 21462 **Rank:** PS
Licensure File No: 10710
Initial Licensure Date: 3/11/1985
Board Certification: None
Required to Appear: Yes
Current IPN/PRN Contract: No
Allegation(s): Section 465.016(1)(r), F.S. (2013), by and through a violation of Rule 64B16-27.797(1)(n)4., F.A.C.
Prior Discipline: None
Probable Cause Panel: May 8, 2014: Glass and Fallon
Subject's Attorney: Pro Se
Complainant/Address: Department Of Health/Investigative Services
 Unit-Tallahassee
Materials Submitted: Memorandum to the Board
 Settlement Agreement
 Administrative Complaint
 Memorandum of Finding Probable Cause
 Election of Rights

Cost Summary Report
Final Investigative Report with Exhibits 1-4
Board Notification letter

Disciplinary Guidelines:

Minimum: \$500 fine and 12 hours Laws & Rules and course governing sterile compounding, to \$2,000 fine and 1 year probation

Maximum: \$2,500 to \$10,000 fine and 1 year suspension followed by 2 years probation, to Revocation

PRELIMINARY CASE REMARKS: SETTLEMENT AGREEMENT

On or about February 19, 2014, the Department conducted a routine inspection of Coram Healthcare Corp of Florida, a permitted community pharmacy located in Tampa, Florida. The inspection revealed that the Respondent prepared a low-risk level CSP for patient D.G. that was assigned a "discard after" date of March 11, 2014, with storage instructions on the label that read "Ambient". The Department inspection revealed that there was no documentation that the CSP for patient D.G. passed a sterility test or a documented validated process.

Terms of Settlement:

- Appearance
- Administrative fine in the amount of \$1,000.00 payable within 30 days
- Costs not to exceed the amount of \$1,206.94 payable within 90 days
- CE courses: 12 hours Laws & Rules and 12 hours Sterile Compounding

CJ/aed

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO. 2014-02880

JAMES V. SCHOTT, R.PH.,

RESPONDENT.

SETTLEMENT AGREEMENT

Pursuant to Section 120.57(4), Florida Statutes, the parties offer this Settlement Agreement to the Board of Pharmacy (Board) as disposition of the Administrative Complaint, attached as Exhibit A, in lieu of further administrative proceedings.

STIPULATED FACTS

1. At all times material to this matter, James V. Schott, R.Ph., was a licensed pharmacist in the state of Florida, having been issued license number PS21462. Respondent's mailing address of record is 4204 Windtree Drive, Tampa, Florida 33624.

2. Respondent was charged by an Administrative Complaint, filed by the Department of Health (Department) and properly served upon Respondent, with violations of Chapters 456 and 465, Florida Statutes.

STIPULATED LAW

1. Respondent admits that she is subject to the provisions of Chapters 456 and 465, Florida Statutes, and the jurisdiction of the Department.

2. Respondent admits that the allegations in the Administrative Complaint, if proven true, constitute violations of law and cause the Respondent to be subject to discipline by the Board of Pharmacy.

PROPOSED DISPOSITION

1. **Appearance**- Respondent shall be present when this Settlement Agreement is presented to the Board and under oath shall answer all questions asked by the Board concerning this case and its disposition.

2. **Fine**- The Board of Pharmacy shall impose an administrative fine of **ONE THOUSAND DOLLARS (\$1,000.00)**. The fine shall be paid by Respondent to the **Department of Health, Compliance Management Unit, Bin C76, Post Office Box 6320, Tallahassee,**

Florida 32314-6320, within **30 days** from the date the Final Order approving and incorporating this Settlement Agreement (Final Order) is filed with the Department Clerk.

3. **Costs**- The Board of Pharmacy shall impose the total, administrative costs associated with the investigation and prosecution of this matter in an amount not to exceed **ONE THOUSAND TWO HUNDRED AND SIX DOLLARS AND NINETY FOUR CENTS (\$1,206.94)**. Total costs shall be assessed when the Settlement Agreement is presented to the Board. The costs shall be paid by Respondent to the **Department of Health, Compliance Management Unit, Bin C76, Post Office Box 6320, Tallahassee, Florida 32314-6320**, within **90 days** from the date the Final Order is filed with the Department Clerk.

4. **Continuing Education**- Respondent shall successfully complete Continuing Education Courses which have been approved by the Florida Board of Pharmacy on the subject of **LAWS AND RULES** consisting of **TWELVE (12) HOURS** of credit and on the subject of **STERILE COMPOUNDING** consisting of **TWELVE (12) HOURS** of credit, within **one (1) year** of the filing of a Final Order accepting and incorporating this

Settlement Agreement. These continuing education hours shall be in addition to the hours required for license renewal. Within ten (10) days of completion of the courses and/or receipt of the certificate of completion, Respondent shall mail a copy of the continuing education certificate of completion to the Pharmacy Compliance Officer at the address listed in paragraph two (2) above.

5. **Future Conduct**- Respondent shall not violate Chapters 456, 465, 499, or 893, Florida Statutes; the rules promulgated pursuant thereto; or any other state or federal law, rule, or regulation relating to the practice or to the ability to practice pharmacy.

6. **Violation of Terms**- It is expressly understood that a violation of the provisions of this Settlement Agreement as approved and incorporated into the Final Order of the Board of Pharmacy shall constitute a violation of an order of the Board for which disciplinary action may be initiated against Respondent pursuant to Chapter 465, Florida Statutes.

7. **No Force or Effect until Final Order**- It is expressly understood that this Settlement Agreement is subject to approval by the Board and has no force or effect until the Board incorporates the terms of this Settlement Agreement into its Final Order.

8. **Purpose of Agreement-** This Settlement Agreement is executed by Respondent for the purpose of avoiding further administrative action with respect to this particular case. In this regard, Respondent authorizes the Board to review and examine all investigative file materials concerning Respondent prior to, or in conjunction with, consideration of the Settlement Agreement. Petitioner and Respondent agree to support this Settlement Agreement at the time it is presented to the Board and shall offer no evidence, testimony, or argument that disputes or contravenes any stipulated fact or conclusion of law. Furthermore, should this Settlement Agreement not be accepted by the Board, it is agreed that the presentation and consideration of this Settlement Agreement and other documents and matters by the Board shall not unfairly or illegally prejudice the Board or any of its members from further participation, consideration, or resolution of these proceedings.

9. **Not Preclude Additional Proceedings-** Respondent and the Department fully understand that this Settlement Agreement as approved and incorporated into the Final Order will not preclude additional proceedings by the Board or Department against Respondent for acts or omissions not specifically set forth in the Administrative Complaint.

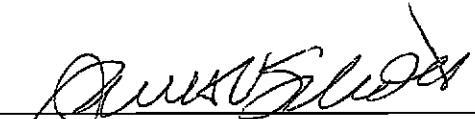
10. **Waiver of Attorney's Fees and Costs**- Respondent waives the right to seek any attorney's fees and costs from the Department in connection with this disciplinary proceeding.

11. **Waiver of Procedural Rights**- Respondent waives all rights to further administrative procedure and to appeal and further review of this Settlement Agreement and the Final Order.

12. **Current Addresses**- Respondent shall keep current his mailing address and his practice address with the Board of Pharmacy and the Compliance Officer and shall notify the Board of Pharmacy and the Compliance Officer of any change of mailing address or practice address within ten (10) days of the change.

WHEREFORE, the parties request that the Board enter a Final Order approving and incorporating this Settlement Agreement in resolution of this matter.


SIGNED this 6th day of June, 2014.

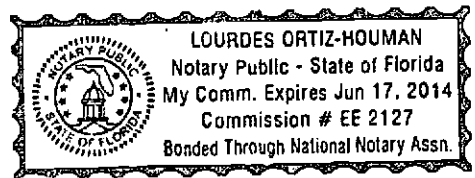

James V. Schott, R.Ph.
Case No. 2014-02880

STATE OF Florida
COUNTY OF Hillsborough

Before me personally appeared James V. Schott, whose identity is known to me or by FD ID (type of identification), and who, under oath, acknowledges that his/her signature appears above.

Sworn to and subscribed before me this 6 day of JUNE, 2014.


Notary Public
My Commission Expires: JUNE 17, 2014



APPROVED this 10th day of June, 2014.

John H. Armstrong, MD, FACS
State Surgeon General and
Secretary of Health



Christopher A. Jurich
Assistant General Counsel

Counsel for Petitioner
Christopher A. Jurich
Florida Bar No. 0099014
Assistant General Counsel
Department of Health
Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, Florida 32399
Tel.: (850) 245-4444 ext. 8174
Fax: (850) 245-4683

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO. 2014-02880

JAMES V. SCHOTT, R.PH.,

RESPONDENT.

ADMINISTRATIVE COMPLAINT

COMES NOW, Petitioner, Department of Health, by and through its undersigned counsel, and files this Administrative Complaint before the Board of Pharmacy against Respondent, James V. Schott, R.Ph., and in support thereof alleges:

1. Petitioner is the state agency charged with regulating the practice of pharmacy pursuant to Section 20.43, Florida Statutes; Chapter 456, Florida Statutes; and Chapter 465, Florida Statutes.

2. At all times material to this Administrative Complaint, Respondent was a licensed pharmacist within the state of Florida, having been issued license number PS 21462.

EXHIBIT

A

3. Respondent's address of record is 4204 Windtree Drive, Tampa, Florida 33624.

4. At all times material to this Administrative Complaint, Respondent was the prescription department manager (PDM) of record for Coram Healthcare Corp of Florida (the Permittee), a permitted community pharmacy located in Tampa, Florida.

5. On or about February 19, 2014, the Department conducted a routine community pharmacy and sterile compounding inspection of the Permittee.

6. The Department inspection on or about February 19, 2014, revealed that on or about February 18, 2014, Respondent prepared a low-risk level compounded sterile preparation (CSP) for patient D.G. that was assigned a "discard after" date of March 11, 2014, with storage instructions on the label that read "Ambient".

7. The Department inspection on or about February 19, 2014, revealed that there was no documentation that the CSP in paragraph six had passed a sterility test or a documented validated process.

8. Section 465.016(1)(r), Florida Statutes (2013), provides that violating any provision of this chapter or chapter 456, Florida Statutes, or

any rules adopted pursuant thereto constitutes grounds for disciplinary action.

9. Rule 64B16-27.797(1)(n)4., Florida Administrative Code, provides that for low-risk preparations, in the absence of passing a sterility test or a documented validated process, the storage periods cannot exceed the following time periods; before administration, the CSPs are properly stored and exposed for not more than 48 hours at controlled room temperature, and for not more than 14 days at a cold temperature (2-8 degrees Celsius) and for 45 days in a solid frozen state at -20 degrees Celsius or colder.

10. As set forth above, Respondent prepared a low-risk level compounded sterile preparation that was assigned a "discard after" date of 21 days and instructions to store the preparation in "ambient" conditions, despite no documentation that the compounded sterile preparation had passed a sterility test or a documented validated process.

11. Based on the foregoing, Respondent has violated Section 465.016(1)(r), Florida Statutes (2013), by and through a violation of Rule 64B16-27.797(1)(n)4., Florida Administrative Code.

WHEREFORE, the Petitioner respectfully requests that the Board of Pharmacy enter an order imposing one or more of the following penalties: permanent revocation or suspension of Respondent's license, restriction of practice, imposition of an administrative fine, issuance of a reprimand, placement of the Respondent on probation, corrective action, refund of fees billed or collected, remedial education and/or any other relief that the Board deems appropriate.

SIGNED this 8th day of May, 2014.

John H. Armstrong, MD, FACS
State Surgeon General and
Secretary of Health

Christopher A. Jurich
CHRISTOPHER A. JURICH
Assistant General Counsel
Fla. Bar No. 0099014
Florida Department of Health
Office of the General Counsel
4052 Bald Cypress Way, Bin C-65
Tallahassee, FL 32399-3265
Telephone: (850) 245-4444
Facsimile: (850) 245-4683
Email: christopher.jurich@flhealth.gov

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK ANGEL SANDERS
DATE MAY 08 2014

/CAJ

PCP Meeting: May 8, 2014
PCP Members: Debra Glass, Dr. Leo Fallon

NOTICE OF RIGHTS

Respondent has the right to request a hearing to be conducted in accordance with Section 120.569 and 120.57, Florida Statutes, to be represented by counsel or other qualified representative, to present evidence and argument, to call and cross-examine witnesses and to have subpoena and subpoena duces tecum issued on his or her behalf if a hearing is requested.

NOTICE REGARDING ASSESSMENT OF COSTS

Respondent is placed on notice that Petitioner has incurred costs related to the investigation and prosecution of this matter. Pursuant to Section 456.072(4), Florida Statutes, the Board shall assess costs related to the investigation and prosecution of a disciplinary matter, which may include attorney hours and costs, on the Respondent in addition to any other discipline imposed.

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Vision: To be the Healthiest State in the Nation

Rick Scott
Governor

John H. Armstrong, MD, FACS
State Surgeon General & Secretary

MEMORANDUM OF PROBABLE CAUSE PANEL FINDINGS

TO: Department of Health

FROM: Board of Pharmacy, Probable Cause Panel

SUBJECT: James V. Scott, R. Ph.
CASE NO.: 2014-02880

DATE OF PROBABLE CAUSE MEETING: May 8, 2014

This matter was brought before a Probable Cause Panel composed of: **Glass and Fallon**

AC-07 (CJ)

The panel, having received the investigative report and supplemental materials, having carefully reviewed said documentation and the recommendation of the agency/department, and having had the opportunity to inquire of counsel, finds that:

XX Probable cause exists herein that the Subject violated the following statutes/rules:

Section 465.016(1)(r), F.S. (2013), by and through a violation of Rule 64B16-27.797(1)(n)4, F.A.C.

The panel suggests imposing the following penalty: **n/a**

 Probable cause does not exist and the case should be closed with the following closure code:

 In lieu of a finding of probable cause, the above named licensee shall be issued a letter of guidance to address the conduct in question:

 The panel has requested supplemental or additional information on the following:

 Other _____

Patrick Kennedy for Lee Fallon 5/15/2014
CHAIRPERSON, PROBABLE CAUSE PANEL
BOARD OF PHARMACY

Florida Department of Health
Office of the General Counsel - Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65 - Tallahassee, FL 32399-1701
Express mail address: 2585 Merchants Row - Suite 105
PHONE: 850/245-4444 - FAX 850/245-4683

www.FloridasHealth.com
TWITTER: HealthyFLA
FACEBOOK: FLDepartmentofHealth
YOUTUBE: fdoh

CONFIDENTIAL AND EXEMPT MATERIALS

**One or more pages have been removed
from this document for security reasons**

**Scroll down to see the available pages or
advance to the next document if all
pages have been removed.**

SOME OR ALL PAGES IN THIS DOCUMENT ARE PATIENT RECORDS
AND/OR DOCUMENTS THAT IDENTIFY THE PATIENT BY NAME AND ARE
EXEMPT FROM PUBLIC RECORDS LAWS.

456.057 - Ownership and control of patient records; report or copies of records to be
furnished.—

10)(a)All patient records obtained by the department and any other documents
maintained by the department which identify the patient by name are confidential and exempt
from s. 119.07(1) and shall be used solely for the purpose of the department and the appropriate
regulatory board in its investigation, prosecution, and appeal of disciplinary proceedings. The
records shall not be available to the public as part of the record of investigation for and
prosecution in disciplinary proceedings made available to the public by the department or the
appropriate board.

| | | | |
|--------|----------------------------------|------|------|
| Search | Complaint/Case Number: 201402880 | MAIN | HELP |
|--------|----------------------------------|------|------|

Complaint Cost Summary

Complaint Number: 201402880

Subject's Name: SCHOTT, JAMES V

| | ***** Cost to Date ***** | |
|-----------------------------|--------------------------|----------|
| | Hours | Costs |
| Complaint: | 0.40 | \$21.86 |
| Investigation: | 2.90 | \$185.08 |
| Legal: | 2.40 | \$244.72 |
| Compliance: | 0.00 | \$0.00 |
| | ***** | ***** |
| Sub Total: | 5.70 | \$451.66 |
| Expenses to Date: | | \$0.00 |
| Prior Amount: | | \$0.00 |
| Total Costs to Date: | | \$451.66 |

CONFIDENTIAL AND EXEMPT MATERIALS

**One or more pages have been removed
from this document for security reasons**

**Scroll down to see the available pages or
advance to the next document if all
pages have been removed.**

SOME OR ALL PAGES IN THIS DOCUMENT ARE PATIENT RECORDS
AND/OR DOCUMENTS THAT IDENTIFY THE PATIENT BY NAME AND ARE
EXEMPT FROM PUBLIC RECORDS LAWS.

456.057 - Ownership and control of patient records; report or copies of records to be
furnished.—

10)(a)All patient records obtained by the department and any other documents
maintained by the department which identify the patient by name are confidential and exempt
from s. 119.07(1) and shall be used solely for the purpose of the department and the appropriate
regulatory board in its investigation, prosecution, and appeal of disciplinary proceedings. The
records shall not be available to the public as part of the record of investigation for and
prosecution in disciplinary proceedings made available to the public by the department or the
appropriate board.

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Mission:

To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.



Rick Scott
Governor

John H. Armstrong, MD, FACS
State Surgeon General & Secretary

Vision: To be the Healthiest State in the Nation

June 16, 2014

James V. Schott, R. Ph.
4204 Windtree Drive
Tampa, FL 33624-1221

Re: DOH vs. James V. Schott, R. Ph.
DOH Case Number: 2014-02880

Dear Mr. Schott:

I am in receipt of the Settlement Agreement executed by you on June 6, 2014, concerning the above referenced case.

Our office is now making preparation for this settlement to be presented at the next regularly scheduled meeting of the Florida Board of Pharmacy. Please be advised your case has been set at the convenience of the Department and/or the Board and you will receive official notification of the date and time approximately two weeks prior to the meeting.

Thank for your attention and cooperation in this matter. Should you have any questions, please feel free to contact this office.

Sincerely,

A handwritten signature in black ink that reads "Christopher A. Jurich".

Christopher A. Jurich
Assistant General Counsel

CAJ/aed

Florida Department of Health

Office of the General Counsel • Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65 • Tallahassee, FL 32399-1701
PHONE: 850/245-4444 • FAX 850/245-4683

www.FloridasHealth.com

TWITTER: HealthyFLA
FACEBOOK: FLDepartmentofHealth
YOUTUBE: fldoh



Rick Scott
Governor

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Vision: To be the **Healthiest State** in the Nation

STATE OF FLORIDA
BOARD OF PHARMACY

DEPARTMENT OF HEALTH,
PETITIONER,

VS.

CASE NO. 201318814

PLAZA PHARMACY INC,
RESPONDENT.

NOTICE

TO: PLAZA PHARMACY INC
4399 NW 124TH AVENUE
CORAL SPRINGS, FL 33065

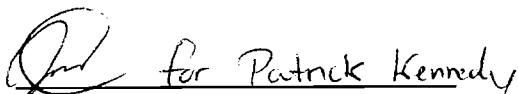
PLEASE TAKE NOTICE that a disciplinary hearing will be heard before the BOARD OF PHARMACY on Wednesday, August 13, 2014, commencing at 9 a.m. The Respondent is required to be present at this meeting. This hearing will be held at DoubleTree by Hilton, 100 Fairway Drive, Deerfield Beach, FL 33441, 1(800) 624-3606..

The purpose of the hearing is to consider a motion for: Settlement Agreement

Note: Cases shown on the agenda as "timed" items may be heard in a different order or may be heard earlier if all parties are present. Cases are scheduled beginning at 9 a.m.; therefore, it is imperative that you arrive promptly at 9 a.m. and be prepared to be at the meeting for several hours until your case is heard.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Hearing has been sent by U.S. Mail to the above address(es) this 10th day of July, 2014.



Board Executive Director
BOARD OF PHARMACY
Florida Department of Health
4052 Bald Cypress Way, Bin #
Tallahassee, FL 32399 -

Florida Department of Health

Division of Medical Quality Assurance
4052 Bald Cypress Way, Bin C10 • Tallahassee, FL 32399-3260
PHONE: (850) 245-4444 • FAX : (850) 245-4791

www.FloridasHealth.com

TWITTER:HealthyFLA
FACEBOOK:FLDepartmentofHealth
YOUTUBE: fldoh

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STATE OF FLORIDA
BOARD OF PHARMACY

DEPARTMENT OF HEALTH,
PETITIONER,

VS. CASE NO. 201318814

PLAZA PHARMACY INC,
RESPONDENT.

NOTICE

TO: BERNARD CASSIDY
200 SOUTH ANDREWS AVENUE
SUITE 900
FORT LAUDERDALE, FL 33301


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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Hearing has been sent by U.S. Mail to the above address(es) this 10th day of July, 2014.

 for Patrick Kennedy
Board Executive Director
BOARD OF PHARMACY
Florida Department of Health
4052 Bald Cypress Way, Bin #
Tallahassee, FL 32399 -

Florida Department of Health
Division of Medical Quality Assurance • Bureau of HCPR
4052 Bald Cypress Way, Bin C-04 • Tallahassee, FL 32399-1701
PHONE: 850/245-4292 • FAX 850/413-6982

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MEMORANDUM

TO: Patrick W. Kennedy, M.A., Executive Director, Board of Pharmacy
 FROM: Christopher Jurich, Assistant General Counsel *CJ 6-17-14*
 RE: **Settlement Agreement**
 SUBJECT: DOH v. Plaza Pharmacy, Inc.
 DOH Case Number 2013-18814
 DATE: June 16, 2014

Enclosed you will find materials in the above-referenced case to be placed on the agenda for final agency action for the **August 13, 2014** meeting of the board. The following information is provided in this regard.

Subject: Plaza Pharmacy, Inc.
Subject's Address of Record: 4399 N.W. 124th Avenue
 Coral Springs, FL 33065

Enforcement Address: 4399 N.W. 124th Avenue
 Coral Springs, FL 33065

Subject's License No: 26083 **Rank:** PH
Licensure File No: 18902
Initial Licensure Date: 4/18/2012
Board Certification: None
Required to Appear: Yes
Current IPN/PRN Contract: No
Allegation(s): Section 465.023(1)(c), F.S. (2013), by and through a violation of Rule 64B16-27.104(4), F.A.C.
Prior Discipline: None
Probable Cause Panel: May 8, 2014: Glass and Fallon
Subject's Attorney: Bernard M. Cassidy, Esq.
 Lubell & Rubin, Attorneys at Law
 200 S. Andrews Avenue
 Suite 900
 Ft. Lauderdale, FL 33301

Complainant/Address: Department of Health/Investigative Services Unit-Ft. Lauderdale

Materials Submitted:

Memorandum to the Board
Settlement Agreement
Administrative Complaint
Memorandum of Finding Probable Cause
Election of Rights
Cost Summary Report
Supplemental Investigative Report with Exhibits dated
March 21, 2014
Final Investigative Report with Exhibits 1-4
Board Notification letter

CJ/aed

Disciplinary Guidelines: Minimum of \$500 fine and 12 hours Laws & Rules or MPJE up to a Maximum of one year probation and \$2000 fine

PRELIMINARY CASE REMARKS: SETTLEMENT AGREEMENT

On or about October 22, 2013, the Department conducted a routine inspection of the Respondent, which revealed that medications dispensed by the Respondent and returned by patients were placed in the Respondent's active stock. In a written statement to the Department, the Respondent admitted to placing unopened returned medications back on its shelves.

Terms of Settlement:

- Appearance
- \$500 Fine
- Costs limited to \$1,804.61
- President/owner to complete 12 hours continuing education course on Laws and Rules

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO. 2013-18814

PLAZA PHARMACY, INC.,

RESPONDENT.

SETTLEMENT AGREEMENT

Pursuant to Section 120.57(4), Florida Statutes, the parties offer this Settlement Agreement to the Board of Pharmacy (Board) as disposition of the Administrative Complaint, attached as Exhibit A, in lieu of further administrative proceedings.

STIPULATED FACTS

1. At all times material to this matter, Plaza Pharmacy, Inc., was a permitted community pharmacy in the state of Florida, having been issued license number PH 26083. Respondent's mailing address of record is 499 N.W. 124th Avenue, Coral Springs, Florida 33065.

2. Respondent was charged by an Administrative Complaint, filed by the Department of Health (Department) and properly served upon Respondent, with violations of Chapters 456 and 465, Florida Statutes.

STIPULATED LAW

1. Respondent admits that Respondent is subject to the provisions of Chapters 456 and 465, Florida Statutes, and the jurisdiction of the Department.

2. Respondent admits that the allegations in the Administrative Complaint, if proven true, constitute violations of law and cause the Respondent to be subject to discipline by the Board of Pharmacy.

PROPOSED DISPOSITION

1. **Appearance**- Respondent shall be present when this Settlement Agreement is presented to the Board and under oath shall answer all questions asked by the Board concerning this case and its disposition.

2. **Fine**- The Board of Pharmacy shall impose an administrative fine of **FIVE HUNDRED DOLLARS (\$500.00)**. The fine shall be paid by Respondent to the **Department of Health, Compliance Management Unit, Bin C76, Post Office Box 6320, Tallahassee, Florida 32314-**

6320, within 30 days from the date the Final Order approving and incorporating this Settlement Agreement (Final Order) is filed with the Department Clerk.

3. Costs The Board of Pharmacy shall impose the total, administrative costs associated with the investigation and prosecution of this matter in an amount not to exceed **ONE THOUSAND EIGHT HUNDRED AND FOUR DOLLARS AND SIXTY-ONE CENTS (\$1,804.61)**. Total costs shall be assessed when the Settlement Agreement is presented to the Board. The costs shall be paid by Respondent to the **Department of Health, Compliance Management Unit, Bin C76, Post Office Box 6320, Tallahassee, Florida 32314-6320**, within 90 days from the date the Final Order is filed with the Department Clerk.

4. CE Course Respondent's president/owner shall successfully complete a continuing education course on the subject of **LAWS AND RULES** consisting of **TWELVE (12) HOURS** of credit, which has been approved by the Florida Board of Pharmacy, within **one (1) year** of the filing of a Final Order accepting and incorporating this Settlement Agreement. Within ten (10) days of completion of the course and/or

receipt of the certificate of completion, Respondent shall mail a copy of the continuing education certificate of completion to the Pharmacy Compliance Officer at the address listed in paragraph two (2) above.

5. **Correction of Alleged Deficiencies**- At its sole expense, but without admitting any specific deficiency or violation, Respondent shall immediately, or at least forthwith, correct and address all deficiencies and violations listed or alleged in the Administrative Complaint, to the extent necessary to comply with Florida law.

6. **Future Conduct**- Respondent shall not violate Chapters 456, 465, 499, or 893, Florida Statutes; the rules promulgated pursuant thereto; or any other state or federal law, rule, or regulation relating to the practice or to the ability to practice pharmacy.

7. **Violation of Terms**- It is expressly understood that a violation of the provisions of this Settlement Agreement as approved and incorporated into the Final Order of the Board of Pharmacy shall constitute a violation of an order of the Board for which disciplinary action may be initiated against Respondent pursuant to Chapter 465, Florida Statutes.

8. No Force or Effect until Final Order- It is expressly understood that this Settlement Agreement is subject to approval by the Board and has no force or effect until the Board incorporates the terms of this Settlement Agreement into its Final Order.

9. Purpose of Agreement- This Settlement Agreement is executed by Respondent for the purpose of avoiding further administrative action with respect to this particular case. In this regard, Respondent authorizes the Board to review and examine all investigative file materials concerning Respondent prior to, or in conjunction with, consideration of the Settlement Agreement. Petitioner and Respondent agree to support this Settlement Agreement at the time it is presented to the Board and shall offer no evidence, testimony, or argument that disputes or contravenes any stipulated fact or conclusion of law. Furthermore, should this Settlement Agreement not be accepted by the Board, it is agreed that the presentation and consideration of this Settlement Agreement and other documents and matters by the Board shall not unfairly or illegally prejudice the Board or any of its members from further participation, consideration, or resolution of these proceedings.

10. **Not Preclude Additional Proceedings**- Respondent and the Department fully understand that this Settlement Agreement as approved and incorporated into the Final Order will not preclude additional proceedings by the Board or Department against Respondent for acts or omissions not specifically set forth in the Administrative Complaint.

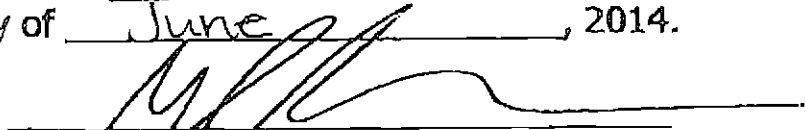
11. **Waiver of Attorney's Fees and Costs**- Respondent waives the right to seek any attorney's fees and costs from the Department in connection with this disciplinary proceeding.

12. **Waiver of Procedural Rights**- Respondent waives all rights to further administrative procedure and to appeal and further review of this Settlement Agreement and the Final Order.

13. **Current Addresses**- Respondent shall keep current his mailing address and his practice address with the Board of Pharmacy and the Compliance Officer and shall notify the Board of Pharmacy and the Compliance Officer of any change of mailing address or practice address within ten (10) days of the change.

WHEREFORE, the parties request that the Board enter a Final Order approving and incorporating this Settlement Agreement in resolution of this matter.

SIGNED this 3rd day of June, 2014.

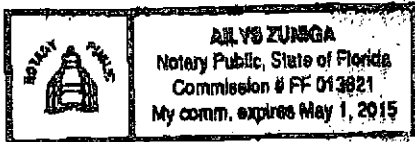

Institutional Representative for
Plaza Pharmacy, Inc.
Case No. 2013-18814


STATE OF Florida

COUNTY OF Broward

Before me personally appeared _____, whose identity is known to me or by Florida Drivers license (type of identification), and who, under oath, acknowledges that his/her signature appears above.

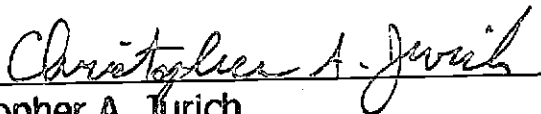
Sworn to and subscribed before me this 3rd day of June, 2014.




Notary Public
My Commission Expires:

APPROVED this 10th day of June, 2014.

John H. Armstrong, MD, FACS
State Surgeon General and
Secretary of Health



Christopher A. Jurich
Assistant General Counsel

Counsel for Petitioner
Christopher A. Jurich
Florida Bar No. 0099014
Assistant General Counsel
Department of Health
Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, Florida 32399
Tel.: (850) 245-4444 ext. 8174
Fax: (850) 245-4683

STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO. 2013-18814

PLAZA PHARMACY, INC.,

RESPONDENT.

ADMINISTRATIVE COMPLAINT

COMES NOW, Petitioner, Department of Health ("Department"), by and through its undersigned counsel, and files this Administrative Complaint before the Board of Pharmacy against Respondent, Plaza Pharmacy, Inc., and in support thereof alleges:

1. Petitioner is the state agency charged with regulating the practice of pharmacy pursuant to Section 20.43, Florida Statutes; Chapter 456, Florida Statutes; and Chapter 465, Florida Statutes.

2. At all times material to this Administrative Complaint, Respondent was a permitted community pharmacy within the state of Florida, having been issued permit number PH 26083.

EXHIBIT

4

3. Respondent's address of record is 4399 N.W. 124th Avenue, Coral Springs, Florida 33065.

4. On or about October 22, 2013, the Department conducted a routine community pharmacy inspection at Respondent's address of record.

5. The Department's inspection on or about October 22, 2013, revealed that medications dispensed by Respondent and returned by patients were in Respondent's active stock.

6. In a written statement addressed to the Department dated December 5, 2013, Respondent admits placing unopened returned medications on its shelves alongside active medications.

7. Section 465.023(1)(c), Florida Statutes (2013), provides that the department or the board may revoke or suspend the permit of any pharmacy permittee, and may fine, place on probation, or otherwise discipline any pharmacy permittee if the permittee, or any affiliated person, partner, officer, director, or agent of the permittee violated any of the requirements of this chapter or any of the rules of the Board of Pharmacy.

8. Rule 64B16-27.104(4), Florida Administrative Code, provides that no pharmacist, employer or employee of a pharmacy may knowingly place in stock of any pharmacy any part of any prescription compounded

for, or dispensed to, any customer of any pharmacy and returned by said customer, unless otherwise permitted by Rule 64B16-28.118, Florida Administrative Code.

9. As set forth above, Respondent knowingly placed dispensed medications returned by Respondent's customers in its active stock.

10. Based on the foregoing, Respondent has violated Section 465.023(1)(c), Florida Statutes (2013), by and through a violation of Rule 64B16-27.104(4), Florida Administrative Code, which provides that no pharmacist, employer or employee of a pharmacy may knowingly place in stock of any pharmacy any part of any prescription compounded for, or dispensed to, any customer of any pharmacy and returned by said customer, unless otherwise permitted by Rule 64B16-28.118, Florida Administrative Code.

WHEREFORE, the Petitioner respectfully requests that the Board of Pharmacy enter an order imposing one or more of the following penalties: permanent revocation or suspension of Respondent's license, restriction of practice, imposition of an administrative fine, issuance of a reprimand, placement of the Respondent on probation, corrective action, refund of fees billed or collected, remedial education and/or any other relief that the Board deems appropriate.

SIGNED this 8th day of May, 2014.

John H. Armstrong, MD, FACS
State Surgeon General and
Secretary of Health

Christopher A. Jurich
CHRISTOPHER A. JURICH
Assistant General Counsel
Fla. Bar No. 0099014
Florida Department of Health
Office of the General Counsel
4052 Bald Cypress Way, Bin C-65
Tallahassee, FL 32399-3265
Telephone: (850) 245-4444
Facsimile: (850) 245-4683
Email: christopher.jurich@flhealth.gov

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK ANGEL SANDERS
DATE MAY 08 2014

/CAJ

PCP Meeting: May 8, 2014
PCP Members: Debra Glass, Dr. Leo Fallon

NOTICE OF RIGHTS

Respondent has the right to request a hearing to be conducted in accordance with Section 120.569 and 120.57, Florida Statutes, to be represented by counsel or other qualified representative, to present evidence and argument, to call and cross-examine witnesses and to have subpoena and subpoena duces tecum issued on his or her behalf if a hearing is requested.

NOTICE REGARDING ASSESSMENT OF COSTS

Respondent is placed on notice that Petitioner has incurred costs related to the investigation and prosecution of this matter. Pursuant to Section 456.072(4), Florida Statutes, the Board shall assess costs related to the investigation and prosecution of a disciplinary matter, which may include attorney hours and costs, on the Respondent in addition to any other discipline imposed.

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GOVERNOR
Governor

John H. Armstrong, MD, FACS
State Surgeon General & Secretary

MEMORANDUM OF PROBABLE CAUSE PANEL FINDINGS

TO: Department of Health

FROM: Board of Pharmacy, Probable Cause Panel

SUBJECT: Plaza Pharmacy, Inc.
CASE NO.: 2013-18814

DATE OF PROBABLE CAUSE MEETING: May 8, 2014

This matter was brought before a Probable Cause Panel composed of: **Glass and Fallon**

AC-09 (CJ)

The panel, having received the investigative report and supplemental materials, having carefully reviewed said documentation and the recommendation of the agency/department, and having had the opportunity to inquire of counsel, finds that:

Probable cause exists herein that the Subject violated the following statutes/rules:
Section 465023(1)(c), F. S. (2013), by and through a violation of Rule 64B16-27.104(4), F.A.C.

The panel suggests imposing the following penalty: **N/a**

Probable cause does not exist and the case should be closed with the following closure code:

In lieu of a finding of probable cause, the above named licensee shall be issued a letter of guidance to address the conduct in question:

The panel has requested supplemental or additional information on the following:

Other _____

Patricia Kennedy for Lee Fallon 5/15/2014
CHAIRPERSON, PROBABLE CAUSE PANEL
BOARD OF PHARMACY

Florida Department of Health
Office of the General Counsel - Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65 • Tallahassee, FL 32309-1701
Express mail address: 2585 Merchants Row - Suite 105
PHONE: 850/245-4444 • FAX 850/245-4883

www.FloridasHealth.com
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FACEBOOK: FLDepartmentofHealth
YOUTUBE: fdoh

ELECTION OF RIGHTS

Case Name: Plaza Pharmacy, Inc.

Case No.: 2013-18814

PLEASE SELECT ONLY 1 OF THE 3 OPTIONS

An Explanation of Rights is attached. If you do not understand these options, please consult with your attorney or contact the attorney for the Prosecution Services Unit at the address/phone number listed at the bottom of this form.

OPTION 1. We do not dispute the allegations of fact in the Administrative Complaint, but do wish to be accorded a hearing, pursuant to Section 120.57(2), Florida Statutes, at which time I will be permitted to submit oral and/or written evidence in mitigation of the complaint to the Board.

OPTION 2. We do not dispute the allegations of fact contained in the Administrative Complaint and waive my right to object or to be heard. I request that the Board enter a final order pursuant to Section 120.57, Florida Statutes.

OPTION 3. We do dispute the allegations of fact contained in the Administrative Complaint and request this to be considered a petition for formal hearing, pursuant to Sections 120.569(2)(a) and 120.57(1), Florida Statutes, before an Administrative Law Judge appointed by the Division of Administrative Hearings. We specifically dispute the following paragraphs of the Administrative Complaint:

In addition to the above selection, We also elect the following:

- We accept the terms of the Settlement Agreement, have signed and am returning the Settlement Agreement or We are interested in settling this case.
- We do not wish to continue practicing and have signed and returned the Voluntary Relinquishment of licensure form.

Regardless of which option we have selected, we understand that we will be given notice of time, date, and place when this matter is to be considered by the Board for Final Action. Mediation under Section 120.573, Florida Statutes, is not available in this matter.

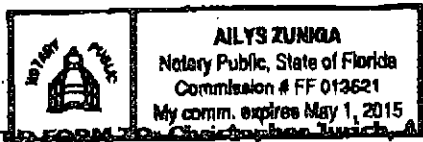
(Please sign and complete all the information below.)

Respondent's Signature: [Signature]
 Address: 4399 NW 124th Ave
Coral Springs FL 33065
 Lic. No. PH26083
 Phone No. 877-606-3443 Ext 240
 Fax No. 866-817-9335

STATE OF FLORIDA
COUNTY OF Broward

Before me personally appeared Eliandora Ciancimino whose identity is known to be by Florida Drivers (type of identification), and who under oath, acknowledges that his/her signature appears above. Sworn to and subscribed by Respondent before me this 3rd day of June, 2014.

[Signature]
Notary Public
My Commission Expires: _____



PLEASE MAIL AND/OR FAX COMPLETED FORM TO: Christophe Turich, Assistant General Counsel, DOH, Prosecution Services Unit, 4052 Bald Cypress Way, Bin C-65, Tallahassee, Florida 32399-3265. Telephone Number: (850) 245-4444; FAX (850) 245-4683- TDD 1-800-955-8771.

| | | | |
|--------|----------------------------------|------|------|
| Search | Complaint/Case Number: 201318814 | MAIN | HELP |
|--------|----------------------------------|------|------|

Complaint Cost Summary



Complaint Number: 201318814

Subject's Name: PLAZA PHARMACY INC

| | ***** Cost to Date ***** | |
|-----------------------------|--------------------------|------------|
| | Hours | Costs |
| Complaint: | 0.60 | \$32.79 |
| Investigation: | 13.40 | \$855.19 |
| Legal: | 5.20 | \$530.17 |
| Compliance: | 0.00 | \$0.00 |
| | ***** | ***** |
| Sub Total: | 19.20 | \$1,418.15 |
| Expenses to Date: | | \$0.00 |
| Prior Amount: | | \$0.00 |
| Total Costs to Date: | | \$1,418.15 |



**STATE OF FLORIDA
DEPARTMENT OF HEALTH
INVESTIGATIVE REPORT**

| | | | | | |
|--|---------------------|---------------------------------|--|----------------------------|--|
| Office: Fort Lauderdale | | Date of Case: November 26, 2013 | | Case Number: PH 2013-18814 | |
| Subject: PLAZA PHARMACY, INC. 4399 Northwest 124 th Avenue Coral Springs, Florida 33065 877-770-4422 | | | Source: Department of Health Investigative Services Unit Fort Lauderdale Filed Office 1400 West Commercial Boulevard, Suite 130-J Fort Lauderdale, Florida 33309 (954) 202-3250 | | |
| Prefix: PH | License #: 26083 | Profession: Pharmacy | Board: Pharmacy | Report Date: 3/21/2014 | |
| Period of Investigation: 11/26//2013 - 3/21/2014 | | | Type of Report: SUPPLEMENTAL #1 | | |
| Alleged Violation: Chapter 456.072(1)(k)(dd); & Chapter 465.016(1)(l)(r), F.S. & Rule 64B16-27.104(4), F.A.C. - Failing to perform any statutory or legal obligation placed upon a licensee. For purposes of this section, failing to repay a student loan issued or guaranteed by the state or the Federal Government in accordance with the terms of the loan or failing to comply with service scholarship obligations shall be considered a failure to perform a statutory or legal obligation, and the minimum disciplinary action imposed shall be a suspension of the license until new payment terms are agreed upon or the scholarship obligation is resumed, followed by probation for the duration of the student loan or remaining scholarship obligation period, and a fine equal to 10 percent of the defaulted loan amount.. | | | | | |
| Synopsis: This investigation is predicated upon receipt of a PSU Request from Department of Health Assistant General Counsel CHRISTOPHER JURICH, requesting we please obtain prescription dispensing logs from PLAZA Pharmacy for the following dates: 8/9/13; 9/16/13; 9/17/13; 9/23/13; and 9/24/13, as well as any shipping or mailing records that may exist for the following filled Rx medications: 6002798; 6003768, 6004880; 6003767; 6003990; 6003992; 6002801; 6004222; and 6004289. Please also conduct a re-inspection of the pharmacy. Call if you have any questions. This request is for a re-inspection. On March 20, 2014, this Investigator conducted a Pharmacy Inspection of Plaza Pharmacy. The Pharmacy passed inspection. (Exhibit S1-2) In addition, this Investigator obtained from the Pharmacy the requested documents. (Exhibit S1-3 & S1-4) | | | | | |
| Related Case: PS 2013-18148 Investigator/Date: 3/21/2014 | | | | | |
|  ENRIQUE T. TORRES, Medical Quality Assurance Investigator LI-75 | | | Approved By/Date: 3/21/2014  PAT CALLAHAN, Investigative Manager LI-96 | | |
| Distribution: HQ/ISU | | | 14 MAR 25 AM 11:44 RECEIVED-LEGAL MAR 24 2014 | | |

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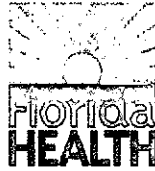
 S1-2. Inspection conducted March 20, 2014..... 4

 S1-3. Prescription Logs for 08/09/13; 09/16/13; 09/17/13; 09/23/13; & 09/24/135-42

 S1-4. Prescriptions Number 6002798; 6003768; 6004880; 6003767,6003990;
 6003992; 6002801; 6004222; & 6004289.....43-60

Mission:

To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.



Rick Scott
Governor

John H. Armstrong, MD, FACS
State Surgeon General & Secretary

Vision: To be the Healthiest State in the Nation

PSU REQUEST FORM

| | |
|--|------------------------|
| FROM: Christine Lillich for Christopher Jurich, Esq. | TO: ISU Ft. Lauderdale |
| Date: 03-06-14 | TO: CSU |
| Phone #: 850-245-4444, ext. 8174 | CC: Enrique Torres |

| | | |
|--|-------------------------|-------------------|
| Case Number: 2013-18814 | Board: Pharmacy | Status: 60 |
| Subject: Plaza Pharmacy, Inc. | HL Code: hll104b | |
| Requested Completion Date: 04-06-14 | | |

(PSU) TYPE OF REQUEST: (describe details below)

Process Service* (Activity Code 160)

Additional Information Requested (Activity Code 145)

Deficiency in Investigative Work (Activity Code 150)

14 MAR 25 AM 11:44
OFFICE OF THE ATTORNEY GENERAL

Details: "Please obtain prescription dispensing logs for the following dates: 8/9/13, 9/16/13, 9/17/13, 9/23/13, and 9/24/13, as well as any shipping or mailing records that may exist for the following filled Rx medications: 6002798, 6003768, 6004880, 6003767, 6003990, 6003992, 6002801, 6004222, and 6004289. Please also conduct a re-inspection of the pharmacy. Call if you have any questions. This request is for a re-inspection. Thank you!"

*The following additional information is needed for each service request:

Last Known Address Last Known Name & Phone Number:

Last Known Place of Employment & Address if Known:

Has Contact Been Made With This Individual? YES No ; If Yes, When?

Was this case originally worked by CSU or in an area office different from where this service request is being sent? YES No NOTE: All process service requests need to be sent to appropriate field office
**IF YES, please send a copy of the original Investigative Report without attachments.

(ISU/CSU) RESPONSE:

Process Service Completed (Activity Code 161) Process Service NOT Completed (Activity Code 162)

Additional Info Sent to Legal (Activity Code 156)

Supp. Investigation Request Cancelled (Activity Code 157)

Email to:

| | | | | | | | | | | |
|------------------|--------------------|----------------|---------------------|-----------------|--------------|----------------|------------------|------------------|-----------------------|--------------|
| <u>Pensacola</u> | <u>Tallahassee</u> | <u>Alachua</u> | <u>Jacksonville</u> | <u>St. Pete</u> | <u>Tampa</u> | <u>Orlando</u> | <u>Ft. Myers</u> | <u>West Palm</u> | <u>Ft. Lauderdale</u> | <u>Miami</u> |
|------------------|--------------------|----------------|---------------------|-----------------|--------------|----------------|------------------|------------------|-----------------------|--------------|

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EXHIBIT # S1-1



STATE OF FLORIDA
DEPARTMENT OF HEALTH
INVESTIGATIVE SERVICES
COMMUNITY PHARMACY

3/21/11

Florida
HEALTH

WWW.DOH.STATE.FL.US

File # 18902
Insp # 125603

ROUTINE CHANGE LOG NEW CURRENTLY NOT OPERATING CHANGE OWNER
INSPECTION AUTHORITY - CHAPTER 465.017, CHAPTER 893.09 AND CHAPTER 456, FLORIDA STATUTES

| | | | |
|---|--------------------------|-----------------------------------|--|
| NAME OF ESTABLISHMENT PLAZA Pharmacy | | PERMIT NUMBER PH 26083 | DATE OF INSPECTION 03-20-2014 |
| DOING BUSINESS AS PLAZA Health Care Solutions | | DEA NUMBER | PRESCRIPTION DEPARTMENT MANAGER FRANK Maluda, RPh. |
| STREET ADDRESS 4359 NW 124th Ave | | TELEPHONE # 877 606 348 | EXT. |
| CITY Coral Springs | COUNTY Broward | STATE/ZIP FL 33065 | PRESCRIPTION DEPARTMENT MANAGER LICENSE # |

| PRESCRIPTION DEPARTMENT HOURS | | | | | | | | REGISTERED PHARMACIST/INTERN/TECHNICIAN | | LICENSE # |
|-------------------------------|--------|---------|-----------|----------|--------|----------|--------|---|-----------|-----------|
| | Monday | Tuesday | Wednesday | Thursday | Friday | Saturday | Sunday | | | |
| Open | 9:00A | 9:00A | 9:00A | 9:00A | 9:00A | 9:00A | CLOSED | 1. KEVIN JORDAN | RPT 20326 | |
| Close | 5:30P | 5:30P | 5:30P | 5:30P | 3:30P | 1:00P | CLOSED | 2. ELENE NUNEZ | RPT 13595 | |
| | | | | | | | | 3. ANGELA LIVERA | RPT 20335 | |

| | SATISFACTORY | N/A | YES | NO |
|--|-------------------------------------|-------------------------------------|-------------------------------------|----|
| 1 Rx department hours open 5 days for 40 hours per week. [64B16-28.1081, F.A.C.] | | | <input checked="" type="checkbox"/> | |
| 2 Pharmacy technicians properly identified and supervised. [64B16-27.420, F.A.C.] | | | <input checked="" type="checkbox"/> | |
| 3 Pharmacist on duty when Rx department open. [64B16-28.109, F.A.C.] | | | <input checked="" type="checkbox"/> | |
| 4 Proper signs displayed. [465.025(7), F.S.] [64B16-28.109(1), F.A.C.] [64B16-28.1081, F.A.C.] [64B16-28.1035, F.A.C.] [64B16-27.1001, F.A.C.] | | | <input checked="" type="checkbox"/> | |
| 5 A verbal and printed offer to counsel is made to the patient or the patient's agent. [64B16-27.820(1), F.A.C.] | | | <input checked="" type="checkbox"/> | |
| 6 Prescription department is clean and safe, has sink/running water convenient to prescription department and adequate equipment as is necessary to the professional practice of pharmacy. [64B16-28.102, F.A.C.] | | <input checked="" type="checkbox"/> | | |
| 7 Medication properly labeled. [465.0255, F.S.] [64B16-28.108, F.A.C.] | | | <input checked="" type="checkbox"/> | |
| 8 Expired medications removed from the shelves. [64B16-28.110, F.A.C.] | | | <input checked="" type="checkbox"/> | |
| 9 CQI Policy and Procedures and quarterly meetings. [766.101, F.S.] [64B16-27.300, F.A.C.] | | | <input checked="" type="checkbox"/> | |
| 10 Board-approved Policy and Procedure implemented to prevent the fraudulent dispensing of controlled substances. [465.022(4), F.S.] | | | <input checked="" type="checkbox"/> | |
| 11 Prescriptions have the date dispensed and dispensing pharmacists. [893.04(1)(c) 6, F.S.] [64B16-28.140(3)(b), F.A.C.] | | | <input checked="" type="checkbox"/> | |
| 12 Pharmacy maintains patient profile records. [64B16-27.800, F.A.C.] | | | <input checked="" type="checkbox"/> | |
| 13 All controlled substance prescriptions contain information required. [893.04, F.S.] | | | <input checked="" type="checkbox"/> | |
| 14 Prescriptions for controlled substances are on counterfeit-proof prescription pads or blanks purchased from a Department-approved vendor and the quantity and date meet the requirements of [456.42(2), F.S.] | <input checked="" type="checkbox"/> | | | |
| 15 Prescriptions may not be filled in excess of one year or six months for controls from the date written. [893.04(1)(g), F.S.] [64B16-27.211, F.A.C.] | | | <input checked="" type="checkbox"/> | |
| 16 Controlled substance inventory taken on a biennial basis and available for inspection. [893.07(1)(a), F.S.] | | | <input checked="" type="checkbox"/> | |
| 17 DEA 222 order forms properly completed. [893.07, F.S.] | | | <input checked="" type="checkbox"/> | |
| 18 Controlled substance records and Rx information in computer system is retrievable. [21CFR 1306.22] [64B16-28.140, F.A.C.] | | | <input checked="" type="checkbox"/> | |
| 19 Controlled substance records maintained for 4 years. [465.022(12)(b), F.S.] | | | <input checked="" type="checkbox"/> | |
| 20 Certified daily log OR printout maintained. [21CFR 1306.22(b)(3)] [64B16-28.140(3)(b), F.A.C.] | | | <input checked="" type="checkbox"/> | |
| 21 Pharmacy is reporting to law enforcement any instance of fraudulent prescriptions within 24 hours or close of business on next business day of learning of instance. Reports include all required information. [465.015(3), F.S.] | | | <input checked="" type="checkbox"/> | |
| 22 Record of theft or significant loss of all controlled substances is being maintained and is being reported to the sheriff within 24 hours of discovery. [893.07(5), F.S.] [465.015, F.S.] | | | <input checked="" type="checkbox"/> | |
| 23 Pharmacy is reporting to the PDMP within 7 days of dispensing controlled substance. [893.055(4), F.S.] | | | <input checked="" type="checkbox"/> | |
| 24 Pharmacy with a retail pharmacy wholesaler permit is reporting sales to the Controlled Substance Reporting system monthly by the 20th of the following month. [499.0121(14), F.S.] | | | <input checked="" type="checkbox"/> | |
| 25 Compounding records properly maintained. [64B16-28.140(4), F.A.C.]* | | | <input checked="" type="checkbox"/> | |
| 26 Unit dose records properly maintained. [465.016(1)(l), F.S.] [64B16-28.118, F.A.C.] | | | <input checked="" type="checkbox"/> | |
| 27 Pedigree records are retrievable. [61N-1.012(3), F.A.C.] | | | <input checked="" type="checkbox"/> | |
| 28 Preparation time does not exceed 1 hour when preparing, and administration begins not later than 1 hour following start of immediate use CSPs. [64B16-27.797(1)(j), F.A.C.] | | | <input checked="" type="checkbox"/> | |
| 29 Preparation is properly labeled if preparer does not administer or witness administration when preparing immediate-use CSPs. [64B16-27.797(1)(j), F.A.C.] | | | <input checked="" type="checkbox"/> | |
| 30 Compliant office use compounding agreement between practitioner and pharmacy available for review. [64B16-27.700 (3)(d)] | | | <input checked="" type="checkbox"/> | |
| 31 Complete office use compounding records available for review. [64B16-27.700 (3)(e)] | | | <input checked="" type="checkbox"/> | |

Remarks:
No Deficiencies

I have read and have had this inspection report and the laws and regulations concerned herein explained, and do affirm that the information given herein is true and correct to the best of my knowledge. I have received a copy of the Licensee Bill of Rights.

PRINT NAME OF RECIPIENT **Dr. Frank Maluda RPh.**

Frank Maluda
Institutional Representative

3-20-14
Date
[Signature]
Investigator/Pharmacist Signature

ID **LIB**

INV 359 Revised 1/11, 6/10, 12/12, 5/12, 12/11, 10/11, 9/11, 10/10, 10/09, 5/06, 12/02, 12/00

Complete Save

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EXHIBIT # **51-2**

4

Product Activity Report

| Store | FX | Date/Dispensed | Billing Method | Product NDC | Product | Doctor Name | QTY | AAC | Price |
|-------|---------|----------------|--------------------|-------------|-----------------------------|----------------------|--------|---------|--------|
| 1 | 6005640 | 08/09/2013 | Cash/Credit/Other | | LANCING DEVICE | SMITH, JOHN | 1.00 | 0.84 | 0.00 |
| 1 | 6005041 | 08/09/2013 | Cash/Credit/Other | | ACCU-CHEK NANO SMARTVIEW 1 | SMITH, JOHN | 1.00 | 16.03 | 0.00 |
| 1 | 6003416 | 08/09/2013 | Cash/Credit/Other | | GLUCOCARD EXPRESSION METE | BENNETT, PAULA | 1.00 | 3.00 | 0.00 |
| 1 | 6003418 | 08/09/2013 | Cash/Credit/Other | | SAFETY SEAL 30G LANCETS | BENNETT, PAULA | 100.00 | 0.50 | 0.00 |
| 1 | 6003419 | 08/09/2013 | Cash/Credit/Other | | LANCING DEVICE | BENNETT, PAULA | 1.00 | 0.84 | 0.00 |
| 1 | 6004236 | 08/09/2013 | Cash/Credit/Other | | ADVOCATE RED-CODE + GLU ME | HANIKILLIAN, MICHAEL | 1.00 | 8.99 | 0.00 |
| 1 | 6004684 | 08/09/2013 | Cash/Credit/Other | | ADVOCATE RED-CODE + GLU ME | INSIGNARES, LUIS | 1.00 | 8.99 | 0.00 |
| 1 | 6005036 | 08/09/2013 | Cash/Credit/Other | | FORA V12 BLOOD GLUCOSE SYS | BAKER, JUSTIN | 1.00 | 1.00 | 0.00 |
| 1 | 6004231 | 08/09/2013 | Cash/Credit/Other | | ADVOCATE RED-CODE + GLU ME | VASAN, SOWMITTHRI | 1.00 | 8.99 | 0.00 |
| 1 | 6000982 | 08/09/2013 | MEDICAID MAINE | | FREESTYLE CONTROL SOLUTION | LUNDQUIST, BRYAN | 1.00 | 4.75 | 0.00 |
| 1 | 6000984 | 08/09/2013 | MEDICAID MAINE | | FREESTYLE LITE TEST STRIP | LUNDQUIST, BRYAN | 50.00 | 49.99 | 0.00 |
| 1 | 6001611 | 08/09/2013 | BLUE CROSS BLUE SH | | BREEZE 2 DISC TEST STRIP | BABCHUK, GEORGE | 50.00 | 46.95 | 0.00 |
| 1 | 6001613 | 08/09/2013 | BLUE CROSS BLUE SH | | SAFETY SEAL 30G LANCETS | BABCHUK, GEORGE | 100.00 | 0.50 | 0.00 |
| 1 | 6005053 | 08/09/2013 | MPD BLUE CROSS BL | | VENTOLIN HFA 90 MCG INHALER | TANUM, ALBERT | 18.00 | 39.49 | 0.00 |
| 1 | 6001372 | 08/09/2013 | HEALTHSPRING | | WAFARIN SODIUM 6 MG TABLE | ASERON, CRISTINA | 30.00 | 2.10 | 0.00 |
| 1 | 6001283 | 08/09/2013 | PAID PRESCRIPTIONS | | ONE TOUCH ULTRA TEST STRIP | PETRAOCCA, ANTHONY | 150.00 | 1.78.50 | 185.01 |
| 1 | 6003417 | 08/09/2013 | PAID PRESCRIPTIONS | | GLUCOCARD EXPRESSION TEST | BENNETT, PAULA | 50.00 | 6.50 | 52.76 |
| 1 | 6003415 | 08/09/2013 | PAID PRESCRIPTIONS | | GLUCOCARD EXPRESSION CNTF | BENNETT, PAULA | 1.00 | 2.00 | 7.48 |
| 1 | 6004232 | 08/09/2013 | MPD MEDCO MEDDPF | | ADVOCATE RED-CODE + TEST S | VASAN, SOWMITTHRI | 100.00 | 13.00 | 93.57 |
| 1 | 6004230 | 08/09/2013 | MPD MEDCO MEDDPF | | ADVOCATE RED-CODE + CTRL SI | VASAN, SOWMITTHRI | 1.00 | 3.50 | 9.59 |
| 1 | 6003761 | 08/09/2013 | MPD MEDCO MEDDPF | | OMEPRAZOLE DR 40 MG CAPSUL | CASTELLONE, DAVID | 30.00 | 5.15 | 18.28 |
| 1 | 6005037 | 08/09/2013 | MPD MEDCO MEDDPF | | FORA V12 GLUCOSE TEST STRIP | BAKER, JUSTIN | 300.00 | 40.50 | 438.58 |
| 1 | 6005038 | 08/09/2013 | MPD MEDCO MEDDPF | | SAFETY SEAL 30G LANCETS | BAKER, JUSTIN | 300.00 | 1.80 | 18.26 |
| 1 | 6005034 | 08/09/2013 | MPD MEDCO MEDDPF | | FORA NDRMAL CONTROL SOLUT | BAKER, JUSTIN | 1.00 | 1.90 | 4.70 |
| 1 | 6005035 | 08/09/2013 | MPD MEDCO MEDDPF | | LANCING DEVICE | BAKER, JUSTIN | 1.00 | 0.84 | 13.33 |

HIPAA

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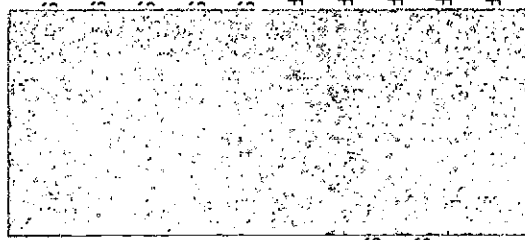
446.8452 1013.66

EXHIBIT # 51-3

Product Activity Report

| Store | RX | Date/Dispensed | Billing Method | Product/DC | Product | Quantity | AAC | Price |
|-------|---------|----------------|-------------------|---------------------------|---------|----------|--------|-------|
| 1 | 6004685 | 08/09/2013 | MPPD MEDCO MEDDPP | ADVOCATE RED-CODE+ TEST S | 200.00 | 26.00 | 186.13 | |
| 1 | 6005314 | 08/09/2013 | MPPD MEDCO MEDDPP | INSIGNARES, LUIS | 90.00 | 9.34 | 61.30 | |
| 1 | 6005316 | 08/09/2013 | MPPD MEDCO MEDDPP | TOPIRAMATE 100 MG TABLET | 90.00 | 9.78 | 163.68 | |
| 1 | 6004235 | 08/09/2013 | MPPD MEDCO MEDDPP | CLOPIDOGREL 75 MG TABLET | 1.00 | 3.50 | 9.59 | |
| 1 | 6004237 | 08/09/2013 | MPPD MEDCO MEDDPP | ADVOCATE RED-CODE+ CTRL S | 200.00 | 26.00 | 186.13 | |
| 1 | 6004222 | 08/09/2013 | MPPD MEDCO MEDDPP | SHANI KILLIAN MICHAEL | 270.00 | 17.66 | 48.98 | |
| 1 | 6004683 | 08/09/2013 | MPPD MEDCO MEDDPP | GABAPENTIN 300 MG CAPSULE | 1.00 | 3.50 | 9.59 | |
| 1 | 6005039 | 08/09/2013 | MPPD MEDCO MEDDPP | ADVOCATE RED-CODE+ CTRL S | 300.00 | 1.80 | 18.62 | |
| 1 | 6005042 | 08/09/2013 | MPPD MEDCO MEDDPP | SAFETY SEAL 30G LANCETS | 1.00 | 6.50 | 5.66 | |
| 1 | 6005043 | 08/09/2013 | MPPD MEDCO MEDDPP | ACCU-CHEK SMARTVIEW CONTF | 300.00 | 275.70 | 347.22 | |
| 1 | 6001968 | 08/09/2013 | MPPD MEDCO MEDDPP | ATENOLOL 50 MG TABLET | 270.00 | 4.18 | 28.22 | |
| 1 | 6001969 | 08/09/2013 | MPPD MEDCO MEDDPP | FUROSEMIDE 40 MG TABLET | 180.00 | 3.08 | 12.66 | |

HIPAA



833.8912 2091.43

Product Activity Report

| Store | RX | Date/Dispensed | Tech | Rph | Billing/Method | Location | Product/NC | PtName | Product | Doctor/Name | QTY | AA | Price |
|-------|---------|----------------|------|-----|-------------------|----------|------------|--------|-----------------------------|----------------------|--------|--------|--------|
| 1 | 6003287 | 09/16/2013 | SYS | CR | BLUE CROSS BLUE S | | | | CLEVER CHOICE VOICE+ TST ST | RICHARD, DANA | 100.00 | 13.00 | 99.58 |
| 1 | 6003420 | 09/16/2013 | SYS | CR | BLUE CROSS BLUE S | | | | ACCU-CHEK SOFTCLIX LANCETS | SADIO, RAJA | 100.00 | 6.99 | 10.22 |
| 1 | 6003424 | 09/16/2013 | SYS | CR | BLUE CROSS BLUE S | | | | ACCU-CHEK COMPACT DRUM S | SADIO, RAJA | 100.00 | 97.98 | 123.43 |
| 1 | 6007871 | 09/16/2013 | SYS | CR | PAID PRESCRIPTION | | | | ONE TOUCH ULTRA TEST STRIP | BAUMGARTEN, ALAN | 100.00 | 93.90 | 123.67 |
| 1 | 6007946 | 09/16/2013 | SYS | CR | PAID PRESCRIPTION | | | | FORA V12 GLUCOSE TEST STRIP | WEN, WU | 100.00 | 13.50 | 147.36 |
| 1 | 6007947 | 09/16/2013 | SYS | CR | PAID PRESCRIPTION | | | | SAFETY SEAL 30G LANCETS | WEN, WU | 100.00 | 0.88 | 7.62 |
| 1 | 6007857 | 09/16/2013 | SYS | CR | PAID PRESCRIPTION | | | | FORA NORMAL CONTROL SOLU | HASHIMI, NAIRA | 1.00 | 1.90 | 4.89 |
| 1 | 6007858 | 09/16/2013 | SYS | CR | PAID PRESCRIPTION | | | | LANCING DEVICE | HASHIMI, NAIRA | 1.00 | 0.84 | 13.99 |
| 1 | 6007860 | 09/16/2013 | SYS | CR | PAID PRESCRIPTION | | | | FORA V12 GLUCOSE TEST STRIP | HASHIMI, NAIRA | 100.00 | 13.50 | 146.86 |
| 1 | 6007855 | 09/16/2013 | SYS | CR | PAID PRESCRIPTION | | | | FORA V12 GLUCOSE TEST STRIP | VALTINSON, ERIKA | 50.00 | 6.75 | 73.93 |
| 1 | 6007255 | 09/16/2013 | SYS | CR | PAID PRESCRIPTION | | | | FORA V12 GLUCOSE TEST STRIP | LUTHER, MICHAEL | 50.00 | 6.75 | 28.50 |
| 1 | 6001394 | 09/16/2013 | SYS | CR | PAID PRESCRIPTION | | | | CLEVER CHEK TEST STRIPS | HANSEN, DAVID | 1.00 | 2.50 | 11.20 |
| 1 | 6001395 | 09/16/2013 | SYS | CR | PAID PRESCRIPTION | | | | CLEVER CHEK TEST STRIPS | HANSEN, DAVID | 100.00 | 13.00 | 101.16 |
| 1 | 6007866 | 09/16/2013 | SYS | CR | PAID PRESCRIPTION | | | | SAFETY SEAL 30G LANCETS | HALE, JAMES | 100.00 | 0.88 | 7.04 |
| 1 | 6005455 | 09/16/2013 | SYS | CR | PAID PRESCRIPTION | | | | FORA NORMAL CONTROL SOLU | ISMAIL, MOHAMMAD | 1.00 | 1.90 | 4.89 |
| 1 | 6005456 | 09/16/2013 | SYS | CR | PAID PRESCRIPTION | | | | LANCING DEVICE | ISMAIL, MOHAMMAD | 1.00 | 0.84 | 13.95 |
| 1 | 6005459 | 09/16/2013 | SYS | CR | PAID PRESCRIPTION | | | | SAFETY SEAL 30G LANCETS | ISMAIL, MOHAMMAD | 100.00 | 0.60 | 7.04 |
| 1 | 6007891 | 09/16/2013 | SYS | CR | PAID PRESCRIPTION | | | | ONE TOUCH ULTRA TEST STRIP | SORRELS, CHRISTOPHER | 300.00 | 281.70 | 369.02 |
| 1 | 6007852 | 09/16/2013 | SYS | CR | PAID PRESCRIPTION | | | | FORA NORMAL CONTROL SOLU | VALTINSON, ERIKA | 1.00 | 1.90 | 5.15 |
| 1 | 6007893 | 09/16/2013 | SYS | CR | PAID PRESCRIPTION | | | | FORA NORMAL CONTROL SOLU | VALTINSON, ERIKA | 1.00 | 1.90 | 4.97 |
| 1 | 6007894 | 09/16/2013 | SYS | CR | PAID PRESCRIPTION | | | | LANCING DEVICE | VALTINSON, ERIKA | 1.00 | 0.84 | 13.95 |
| 1 | 6007896 | 09/16/2013 | SYS | CR | PAID PRESCRIPTION | | | | FORA V12 GLUCOSE TEST STRIP | VALTINSON, ERIKA | 50.00 | 6.75 | 73.93 |
| 1 | 6007897 | 09/16/2013 | SYS | CR | PAID PRESCRIPTION | | | | SAFETY SEAL 30G LANCETS | VALTINSON, ERIKA | 100.00 | 0.88 | 7.09 |
| 1 | 6007862 | 09/16/2013 | SYS | CR | PAID PRESCRIPTION | | | | FORA NORMAL CONTROL SOLU | VALTINSON, ERIKA | 1.00 | 1.90 | 4.89 |
| 1 | 6007865 | 09/16/2013 | SYS | CR | PAID PRESCRIPTION | | | | FORA V12 GLUCOSE TEST STRIP | VALTINSON, ERIKA | 50.00 | 6.75 | 28.50 |

578.33 1432.79

Product Activity Report

| Store | RX | Dated/Dispensed | Billing Method | Product/DC | Product | Doctor/Name | DR/DEA | Quantity | AAC | Price |
|-------|---------|-----------------|--------------------|------------|------------------------------|----------------------|--------|----------|--------|--------|
| 1 | 6007861 | 09/16/2013 | PAID PRESCRIPTION | CR | SAFETY SEAL 30G LANCETS | HASHMI, NAIRA | | 100.00 | 0.88 | 7.04 |
| 1 | 6007862 | 09/16/2013 | PAID PRESCRIPTION | CR | SAFETY SEAL 30G LANCETS | FRIESEN, CHRISTOPHER | | 100.00 | 0.88 | 0.00 |
| 1 | 6007878 | 09/16/2013 | PAID PRESCRIPTION | CR | FORA NORMAL CONTROL SOLU | FRIESEN, CHRISTOPHER | | 1.00 | 1.90 | 0.00 |
| 1 | 6007881 | 09/16/2013 | PAID PRESCRIPTION | CR | FORA V12 GLUCOSE TEST STRIP | FRIESEN, CHRISTOPHER | | 100.00 | 13.50 | 0.00 |
| 1 | 6007928 | 09/16/2013 | PAID PRESCRIPTION | CR | FORA NORMAL CONTROL SOLU | GLASS, ANGELA | | 1.00 | 1.90 | 4.89 |
| 1 | 6007931 | 09/16/2013 | PAID PRESCRIPTION | CR | FORA V12 GLUCOSE TEST STRIP | GLASS, ANGELA | | 150.00 | 20.25 | 83.48 |
| 1 | 6007939 | 09/16/2013 | FUTURE SCRIPTS INI | CR | LANCING DEVICE | FRIEDMANN, BRAD | | 1.00 | 0.84 | 13.67 |
| 1 | 6007941 | 09/16/2013 | FUTURE SCRIPTS INI | CR | FORA V12 GLUCOSE TEST STRIP | FRIEDMANN, BRAD | | 100.00 | 13.50 | 155.48 |
| 1 | 6007942 | 09/16/2013 | FUTURE SCRIPTS INI | CR | SAFETY SEAL 30G LANCETS | FRIEDMANN, BRAD | | 100.00 | 0.88 | 7.07 |
| 1 | 6002212 | 09/16/2013 | GATEWAY HEALTH P | CR | SAFETY SEAL 30G LANCETS | HOLT, DANIEL | | 100.00 | 0.88 | 8.22 |
| 1 | 6002216 | 09/16/2013 | GATEWAY HEALTH P | CR | FREESTYLE LITE TEST STRIP | HOLT, DANIEL | | 50.00 | 49.99 | 62.52 |
| 1 | 6007873 | 09/16/2013 | CATALYST RX | CR | FORA NORMAL CONTROL SOLU | YASSINE, CHARLA | | 1.00 | 1.90 | 4.95 |
| 1 | 6007874 | 09/16/2013 | CATALYST RX | CR | LANCING DEVICE | YASSINE, CHARLA | | 1.00 | 0.84 | 13.58 |
| 1 | 6007876 | 09/16/2013 | CATALYST RX | CR | FORA V12 GLUCOSE TEST STRIP | YASSINE, CHARLA | | 100.00 | 13.50 | 154.96 |
| 1 | 6007877 | 09/16/2013 | CATALYST RX | CR | SAFETY SEAL 30G LANCETS | YASSINE, CHARLA | | 100.00 | 0.88 | 7.00 |
| 1 | 6008283 | 09/16/2013 | CIGNA PHARMACY LE | CR | FBGGL 20/42/65% CREAM | INCE STITSKY, LORNE | | 240.00 | 180.00 | 0.00 |
| 1 | 6002509 | 09/16/2013 | UNITED HEALTHCARE | CR | CLEVER CHOICE VOICE+ TST ST | COOK, SARA | | 400.00 | 52.00 | 0.00 |
| 1 | 6004001 | 09/16/2013 | RX-SXC | CR | AML ODIPINE BESYLATE 10 MG T | COPPOLA, CHRISTOPHER | | 90.00 | 3.21 | 13.96 |
| 1 | 6006464 | 09/16/2013 | MPD MEDCO MEDDP | CR | GLUCOCARD EXPRESSION CNTI | AKHRASS, FIRAS | | 1.00 | 2.00 | 7.16 |
| 1 | 6006466 | 09/16/2013 | MPD MEDCO MEDDP | CR | GLUCOCARD EXPRESSION TESTI | AKHRASS, FIRAS | | 300.00 | 39.00 | 296.60 |
| 1 | 6006467 | 09/16/2013 | MPD MEDCO MEDDP | CR | ACCU-CHEK MULTICLX LANCET | AKHRASS, FIRAS | | 300.00 | 32.97 | 29.99 |
| 1 | 6006468 | 09/16/2013 | MPD MEDCO MEDDP | CR | ACCU-CHEK MULTICLX LANCET | AKHRASS, FIRAS | | 1.00 | 22.61 | 23.14 |
| 1 | 6007908 | 09/16/2013 | MPD MEDCO MEDDP | CR | FORA NORMAL CONTROL SOLU | NOELKE, ELISABETH | | 1.00 | 1.90 | 4.70 |
| 1 | 6007909 | 09/16/2013 | MPD MEDCO MEDDP | CR | LANCING DEVICE | NOELKE, ELISABETH | | 1.00 | 0.84 | 13.33 |
| 1 | 6007886 | 09/16/2013 | MPD MEDCO MEDDP | CR | FORA V12 GLUCOSE TEST STRIP | GRIFFIN, JANET | | 300.00 | 40.50 | 438.58 |

HIPAA

1075.883 2783.16

Productivity Report

| Store | RX | Dated/Dispensed | Tech | Rph | Blinding/Method | Location | Product/NC | PNName | Product | DoctorName | DR/DA | Quantity | AAC | Price |
|-------|---------|-----------------|------|-----|-----------------|-----------------|------------------------------|--------------------|------------------------------|--------------------|-----------|----------|--------|--------|
| 1 | 6007887 | 09/16/2013 | SYS | CR | MPD MEDCO MEDDP | MPD MEDCO MEDDP | SAFETY SEAL 30G LANCETS | GRIFFIN, JANET | SAFETY SEAL 30G LANCETS | GRIFFIN, JANET | | 300.00 | 2.64 | 18.26 |
| 1 | 6007883 | 09/16/2013 | SYS | CR | MPD MEDCO MEDDP | MPD MEDCO MEDDP | FORA NORMAL CONTROL SOLU' | GRIFFIN, JANET | FORA NORMAL CONTROL SOLU' | GRIFFIN, JANET | | 1.00 | 1.90 | 4.70 |
| 1 | 6007903 | 09/16/2013 | SYS | CR | MPD MEDCO MEDDP | MPD MEDCO MEDDP | GLUCOCARD EXPRESSION CNTI | GROSE, LEE | GLUCOCARD EXPRESSION CNTI | GROSE, LEE | | 1.00 | 2.00 | 7.16 |
| 1 | 6007907 | 09/16/2013 | SYS | CR | MPD MEDCO MEDDP | MPD MEDCO MEDDP | LANCING DEVICE | GROSE, LEE | LANCING DEVICE | GROSE, LEE | | 1.00 | 0.84 | 13.33 |
| 1 | 6008272 | 09/16/2013 | SYS | CR | MPD MEDCO MEDDP | MPD MEDCO MEDDP | SIMVASTATIN 20 MG TABLET | Houser, Adam | SIMVASTATIN 20 MG TABLET | Houser, Adam | | 90.00 | 2.25 | 27.86 |
| 1 | 6008271 | 09/16/2013 | SYS | CR | MPD MEDCO MEDDP | MPD MEDCO MEDDP | AML ODIPINE BESYLATE 5 MG T | Houser, Adam | AML ODIPINE BESYLATE 5 MG T | Houser, Adam | | 90.00 | 1.65 | 26.06 |
| 1 | 6003201 | 09/16/2013 | SYS | CR | MPD MEDCO MEDDP | MPD MEDCO MEDDP | ATROVENT HFA INHALER | GAMMARELLA, NANCY | ATROVENT HFA INHALER | GAMMARELLA, NANCY | | 38.70 | 639.09 | 637.61 |
| 1 | 6003996 | 09/16/2013 | SYS | CR | MPD MEDCO MEDDP | MPD MEDCO MEDDP | LEVOTHYROXINE 100 MCG TABL | DAGGUBATI, SAM | LEVOTHYROXINE 100 MCG TABL | DAGGUBATI, SAM | | 90.00 | 11.41 | 21.36 |
| 1 | 6003754 | 09/16/2013 | SYS | CR | MPD MEDCO MEDDP | MPD MEDCO MEDDP | PRAMIPEXOLE 1 MG TABLET | HAND, WENDELL | PRAMIPEXOLE 1 MG TABLET | HAND, WENDELL | BH0506672 | 270.00 | 21.65 | 106.16 |
| 1 | 6007884 | 09/16/2013 | SYS | CR | MPD MEDCO MEDDP | MPD MEDCO MEDDP | LANCING DEVICE | GRIFFIN, JANET | LANCING DEVICE | GRIFFIN, JANET | | 1.00 | 0.84 | 13.33 |
| 1 | 6007924 | 09/16/2013 | SYS | CR | MPD MEDCO MEDDP | MPD MEDCO MEDDP | LANCING DEVICE | OVERTON MCCOY, AMY | LANCING DEVICE | OVERTON MCCOY, AMY | | 1.00 | 0.84 | 13.33 |
| 1 | 6004937 | 09/16/2013 | SYS | CR | MPD MEDCO MEDDP | MPD MEDCO MEDDP | SIMVASTATIN 40 MG TABLET | PEREIRA, RODRIGO | SIMVASTATIN 40 MG TABLET | PEREIRA, RODRIGO | | 30.00 | 1.21 | 8.23 |
| 1 | 6004935 | 09/16/2013 | SYS | CR | MPD MEDCO MEDDP | MPD MEDCO MEDDP | METOPROLOL TARTRATE 100 M | PEREIRA, RODRIGO | METOPROLOL TARTRATE 100 M | PEREIRA, RODRIGO | | 60.00 | 2.21 | 5.51 |
| 1 | 6008268 | 09/16/2013 | SYS | CR | MPD MEDCO MEDDP | MPD MEDCO MEDDP | SPIRIVA 18 MCG CP-HANDHALE | Houser, Adam | SPIRIVA 18 MCG CP-HANDHALE | Houser, Adam | | 90.00 | 834.43 | 832.18 |
| 1 | 6008274 | 09/16/2013 | SYS | CR | MPD MEDCO MEDDP | MPD MEDCO MEDDP | SYMBICORT 160.4.5 MCG INHAL | Houser, Adam | SYMBICORT 160.4.5 MCG INHAL | Houser, Adam | | 30.60 | 699.54 | 697.82 |
| 1 | 6008273 | 09/16/2013 | SYS | CR | MPD MEDCO MEDDP | MPD MEDCO MEDDP | LISINOPRIL 40 MG TABLET | Houser, Adam | LISINOPRIL 40 MG TABLET | Houser, Adam | | 90.00 | 4.63 | 23.76 |
| 1 | 6002801 | 09/16/2013 | SYS | CR | MPD MEDCO MEDDP | MPD MEDCO MEDDP | CRESTOR 40 MG TABLET | SNEED, HOLLY | CRESTOR 40 MG TABLET | SNEED, HOLLY | MS2725349 | 90.00 | 508.89 | 507.90 |
| 1 | 6002798 | 09/16/2013 | SYS | CR | MPD MEDCO MEDDP | MPD MEDCO MEDDP | ATENOLOL 50 MG TABLET | SNEED, HOLLY | ATENOLOL 50 MG TABLET | SNEED, HOLLY | MS2725349 | 90.00 | 1.40 | 11.00 |
| 1 | 6002797 | 09/16/2013 | SYS | CR | MPD MEDCO MEDDP | MPD MEDCO MEDDP | AML ODIPINE BESYLATE 10 MG T | SNEED, HOLLY | AML ODIPINE BESYLATE 10 MG T | SNEED, HOLLY | MS2725349 | 90.00 | 2.25 | 26.92 |
| 1 | 6007926 | 09/16/2013 | SYS | CR | MPD MEDCO MEDDP | MPD MEDCO MEDDP | FORA V12 GLUCOSE TEST STRIP | OVERTON MCCOY, AMY | FORA V12 GLUCOSE TEST STRIP | OVERTON MCCOY, AMY | | 200.00 | 27.00 | 292.72 |
| 1 | 6007927 | 09/16/2013 | SYS | CR | MPD MEDCO MEDDP | MPD MEDCO MEDDP | SAFETY SEAL 30G LANCETS | OVERTON MCCOY, AMY | SAFETY SEAL 30G LANCETS | OVERTON MCCOY, AMY | | 200.00 | 1.76 | 12.51 |
| 1 | 6007923 | 09/16/2013 | SYS | CR | MPD MEDCO MEDDP | MPD MEDCO MEDDP | FORA NORMAL CONTROL SOLU' | OVERTON MCCOY, AMY | FORA NORMAL CONTROL SOLU' | OVERTON MCCOY, AMY | | 1.00 | 1.90 | 4.70 |
| 1 | 6002812 | 09/16/2013 | SYS | CR | MPD MEDCO MEDDP | MPD MEDCO MEDDP | ATORVASTATIN 20 MG TABLET | MOORE, CHRISTINE | ATORVASTATIN 20 MG TABLET | MOORE, CHRISTINE | | 90.00 | 16.99 | 124.65 |
| 1 | 6002811 | 09/16/2013 | SYS | CR | MPD MEDCO MEDDP | MPD MEDCO MEDDP | MELOXICAM 15 MG TABLET | MOORE, CHRISTINE | MELOXICAM 15 MG TABLET | MOORE, CHRISTINE | | 90.00 | 1.84 | 28.53 |
| 1 | 6002810 | 09/16/2013 | SYS | CR | MPD MEDCO MEDDP | MPD MEDCO MEDDP | METFORMIN HCL 500 MG TABLE | MOORE, CHRISTINE | METFORMIN HCL 500 MG TABLE | MOORE, CHRISTINE | | 180.00 | 4.54 | 24.90 |

3869.5843 6273.65

Product / Inventory Report

| Store | RX | Date/Dispensed | Billing/Method | Product/NC | Product | Quantity | AAC | Price |
|-------|---------|----------------|------------------|------------|---------|----------|--------|--------|
| 1 | 6001915 | 09/16/2013 | MPD MEDCO MEDDPH | Product/NC | Product | 90.00 | 10.97 | 0.00 |
| 1 | 6001917 | 09/16/2013 | MPD MEDCO MEDDPH | Product/NC | Product | 180.00 | 4.59 | 0.00 |
| 1 | 6002364 | 09/16/2013 | MPD MEDCO MEDDPH | Product/NC | Product | 90.00 | 7.16 | 47.99 |
| 1 | 6007933 | 09/16/2013 | MPD MEDCO MEDDPH | Product/NC | Product | 1.00 | 1.90 | 4.70 |
| 1 | 6007934 | 09/16/2013 | MPD MEDCO MEDDPH | Product/NC | Product | 1.00 | 0.84 | 13.33 |
| 1 | 6007936 | 09/16/2013 | MPD MEDCO MEDDPH | Product/NC | Product | 300.00 | 40.50 | 438.58 |
| 1 | 6007937 | 09/16/2013 | MPD MEDCO MEDDPH | Product/NC | Product | 300.00 | 2.64 | 18.26 |
| 1 | 6002929 | 09/16/2013 | MPD MEDCO MEDDPH | Product/NC | Product | 180.00 | 7.40 | 36.08 |
| 1 | 6005624 | 09/16/2013 | MPD MEDCO MEDDPH | Product/NC | Product | 30.00 | 5.66 | 25.73 |
| 1 | 6007951 | 09/16/2013 | MPD MEDCO MEDDPH | Product/NC | Product | 100.00 | 13.50 | 146.86 |
| 1 | 6007952 | 09/16/2013 | MPD MEDCO MEDDPH | Product/NC | Product | 100.00 | 0.88 | 6.75 |
| 1 | 6007948 | 09/16/2013 | MPD MEDCO MEDDPH | Product/NC | Product | 1.00 | 1.90 | 4.70 |
| 1 | 6002300 | 09/16/2013 | MPD MEDCO MEDDPH | Product/NC | Product | 180.00 | 7.40 | 36.08 |
| 1 | 6002207 | 09/16/2013 | MPD MEDCO MEDDPH | Product/NC | Product | 180.00 | 3.91 | 19.50 |
| 1 | 6007953 | 09/16/2013 | MPD MEDCO MEDDPH | Product/NC | Product | 1.00 | 1.90 | 4.70 |
| 1 | 6007954 | 09/16/2013 | MPD MEDCO MEDDPH | Product/NC | Product | 1.00 | 0.84 | 13.33 |
| 1 | 6007956 | 09/16/2013 | MPD MEDCO MEDDPH | Product/NC | Product | 300.00 | 40.50 | 438.58 |
| 1 | 6007957 | 09/16/2013 | MPD MEDCO MEDDPH | Product/NC | Product | 300.00 | 2.64 | 18.26 |
| 1 | 6002591 | 09/16/2013 | MPD MEDCO MEDDPH | Product/NC | Product | 180.00 | 7.40 | 36.08 |
| 1 | 6002594 | 09/16/2013 | MPD MEDCO MEDDPH | Product/NC | Product | 90.00 | 452.58 | 451.82 |
| 1 | 6007911 | 09/16/2013 | MPD MEDCO MEDDPH | Product/NC | Product | 100.00 | 13.50 | 146.86 |
| 1 | 6007912 | 09/16/2013 | MPD MEDCO MEDDPH | Product/NC | Product | 100.00 | 0.88 | 6.75 |
| 1 | 6007913 | 09/16/2013 | MPD MEDCO MEDDPH | Product/NC | Product | 1.00 | 1.90 | 4.70 |
| 1 | 6007914 | 09/16/2013 | MPD MEDCO MEDDPH | Product/NC | Product | 1.00 | 0.84 | 13.33 |

HIPAA

4502.6473 8219.95

Product Activity Report

| Store | RX | DateDispensed | Tech | Rph | BillingMethod | Location | Product | ProductNDC | PhName | DoctorName | DPDEA | Quantity | AAC | Price |
|-------|---------|---------------|------|-----|-------------------|-------------------|------------------------------|------------|--------|----------------------|-----------|----------|--------|--------|
| 1 | 6007916 | 09/16/2013 | SYS | CR | MPD MEDCO MEDDP | MPD MEDCO MEDDP | FORA V12 GLUCOSE TEST STRIP | | HIPAA | NOELKE, ELISABETH | | 100.00 | 13.50 | 146.86 |
| 1 | 6007917 | 09/16/2013 | SYS | CR | MPD MEDCO MEDDP | MPD MEDCO MEDDP | SAFETY SEAL 30G LANCETS | | HIPAA | NOELKE, ELISABETH | | 100.00 | 0.88 | 6.75 |
| 1 | 6005294 | 09/16/2013 | SYS | CR | MPD PRESCRIPTION | MPD PRESCRIPTION | FORA NORMAL CONTROL SOLU | | HIPAA | OH PARK, ANGELA | | 1.00 | 1.90 | 5.17 |
| 1 | 6005295 | 09/16/2013 | SYS | CR | MPD PRESCRIPTION | MPD PRESCRIPTION | LANCING DEVICE | | HIPAA | OH PARK, ANGELA | | 1.00 | 0.84 | 13.73 |
| 1 | 6005297 | 09/16/2013 | SYS | CR | MPD PRESCRIPTION | MPD PRESCRIPTION | FORA V12 GLUCOSE TEST STRIP | | HIPAA | OH PARK, ANGELA | | 100.00 | 13.50 | 153.91 |
| 1 | 6005298 | 09/16/2013 | SYS | CR | MPD PRESCRIPTION | MPD PRESCRIPTION | SAFETY SEAL 30G LANCETS | | HIPAA | OH PARK, ANGELA | | 100.00 | 0.60 | 7.24 |
| 1 | 6003639 | 09/16/2013 | SYS | CR | MPD PRESCRIPTION | MPD PRESCRIPTION | METFORMIN HCL 1,000 MG TABL | | HIPAA | UNGUREANU, CORINA | | 60.00 | 2.47 | 6.36 |
| 1 | 6003638 | 09/16/2013 | SYS | CR | MPD PRESCRIPTION | MPD PRESCRIPTION | METOPROLOL TARTRATE 50 MG | | HIPAA | UNGUREANU, CORINA | | 60.00 | 1.30 | 6.61 |
| 1 | 6008267 | 09/16/2013 | SYS | CR | MPD PRESCRIPTION | MPD PRESCRIPTION | GLIMEPIRIDE 4 MG TABLET | | HIPAA | GO, ROMMEL | | 30.00 | 2.05 | 7.29 |
| 1 | 6008265 | 09/16/2013 | SYS | CR | MPD PRESCRIPTION | MPD PRESCRIPTION | NEXIUM DR 40 MG CAPSULE | | HIPAA | GO, ROMMEL | | 30.00 | 221.10 | 229.70 |
| 1 | 6008266 | 09/16/2013 | SYS | CR | MPD PRESCRIPTION | MPD PRESCRIPTION | ESCITALOPRAM 10 MG TABLET | | HIPAA | GO, ROMMEL | | 30.00 | 3.85 | 11.85 |
| 1 | 6006419 | 09/16/2013 | SYS | CR | MPD PRESCRIPTION | MPD PRESCRIPTION | LOVAZA 1 GM CAPSULE | | HIPAA | MCFARLAND, CONSTANCE | | 120.00 | 195.04 | 202.74 |
| 1 | 6006432 | 09/16/2013 | SYS | CR | MPD PRESCRIPTION | MPD PRESCRIPTION | FORA V12 GLUCOSE TEST STRIP | | HIPAA | AWAN, MUHAMMAD | | 300.00 | 40.50 | 458.72 |
| 1 | 6006841 | 09/16/2013 | SYS | CR | MPD PRESCRIPTION | MPD PRESCRIPTION | ATORVASTATIN 40 MG TABLET | | HIPAA | GROSSMAN, WILLIAM | | 30.00 | 5.83 | 12.62 |
| 1 | 6005124 | 09/16/2013 | SYS | CR | MPD PRESCRIPTION | MPD PRESCRIPTION | SAFETY SEAL 30G LANCETS | | HIPAA | OVERARE, DAVID | AG6427149 | 200.00 | 1.20 | 12.91 |
| 1 | 6005127 | 09/16/2013 | SYS | CR | MPD PRESCRIPTION | MPD PRESCRIPTION | ACCUCHEK AVIVA SOLUTION | | HIPAA | OVERARE, DAVID | | 1.00 | 4.75 | 8.35 |
| 1 | 6005128 | 09/16/2013 | SYS | CR | MPD PRESCRIPTION | MPD PRESCRIPTION | ACCUCHEK AVIVA PLUS TEST S | | HIPAA | OVERARE, DAVID | | 200.00 | 199.96 | 231.98 |
| 1 | 6003637 | 09/16/2013 | SYS | CR | MPD PRESCRIPTION | MPD PRESCRIPTION | ATORVASTATIN 40 MG TABLET | | HIPAA | UNGUREANU, CORINA | | 30.00 | 5.83 | 12.62 |
| 1 | 6003636 | 09/16/2013 | SYS | CR | MPD PRESCRIPTION | MPD PRESCRIPTION | SERTRALINE HCL 100 MG TABLET | | HIPAA | UNGUREANU, CORINA | | 30.00 | 1.91 | 5.74 |
| 1 | 6007898 | 09/16/2013 | SYS | CR | MPD PRESCRIPTION | MPD PRESCRIPTION | FORA NORMAL CONTROL SOLU | | HIPAA | SIMS, HOLLY | | 1.00 | 1.90 | 5.17 |
| 1 | 6007899 | 09/16/2013 | SYS | CR | MPD PRESCRIPTION | MPD PRESCRIPTION | LANCING DEVICE | | HIPAA | SIMS, HOLLY | | 1.00 | 0.84 | 13.73 |
| 1 | 6007901 | 09/16/2013 | SYS | CR | MPD PRESCRIPTION | MPD PRESCRIPTION | FORA V12 GLUCOSE TEST STRIP | | HIPAA | SIMS, HOLLY | | 200.00 | 27.00 | 306.31 |
| 1 | 6007902 | 09/16/2013 | SYS | CR | MPD PRESCRIPTION | MPD PRESCRIPTION | SAFETY SEAL 30G LANCETS | | HIPAA | SIMS, HOLLY | | 200.00 | 1.76 | 12.91 |
| 1 | 6007868 | 09/16/2013 | SYS | CR | Cash/Credit/Other | Cash/Credit/Other | SAFETY SEAL 30G LANCETS | | HIPAA | BAUMGARTEN, ALAN | | 100.00 | 0.88 | 0.00 |
| 1 | 6007869 | 09/16/2013 | SYS | CR | Cash/Credit/Other | Cash/Credit/Other | LANCING DEVICE | | HIPAA | BAUMGARTEN, ALAN | | 1.00 | 0.84 | 0.00 |

5252.8743 10099.19

Product Activity Report

12

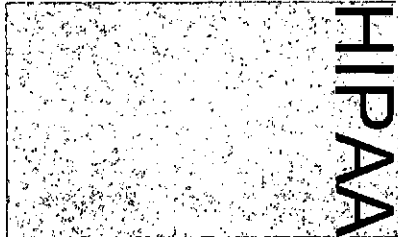
| Store | RX | Date/Dispensed | Tech | Rph | Billing Method | Location | Product | Product Name | Product | Doctor Name | D/DEA | Quantity | AAC | Price |
|-------|---------|----------------|------|-----|-------------------|-------------------|-----------------------------|----------------------|---------|-------------|-------|----------|-------|--------|
| 1 | 6007870 | 09/16/2013 | SYS | CR | Cash/Credit/Other | Cash/Credit/Other | ONE TOUCH ULTRAMINI METER | BAUMGARTEN, ALAN | | | | 1.00 | 15.08 | 0.00 |
| 1 | 6007910 | 09/16/2013 | SYS | CR | Cash/Credit/Other | Cash/Credit/Other | FORA V12 BLOOD GLUCOSE SYR | NOELKE, ELISABETH | | | | 1.00 | 1.00 | 0.00 |
| 1 | 6007915 | 09/16/2013 | SYS | CR | Cash/Credit/Other | Cash/Credit/Other | FORA V12 BLOOD GLUCOSE SYR | NOELKE, ELISABETH | | | | 1.00 | 1.00 | 0.00 |
| 1 | 6007955 | 09/16/2013 | SYS | CR | Cash/Credit/Other | Cash/Credit/Other | FORA V12 BLOOD GLUCOSE SYR | BARKSDALE, REBECCA | | | | 1.00 | 1.00 | 0.00 |
| 1 | 6007854 | 09/16/2013 | SYS | CR | Cash/Credit/Other | Cash/Credit/Other | FORA V12 BLOOD GLUCOSE SYR | VALTINSON, ERIKA | | | | 1.00 | 1.00 | 0.00 |
| 1 | 6007856 | 09/16/2013 | SYS | CR | Cash/Credit/Other | Cash/Credit/Other | SAFETY SEAL 30G LANCETS | VALTINSON, ERIKA | | | | 100.00 | 0.88 | 0.00 |
| 1 | 6007885 | 09/16/2013 | SYS | CR | Cash/Credit/Other | Cash/Credit/Other | FORA V12 BLOOD GLUCOSE SYR | GRIFFIN, JANET | | | | 1.00 | 1.00 | 0.00 |
| 1 | 6007875 | 09/16/2013 | SYS | CR | Cash/Credit/Other | Cash/Credit/Other | FORA V12 BLOOD GLUCOSE SYR | YASSINE, CHARLA | | | | 1.00 | 1.00 | 0.00 |
| 1 | 6007904 | 09/16/2013 | SYS | CR | Cash/Credit/Other | Cash/Credit/Other | GLUCOCARD EXPRESSION METI | GROSE, LEE | | | | 1.00 | 3.00 | 0.00 |
| 1 | 6005457 | 09/16/2013 | SYS | CR | Cash/Credit/Other | Cash/Credit/Other | FORA V12 BLOOD GLUCOSE SYR | ISMAL, MOHAMMAD | | | | 1.00 | 1.00 | 0.00 |
| 1 | 6007925 | 09/16/2013 | SYS | CR | Cash/Credit/Other | Cash/Credit/Other | FORA V12 BLOOD GLUCOSE SYR | OVERTON MCCOY, AMY | | | | 1.00 | 1.00 | 0.00 |
| 1 | 6007888 | 09/16/2013 | SYS | CR | Cash/Credit/Other | Cash/Credit/Other | SAFETY SEAL 30G LANCETS | SORRELS, CHRISTOPHER | | | | 300.00 | 2.64 | 0.00 |
| 1 | 6007889 | 09/16/2013 | SYS | CR | Cash/Credit/Other | Cash/Credit/Other | LANCING DEVICE | SORRELS, CHRISTOPHER | | | | 1.00 | 0.84 | 0.00 |
| 1 | 6007890 | 09/16/2013 | SYS | CR | Cash/Credit/Other | Cash/Credit/Other | ONE TOUCH ULTRAMINI METER | SORRELS, CHRISTOPHER | | | | 1.00 | 15.08 | 0.00 |
| 1 | 6007853 | 09/16/2013 | SYS | CR | Cash/Credit/Other | Cash/Credit/Other | LANCING DEVICE | VALTINSON, ERIKA | | | | 1.00 | 0.84 | 0.00 |
| 1 | 6007930 | 09/16/2013 | SYS | CR | Cash/Credit/Other | Cash/Credit/Other | FORA V12 BLOOD GLUCOSE SYR | GLASS, ANGELA | | | | 1.00 | 1.00 | 0.00 |
| 1 | 6007932 | 09/16/2013 | SYS | CR | Cash/Credit/Other | Cash/Credit/Other | SAFETY SEAL 30G LANCETS | GLASS, ANGELA | | | | 200.00 | 1.76 | 0.00 |
| 1 | 6007895 | 09/16/2013 | SYS | CR | Cash/Credit/Other | Cash/Credit/Other | FORA V12 BLOOD GLUCOSE SYR | ORIA HIGLEY, CANDACE | | | | 1.00 | 1.00 | 0.00 |
| 1 | 6002815 | 09/16/2013 | SYS | CR | Cash/Credit/Other | Cash/Credit/Other | AMLODIPINE BESYLATE 5 MG TP | LOZA, ANIBAL | | | | 90.00 | 1.65 | 200.37 |
| 1 | 6007863 | 09/16/2013 | SYS | CR | Cash/Credit/Other | Cash/Credit/Other | LANCING DEVICE | HALE, JAMES | | | | 1.00 | 0.84 | 0.00 |
| 1 | 6007864 | 09/16/2013 | SYS | CR | Cash/Credit/Other | Cash/Credit/Other | FORA V12 BLOOD GLUCOSE SYR | HALE, JAMES | | | | 1.00 | 1.00 | 0.00 |
| 1 | 6007920 | 09/16/2013 | SYS | CR | Cash/Credit/Other | Cash/Credit/Other | FORA V12 BLOOD GLUCOSE SYR | ROGERS, KENT | | | | 1.00 | 1.00 | 0.00 |
| 1 | 6007879 | 09/16/2013 | SYS | CR | Cash/Credit/Other | Cash/Credit/Other | LANCING DEVICE | FRIESEN, CHRISTOPHER | | | | 1.00 | 0.84 | 0.00 |
| 1 | 6007880 | 09/16/2013 | SYS | CR | Cash/Credit/Other | Cash/Credit/Other | FORA V12 BLOOD GLUCOSE SYR | FRIESEN, CHRISTOPHER | | | | 1.00 | 1.00 | 0.00 |
| 1 | 6007940 | 09/16/2013 | SYS | CR | Cash/Credit/Other | Cash/Credit/Other | FORA V12 BLOOD GLUCOSE SYR | FRIEDMANN, BRAD | | | | 1.00 | 1.00 | 0.00 |

HIPAA

5310.3213 10299.56

Product Activity Report

| Store | RX | Date/Dispensed | Tech | Rph | Billing Method | Location | Product/DC | PHName | Product | DoctorName | Dr/DEA | Quantity | AAC | Price |
|-------|---------|----------------|------|-----|-------------------|-------------------|----------------------------|--------|----------------------------|-----------------|--------|----------|------|-------|
| 1 | 6007935 | 09/16/2013 | SYS | CR | Cash/Credit/Other | Cash/Credit/Other | FORA V12 BLOOD GLUCOSE SYS | | FORA V12 BLOOD GLUCOSE SYS | BEARD, MARK | | 1.00 | 1.00 | 0.00 |
| 1 | 6007929 | 09/16/2013 | SYS | CR | Cash/Credit/Other | Cash/Credit/Other | LANCING DEVICE | | LANCING DEVICE | GLASS, ANGELA | | 1.00 | 0.84 | 0.00 |
| 1 | 6005296 | 09/16/2013 | SYS | CR | Cash/Credit/Other | Cash/Credit/Other | FORA V12 BLOOD GLUCOSE SYS | | FORA V12 BLOOD GLUCOSE SYS | OH PARK, ANGELA | | 1.00 | 1.00 | 0.00 |
| 1 | 6007944 | 09/16/2013 | SYS | CR | Cash/Credit/Other | Cash/Credit/Other | LANCING DEVICE | | LANCING DEVICE | WEN, WIU | | 1.00 | 0.84 | 0.00 |
| 1 | 6007945 | 09/16/2013 | SYS | CR | Cash/Credit/Other | Cash/Credit/Other | FORA V12 BLOOD GLUCOSE SYS | | FORA V12 BLOOD GLUCOSE SYS | WEN, WIU | | 1.00 | 1.00 | 0.00 |
| 1 | 6007950 | 09/16/2013 | SYS | CR | Cash/Credit/Other | Cash/Credit/Other | FORA V12 BLOOD GLUCOSE SYS | | FORA V12 BLOOD GLUCOSE SYS | CAPO, GEORGE | | 1.00 | 1.00 | 0.00 |
| 1 | 6007900 | 09/16/2013 | SYS | CR | Cash/Credit/Other | Cash/Credit/Other | FORA V12 BLOOD GLUCOSE SYS | | FORA V12 BLOOD GLUCOSE SYS | SIMS, HOLLY | | 1.00 | 1.00 | 0.00 |
| 1 | 6007859 | 09/16/2013 | SYS | CR | Cash/Credit/Other | Cash/Credit/Other | FORA V12 BLOOD GLUCOSE SYS | | FORA V12 BLOOD GLUCOSE SYS | HASHMI, NAIRIA | | 1.00 | 1.00 | 0.00 |



5318.0013 10299.56

13

Product Activity Report

| Store | RX | Date/Dispensed | Billing Method | Product/NC | Product | Doctor Name | DRDEA | Quantity | AAC | Price |
|-------|---------|----------------|----------------|--------------------|-----------------------------|-------------------|-------|----------|--------|--------|
| 1 | 6008069 | 09/17/2013 | CR | BLUE CROSS BLUE S | ACCU-CHEK SMARTVIEW STRIP | HAGAN, VANESSA | | 100.00 | 91.90 | 122.68 |
| 1 | 6008065 | 09/17/2013 | CR | BLUE CROSS BLUE S | SAFETY SEAL 30G LANCETS | HAGAN, VANESSA | | 100.00 | 0.88 | 7.21 |
| 1 | 6008286 | 09/17/2013 | CR | PRESCRIPTION SOLU | FTCOB 20/5/24/3% CREAM | HAGAN, VANESSA | | 240.00 | 180.00 | 0.00 |
| 1 | 6008253 | 09/17/2013 | CR | PAID PRESCRIPTION: | AVERY, DAVID | | | 200.00 | 27.00 | 292.12 |
| 1 | 6008254 | 09/17/2013 | CR | PAID PRESCRIPTION: | SHUBERT, RONALD | | | 200.00 | 1.76 | 11.49 |
| 1 | 6008190 | 09/17/2013 | CR | PAID PRESCRIPTION: | SHUBERT, RONALD | | | 1.00 | 1.90 | 4.97 |
| 1 | 6008191 | 09/17/2013 | CR | PAID PRESCRIPTION: | SHUBERT, RONALD | | | 1.00 | 0.84 | 13.98 |
| 1 | 6008193 | 09/17/2013 | CR | PAID PRESCRIPTION: | ALCANTARA, FREDERICK | | | 100.00 | 13.50 | 146.86 |
| 1 | 6008194 | 09/17/2013 | CR | PAID PRESCRIPTION: | ALCANTARA, FREDERICK | | | 100.00 | 0.88 | 7.09 |
| 1 | 6008196 | 09/17/2013 | CR | PAID PRESCRIPTION: | ALCANTARA, FREDERICK | | | 1.00 | 0.84 | 13.98 |
| 1 | 6008198 | 09/17/2013 | CR | PAID PRESCRIPTION: | LANCING DEVICE | | | 100.00 | 13.50 | 146.86 |
| 1 | 6008199 | 09/17/2013 | CR | PAID PRESCRIPTION: | FISCHER, MELISSA | | | 100.00 | 0.88 | 7.09 |
| 1 | 6008048 | 09/17/2013 | CR | PAID PRESCRIPTION: | FISCHER, MELISSA | | | 50.00 | 6.75 | 73.93 |
| 1 | 6008049 | 09/17/2013 | CR | PAID PRESCRIPTION: | FORA V12 GLUCOSE TEST STRIP | BERNSTEIN, ROBERT | | 100.00 | 0.88 | 7.04 |
| 1 | 6008208 | 09/17/2013 | CR | PAID PRESCRIPTION: | SAFETY SEAL 30G LANCETS | BERNSTEIN, ROBERT | | 50.00 | 6.75 | 73.93 |
| 1 | 6008209 | 09/17/2013 | CR | PAID PRESCRIPTION: | FORA V12 GLUCOSE TEST STRIP | WILKERSON, JOHN | | 100.00 | 0.88 | 7.04 |
| 1 | 6008070 | 09/17/2013 | CR | PAID PRESCRIPTION: | SAFETY SEAL 30G LANCETS | WILKERSON, JOHN | | 1.00 | 1.90 | 3.33 |
| 1 | 6008073 | 09/17/2013 | CR | PAID PRESCRIPTION: | FORA NORMAL CONTROL SOLU | LEMMON, KENNETH | | 100.00 | 13.50 | 138.38 |
| 1 | 6008074 | 09/17/2013 | CR | PAID PRESCRIPTION: | FORA V12 GLUCOSE TEST STRIP | LEMMON, KENNETH | | 100.00 | 0.88 | 5.18 |
| 1 | 6008195 | 09/17/2013 | CR | PAID PRESCRIPTION: | SAFETY SEAL 30G LANCETS | LEMMON, KENNETH | | 1.00 | 1.90 | 4.97 |
| 1 | 6008287 | 09/17/2013 | CR | PAID PRESCRIPTION: | FORA NORMAL CONTROL SOLU | FISCHER, MELISSA | | 240.00 | 180.00 | 7.55 |
| 1 | 6008030 | 09/17/2013 | CR | PAID PRESCRIPTION: | FBCGL 20/4/2/6/5% CREAM | OELLRICH, CHERI | | 1.00 | 1.90 | 4.97 |
| 1 | 6008031 | 09/17/2013 | CR | PAID PRESCRIPTION: | FORA NORMAL CONTROL SOLU | ROBERTS, CLAYTON | | 1.00 | 0.84 | 13.98 |
| 1 | 6008033 | 09/17/2013 | CR | PAID PRESCRIPTION: | LANCING DEVICE | ROBERTS, CLAYTON | | 100.00 | 13.50 | 146.86 |
| 1 | 6008205 | 09/17/2013 | CR | PAID PRESCRIPTION: | FORA V12 GLUCOSE TEST STRIP | ROBERTS, CLAYTON | | 1.00 | 1.90 | 4.89 |
| | | | | | FORA NORMAL CONTROL SOLU | WILKERSON, JOHN | | | | |

HIPAA

565.46 8811.75

Productivity Report

| Store | RX | Dated/Dispensed | Billing Method | Product/NC | Product | Doctor/Name | D/DEA | Quantity | AAC | Price |
|-------|---------|-----------------|--------------------|------------|-----------------------------|-------------|-------|----------|--------|-----------|
| 1 | 6008206 | 09/17/2013 | PAID PRESCRIPTION: | | LANCING DEVICE | | | 1.00 | 0.84 | 13.95¢ |
| | | 09/17/2013 | CR | | WILKERSON, JOHN | | | | | |
| 1 | 6008083 | 09/17/2013 | PAID PRESCRIPTION: | | FORA V12 GLUCOSE TEST STRIP | | | 100.00 | 13.50 | 146.86¢ |
| | | 09/17/2013 | CR | | FARR, J | | | | | |
| 1 | 6008084 | 09/17/2013 | PAID PRESCRIPTION: | | SAFETY SEAL 30G LANCETS | | | 100.00 | 0.88 | 7.04¢ |
| | | 09/17/2013 | CR | | FARR, J | | | | | |
| 1 | 6008003 | 09/17/2013 | PAID PRESCRIPTION: | | FORA V12 GLUCOSE TEST STRIP | | | 100.00 | 13.50 | 0.00 |
| | | 09/17/2013 | CR | | POTENZA, MATTHEW | | | | | |
| 1 | 6008004 | 09/17/2013 | PAID PRESCRIPTION: | | SAFETY SEAL 30G LANCETS | | | 100.00 | 0.88 | 0.00 |
| | | 09/17/2013 | CR | | POTENZA, MATTHEW | | | | | |
| 1 | 6008010 | 09/17/2013 | PAID PRESCRIPTION: | | FORA NORMAL CONTROL SOLU | | | 1.00 | 1.90 | 10.46¢ |
| | | 09/17/2013 | CR | | JOHNSON, EARLIE | | | | | |
| 1 | 6008013 | 09/17/2013 | PAID PRESCRIPTION: | | FORA V12 GLUCOSE TEST STRIP | | | 300.00 | 40.50 | 438.58¢ |
| | | 09/17/2013 | CR | | JOHNSON, EARLIE | | | | | |
| 1 | 6008085 | 09/17/2013 | PAID PRESCRIPTION: | | FORA NORMAL CONTROL SOLU | | | 1.00 | 1.90 | 4.89¢ |
| | | 09/17/2013 | CR | | CAMPBELL, COLLEEN | | | | | |
| 1 | 6008086 | 09/17/2013 | PAID PRESCRIPTION: | | LANCING DEVICE | | | 1.00 | 0.84 | 13.95¢ |
| | | 09/17/2013 | CR | | CAMPBELL, COLLEEN | | | | | |
| 1 | 6008088 | 09/17/2013 | PAID PRESCRIPTION: | | FORA V12 GLUCOSE TEST STRIP | | | 100.00 | 13.50 | 146.86¢ |
| | | 09/17/2013 | CR | | CAMPBELL, COLLEEN | | | | | |
| 1 | 6008089 | 09/17/2013 | PAID PRESCRIPTION: | | SAFETY SEAL 30G LANCETS | | | 100.00 | 0.88 | 7.04¢ |
| | | 09/17/2013 | CR | | CAMPBELL, COLLEEN | | | | | |
| 1 | 6008080 | 09/17/2013 | PAID PRESCRIPTION: | | FORA NORMAL CONTROL SOLU | | | 1.00 | 1.90 | 4.89¢ |
| | | 09/17/2013 | CR | | FARR, J | | | | | |
| 1 | 6008081 | 09/17/2013 | PAID PRESCRIPTION: | | LANCING DEVICE | | | 1.00 | 0.84 | 13.95¢ |
| | | 09/17/2013 | CR | | FARR, J | | | | | |
| 1 | 6008307 | 09/17/2013 | PAID PRESCRIPTION: | | FBCGL 20M/2/6/5% CREAM | | | 240.00 | 180.00 | 7.553.01¢ |
| | | 09/17/2013 | CR | | HERMOSA, JOSEPH | | | | | |
| 1 | 6008180 | 09/17/2013 | PAID PRESCRIPTION: | | FORA NORMAL CONTROL SOLU | | | 1.00 | 1.90 | 10.46¢ |
| | | 09/17/2013 | CR | | SMITH, CONNIE | | | | | |
| 1 | 6008183 | 09/17/2013 | PAID PRESCRIPTION: | | FORA V12 GLUCOSE TEST STRIP | | | 100.00 | 13.50 | 161.82¢ |
| | | 09/17/2013 | CR | | SMITH, CONNIE | | | | | |
| 1 | 6008184 | 09/17/2013 | PAID PRESCRIPTION: | | SAFETY SEAL 30G LANCETS | | | 100.00 | 0.88 | 15.09¢ |
| | | 09/17/2013 | CR | | SMITH, CONNIE | | | | | |
| 1 | 6007998 | 09/17/2013 | PAID PRESCRIPTION: | | FORA V12 GLUCOSE TEST STRIP | | | 50.00 | 6.75 | 73.93¢ |
| | | 09/17/2013 | CR | | FLETCHALL, TIMOTHY | | | | | |
| 1 | 6007999 | 09/17/2013 | PAID PRESCRIPTION: | | SAFETY SEAL 30G LANCETS | | | 100.00 | 0.88 | 7.12¢ |
| | | 09/17/2013 | CR | | FLETCHALL, TIMOTHY | | | | | |
| 1 | 6008246 | 09/17/2013 | PAID PRESCRIPTION: | | LANCING DEVICE | | | 1.00 | 0.84 | 13.95¢ |
| | | 09/17/2013 | CR | | GARFIELD, MARC | | | | | |
| 1 | 6008248 | 09/17/2013 | PAID PRESCRIPTION: | | FORA V12 GLUCOSE TEST STRIP | | | 100.00 | 13.50 | 146.86¢ |
| | | 09/17/2013 | CR | | GARFIELD, MARC | | | | | |
| 1 | 6008249 | 09/17/2013 | PAID PRESCRIPTION: | | SAFETY SEAL 30G LANCETS | | | 100.00 | 0.88 | 7.04¢ |
| | | 09/17/2013 | CR | | GARFIELD, MARC | | | | | |
| 1 | 6008053 | 09/17/2013 | PAID PRESCRIPTION: | | FORA V12 GLUCOSE TEST STRIP | | | 50.00 | 6.75 | 74.43¢ |
| | | 09/17/2013 | CR | | ERDOS, ZOLTAN | | | | | |
| 1 | 6008054 | 09/17/2013 | PAID PRESCRIPTION: | | SAFETY SEAL 30G LANCETS | | | 100.00 | 0.88 | 7.62¢ |
| | | 09/17/2013 | CR | | ERDOS, ZOLTAN | | | | | |
| 1 | 6006194 | 09/17/2013 | PAID PRESCRIPTION: | | FTCCB 20/5/2/4/3% CREAM | | | 240.00 | 180.00 | 6.849.80¢ |
| | | 09/17/2013 | CR | | ANDREATTA, SHARON | | | | | |

HIPAA

1064.08 24541.35

Product Activity Report

| Store | RX | DateDispensed | BillingMethod | ProductMDC | Product | DocName | DrDEA | Quantity | AAC | Price |
|-------|---------|---------------|-------------------|-----------------------------|--------------------|---------|-------|----------|--------|--------|
| 1 | 6008064 | 09/17/2013 | PAID PRESCRIPTION | ACCUCHEK SMARTVIEW STRIP | PLOTNIKOV, ALEKSEI | | | 100.00 | 91.90 | 123.09 |
| 1 | 6008215 | 09/17/2013 | PAID PRESCRIPTION | FORA NORMAL CONTROL SOLU | HALBERT, DEAN | | | 1.00 | 1.90 | 3.33 |
| 1 | 6008216 | 09/17/2013 | PAID PRESCRIPTION | LANCING DEVICE | HALBERT, DEAN | | | 1.00 | 0.84 | 11.10 |
| 1 | 6008218 | 09/17/2013 | PAID PRESCRIPTION | FORA V12 GLUCOSE TEST STRIP | HALBERT, DEAN | | | 100.00 | 13.50 | 138.38 |
| 1 | 6008219 | 09/17/2013 | PAID PRESCRIPTION | SAFETY SEAL 30G LANCETS | HALBERT, DEAN | | | 100.00 | 0.88 | 5.18 |
| 1 | 6008245 | 09/17/2013 | PAID PRESCRIPTION | FORA NORMAL CONTROL SOLU | GARFIELD, MARC | | | 1.00 | 1.90 | 4.89 |
| 1 | 6008018 | 09/17/2013 | PAID PRESCRIPTION | FORA V12 GLUCOSE TEST STRIP | BROWN, LESTER | | | 100.00 | 13.50 | 146.86 |
| 1 | 6007985 | 09/17/2013 | PAID PRESCRIPTION | FORA NORMAL CONTROL SOLU | GUADRON, RODOLFO | | | 1.00 | 1.90 | 10.46 |
| 1 | 6007988 | 09/17/2013 | PAID PRESCRIPTION | FORA V12 GLUCOSE TEST STRIP | GUADRON, RODOLFO | | | 300.00 | 40.50 | 483.46 |
| 1 | 6007989 | 09/17/2013 | PAID PRESCRIPTION | SAFETY SEAL 30G LANCETS | GUADRON, RODOLFO | | | 300.00 | 2.64 | 35.28 |
| 1 | 6008060 | 09/17/2013 | PAID PRESCRIPTION | SAFETY SEAL 30G LANCETS | PLOTNIKOV, ALEKSEI | | | 100.00 | 0.88 | 15.09 |
| 1 | 6008063 | 09/17/2013 | PAID PRESCRIPTION | ACCUCHEK SMARTVIEW CONT | PLOTNIKOV, ALEKSEI | | | 1.00 | 6.50 | 11.32 |
| 1 | 6008240 | 09/17/2013 | PAID PRESCRIPTION | FORA NORMAL CONTROL SOLU | WELCH, ANNA | | | 1.00 | 1.90 | 4.97 |
| 1 | 6008241 | 09/17/2013 | PAID PRESCRIPTION | LANCING DEVICE | WELCH, ANNA | | | 1.00 | 0.84 | 13.95 |
| 1 | 6008243 | 09/17/2013 | PAID PRESCRIPTION | FORA V12 GLUCOSE TEST STRIP | WELCH, ANNA | | | 100.00 | 13.50 | 146.86 |
| 1 | 6008244 | 09/17/2013 | PAID PRESCRIPTION | SAFETY SEAL 30G LANCETS | WELCH, ANNA | | | 100.00 | 0.88 | 7.09 |
| 1 | 6008309 | 09/17/2013 | PAID PRESCRIPTION | FBCGL 20/4/2/6/5% CREAM | FLORES, DAVID | | | 240.00 | 180.00 | 7.55 |
| 1 | 6008015 | 09/17/2013 | PAID PRESCRIPTION | FORA NORMAL CONTROL SOLU | BROWN, LESTER | | | 1.00 | 1.90 | 4.89 |
| 1 | 6008043 | 09/17/2013 | PAID PRESCRIPTION | FORA V12 GLUCOSE TEST STRIP | MESERVE, JOHN | | | 50.00 | 6.75 | 73.93 |
| 1 | 6008308 | 09/17/2013 | PAID PRESCRIPTION | FBCGL 20/4/2/6/5% CREAM | KYMBERG, ROGER | | | 120.00 | 90.00 | 3.77 |
| 1 | 6008235 | 09/17/2013 | PAID PRESCRIPTION | FORA NORMAL CONTROL SOLU | LANCING DEVICE | | | 1.00 | 1.90 | 10.46 |
| 1 | 6008236 | 09/17/2013 | PAID PRESCRIPTION | LANCING DEVICE | ITABLE, FERNANDO | | | 1.00 | 0.84 | 20.00 |
| 1 | 6008238 | 09/17/2013 | PAID PRESCRIPTION | FORA V12 GLUCOSE TEST STRIP | ITABLE, FERNANDO | | | 100.00 | 13.50 | 146.86 |
| 1 | 6008239 | 09/17/2013 | PAID PRESCRIPTION | SAFETY SEAL 30G LANCETS | ITABLE, FERNANDO | | | 100.00 | 0.88 | 15.09 |
| 1 | 6008255 | 09/17/2013 | PAID PRESCRIPTION | FORA NORMAL CONTROL SOLU | ZIA, TARIQ | | | 1.00 | 1.90 | 3.33 |

1555.71 37307.21

Product Activity Report

| Store | RX | Date Dispensed | Tech | Rph | Billing Method | Location | Product NDC | Product | Doctor Name | DR/DEA | Quantity | AAC | Price |
|-------|---------|----------------|------|-----|-------------------|-------------------|-------------|-----------------------------|---------------------|--------|----------|--------|-----------|
| 1 | 6008256 | 09/17/2013 | CR | CR | PAID PRESCRIPTION | PAID PRESCRIPTION | 6008256 | LANCING DEVICE | ZIA, TARIQ | | 1.00 | 0.84 | 11.10 |
| 1 | 6008258 | 09/17/2013 | CR | CR | PAID PRESCRIPTION | PAID PRESCRIPTION | 6008258 | FORA V12 GLUCOSE TEST STRIP | ZIA, TARIQ | | 900.00 | 121.50 | 1,245.42 |
| 1 | 6008259 | 09/17/2013 | CR | CR | PAID PRESCRIPTION | PAID PRESCRIPTION | 6008259 | SAFETY SEAL 30G LANCETS | ZIA, TARIQ | | 900.00 | 7.92 | 46.62 |
| 1 | 6008233 | 09/17/2013 | CR | CR | PAID PRESCRIPTION | PAID PRESCRIPTION | 6008233 | FORA V12 GLUCOSE TEST STRIP | KOTAGIRI, CHAITANYA | | 50.00 | 6.75 | 73.93 |
| 1 | 6008234 | 09/17/2013 | CR | CR | PAID PRESCRIPTION | PAID PRESCRIPTION | 6008234 | SAFETY SEAL 30G LANCETS | KOTAGIRI, CHAITANYA | | 100.00 | 0.88 | 7.12 |
| 1 | 6008203 | 09/17/2013 | CR | CR | MPD FUTURESCRIPT | MPD FUTURESCRIPT | 6008203 | FORA V12 GLUCOSE TEST STRIP | CANNON, ANTHONY | | 300.00 | 40.50 | 440.39 |
| 1 | 6008204 | 09/17/2013 | CR | CR | MPD FUTURESCRIPT | MPD FUTURESCRIPT | 6008204 | SAFETY SEAL 30G LANCETS | CANNON, ANTHONY | | 300.00 | 2.64 | 16.49 |
| 1 | 6008312 | 09/17/2013 | CR | CR | UNITED HEALTHCARE | UNITED HEALTHCARE | 6008312 | FBGGL 20/4/2/6/5% CREAM | HUGHES, JEANNINE | | 240.00 | 180.00 | 7,559.51 |
| 1 | 6008115 | 09/17/2013 | CR | CR | WALGREENS HEALTH | WALGREENS HEALTH | 6008115 | FORA NORMAL CONTROL SOLU | TYTLER, NEIL | | 1.00 | 1.90 | 5.72 |
| 1 | 6008118 | 09/17/2013 | CR | CR | WALGREENS HEALTH | WALGREENS HEALTH | 6008118 | FORA V12 GLUCOSE TEST STRIP | TYTLER, NEIL | | 100.00 | 13.50 | 166.91 |
| 1 | 6008119 | 09/17/2013 | CR | CR | WALGREENS HEALTH | WALGREENS HEALTH | 6008119 | SAFETY SEAL 30G LANCETS | TYTLER, NEIL | | 100.00 | 0.88 | 7.93 |
| 1 | 6008310 | 09/17/2013 | CR | CR | WALGREENS HEALTH | WALGREENS HEALTH | 6008310 | FTCCB 20/5/2/4/3% CREAM | GIBSON, CALVIN | | 360.00 | 270.00 | 10,283.19 |
| 1 | 6008020 | 09/17/2013 | CR | CR | WALGREENS HEALTH | WALGREENS HEALTH | 6008020 | FORA NORMAL CONTROL SOLU | PROST, HENRY | | 1.00 | 1.90 | 3.69 |
| 1 | 6008021 | 09/17/2013 | CR | CR | WALGREENS HEALTH | WALGREENS HEALTH | 6008021 | LANCING DEVICE | PROST, HENRY | | 1.00 | 0.84 | 12.31 |
| 1 | 6008023 | 09/17/2013 | CR | CR | WALGREENS HEALTH | WALGREENS HEALTH | 6008023 | FORA V12 GLUCOSE TEST STRIP | PROST, HENRY | | 300.00 | 40.50 | 460.52 |
| 1 | 6008024 | 09/17/2013 | CR | CR | WALGREENS HEALTH | WALGREENS HEALTH | 6008024 | SAFETY SEAL 30G LANCETS | PROST, HENRY | | 300.00 | 2.64 | 17.24 |
| 1 | 6008130 | 09/17/2013 | CR | CR | MPD MEDCO MEDDP | MPD MEDCO MEDDP | 6008130 | SAFETY SEAL 30G LANCETS | TRAMMELL, CHAD | | 100.00 | 0.88 | 6.73 |
| 1 | 6008134 | 09/17/2013 | CR | CR | MPD MEDCO MEDDP | MPD MEDCO MEDDP | 6008134 | ADVOCATE REDI-CODE+ TEST S | TRAMMELL, CHAD | | 100.00 | 9.90 | 93.57 |
| 1 | 6008131 | 09/17/2013 | CR | CR | MPD MEDCO MEDDP | MPD MEDCO MEDDP | 6008131 | LANCING DEVICE | TRAMMELL, CHAD | | 1.00 | 0.84 | 13.33 |
| 1 | 6008132 | 09/17/2013 | CR | CR | MPD MEDCO MEDDP | MPD MEDCO MEDDP | 6008132 | ADVOCATE REDI-CODE+ CTRL S | TRAMMELL, CHAD | | 1.00 | 0.39 | 9.59 |
| 1 | 6003372 | 09/17/2013 | CR | CR | MPD MEDCO MEDDP | MPD MEDCO MEDDP | 6003372 | HYDRALAZINE 25 MG TABLET | RICHBURG, MARY | | 90.00 | 8.51 | 26.52 |
| 1 | 6003371 | 09/17/2013 | CR | CR | MPD MEDCO MEDDP | MPD MEDCO MEDDP | 6003371 | METOPROLOL TARTRATE 50 MG | RICHBURG, MARY | | 60.00 | 1.30 | 7.17 |
| 1 | 6008106 | 09/17/2013 | CR | CR | MPD MEDCO MEDDP | MPD MEDCO MEDDP | 6008106 | LANCING DEVICE | FORD III, GEORGE | | 1.00 | 0.84 | 13.33 |
| 1 | 6008108 | 09/17/2013 | CR | CR | MPD MEDCO MEDDP | MPD MEDCO MEDDP | 6008108 | FORA V12 GLUCOSE TEST STRIP | FORD III, GEORGE | | 200.00 | 27.00 | 292.72 |
| 1 | 6008109 | 09/17/2013 | CR | CR | MPD MEDCO MEDDP | MPD MEDCO MEDDP | 6008109 | SAFETY SEAL 30G LANCETS | FORD III, GEORGE | | 200.00 | 1.76 | 12.51 |

HIPAA

2300.326 58140.79

Product Activity Report

| Store | RX | Date/Dispensed | Billing/Method | Product/NC | Product | Quantity | AAC | Price |
|-------|---------|----------------|-----------------|-----------------------------|---------|----------|--------|-------|
| 1 | 6008114 | 09/17/2013 | MPD MEDCO MEDDP | SAFETY SEAL 30G LANCETS | 100.00 | 0.88 | 6.75 | |
| 1 | 6008100 | 09/17/2013 | MPD MEDCO MEDDP | TOLLISON, RONALD | 1.00 | 1.90 | 4.70 | |
| 1 | 6008101 | 09/17/2013 | MPD MEDCO MEDDP | FORA NORMAL CONTROL SOLU | 1.00 | 0.84 | 13.33 | |
| 1 | 6008103 | 09/17/2013 | MPD MEDCO MEDDP | LANCING DEVICE | 100.00 | 13.50 | 146.86 | |
| 1 | 6008104 | 09/17/2013 | MPD MEDCO MEDDP | FRANK, PETER | 100.00 | 0.88 | 6.75 | |
| 1 | 6008105 | 09/17/2013 | MPD MEDCO MEDDP | FORA V12 GLUCOSE TEST STRIP | 1.00 | 1.90 | 4.70 | |
| 1 | 6003769 | 09/17/2013 | MPD MEDCO MEDDP | FRANK, PETER | 60.00 | 2.47 | 12.69 | |
| 1 | 6003768 | 09/17/2013 | MPD MEDCO MEDDP | SAFETY SEAL 30G LANCETS | 30.00 | 0.68 | 7.16 | |
| 1 | 6003767 | 09/17/2013 | MPD MEDCO MEDDP | FRANK, PETER | 30.00 | 201.92 | 212.32 | |
| 1 | 6008110 | 09/17/2013 | MPD MEDCO MEDDP | FORD III, GEORGE | 1.00 | 1.90 | 4.70 | |
| 1 | 6008111 | 09/17/2013 | MPD MEDCO MEDDP | METFORMIN HCL 1,000 MG TABL | 1.00 | 0.84 | 13.33 | |
| 1 | 6008113 | 09/17/2013 | MPD MEDCO MEDDP | RICHARDSON, CYNTHIA | 1.00 | 1.90 | 4.70 | |
| 1 | 6003370 | 09/17/2013 | MPD MEDCO MEDDP | RICHARDSON, CYNTHIA | 1.00 | 0.84 | 13.33 | |
| 1 | 6003967 | 09/17/2013 | MPD MEDCO MEDDP | DETROL LA 4 MG CAPSULE | 30.00 | 8.24 | 28.43 | |
| 1 | 6008125 | 09/17/2013 | MPD MEDCO MEDDP | RICHARDSON, RONALD | 1.00 | 1.90 | 4.70 | |
| 1 | 6008126 | 09/17/2013 | MPD MEDCO MEDDP | LANCING DEVICE | 1.00 | 0.84 | 13.33 | |
| 1 | 6008128 | 09/17/2013 | MPD MEDCO MEDDP | TOLLISON, RONALD | 300.00 | 40.50 | 438.58 | |
| 1 | 6008129 | 09/17/2013 | MPD MEDCO MEDDP | FORA V12 GLUCOSE TEST STRIP | 300.00 | 2.64 | 18.26 | |
| 1 | 6008165 | 09/17/2013 | MPD MEDCO MEDDP | SHOOK, DAVID | 1.00 | 1.90 | 5.17 | |
| 1 | 6008166 | 09/17/2013 | MPD MEDCO MEDDP | SHOOK, DAVID | 1.00 | 0.84 | 13.73 | |
| 1 | 6008168 | 09/17/2013 | MPD MEDCO MEDDP | LANCING DEVICE | 200.00 | 27.00 | 306.31 | |
| 1 | 6008169 | 09/17/2013 | MPD MEDCO MEDDP | FORA V12 GLUCOSE TEST STRIP | 200.00 | 1.76 | 12.91 | |
| 1 | 6008145 | 09/17/2013 | MPD MEDCO MEDDP | SAFETY SEAL 30G LANCETS | 1.00 | 1.90 | 5.17 | |
| 1 | 6008146 | 09/17/2013 | MPD MEDCO MEDDP | BENAMU, JOSE | 1.00 | 0.84 | 13.73 | |
| 1 | 6007991 | 09/17/2013 | MPD MEDCO MEDDP | FORA NORMAL CONTROL SOLU | 1.00 | 0.84 | 13.73 | |

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Productivity Report

| Store | RX | Date/Dispensed | Tech | Rph | Billing/Method | Location | Product/DC | Product | Doctor/Name | D/DEA | Quantity | AAC | Price |
|-------|---------|----------------|------|-----|------------------|------------------|------------|-----------------------------|--------------------|-------|----------|--------|----------|
| 1 | 6007993 | 09/17/2013 | SYS | CR | MPD PRESCRIPTION | MPD PRESCRIPTION | Product | FORA V12 GLUCOSE TEST STRIP | CARLTON, CHARLES | D/DEA | 200.00 | 27.00 | 306.31 L |
| 1 | 6007994 | 09/17/2013 | SYS | CR | MPD PRESCRIPTION | MPD PRESCRIPTION | Product | SAFETY SEAL 30G LANCETS | CARLTON, CHARLES | D/DEA | 200.00 | 1.76 | 12.91 L |
| 1 | 6008164 | 09/17/2013 | SYS | CR | MPD PRESCRIPTION | MPD PRESCRIPTION | Product | SAFETY SEAL 30G LANCETS | BARTER, MARK | D/DEA | 400.00 | 3.52 | 24.32 L |
| 1 | 6008026 | 09/17/2013 | SYS | CR | MPD PRESCRIPTION | MPD PRESCRIPTION | Product | LANCING DEVICE | WILSON, DAVID | D/DEA | 1.00 | 0.84 | 13.73 L |
| 1 | 6008028 | 09/17/2013 | SYS | CR | MPD PRESCRIPTION | MPD PRESCRIPTION | Product | FORA V12 GLUCOSE TEST STRIP | WILSON, DAVID | D/DEA | 400.00 | 54.00 | 611.12 L |
| 1 | 6008029 | 09/17/2013 | SYS | CR | MPD PRESCRIPTION | MPD PRESCRIPTION | Product | SAFETY SEAL 30G LANCETS | WILSON, DAVID | D/DEA | 400.00 | 3.52 | 24.32 L |
| 1 | 6008025 | 09/17/2013 | SYS | CR | MPD PRESCRIPTION | MPD PRESCRIPTION | Product | FORA NORMAL CONTROL SOLU | WILSON, DAVID | D/DEA | 1.00 | 1.90 | 5.17 L |
| 1 | 6007990 | 09/17/2013 | SYS | CR | MPD PRESCRIPTION | MPD PRESCRIPTION | Product | FORA NORMAL CONTROL SOLU | CARLTON, CHARLES | D/DEA | 1.00 | 1.90 | 5.17 L |
| 1 | 6008156 | 09/17/2013 | SYS | CR | MPD PRESCRIPTION | MPD PRESCRIPTION | Product | LANCING DEVICE | KARWOWSKI, CHARITY | D/DEA | 1.00 | 0.84 | 13.73 L |
| 1 | 6008158 | 09/17/2013 | SYS | CR | MPD PRESCRIPTION | MPD PRESCRIPTION | Product | FORA V12 GLUCOSE TEST STRIP | KARWOWSKI, CHARITY | D/DEA | 200.00 | 27.00 | 306.31 L |
| 1 | 6008159 | 09/17/2013 | SYS | CR | MPD PRESCRIPTION | MPD PRESCRIPTION | Product | SAFETY SEAL 30G LANCETS | KARWOWSKI, CHARITY | D/DEA | 200.00 | 1.76 | 12.91 L |
| 1 | 6008160 | 09/17/2013 | SYS | CR | MPD PRESCRIPTION | MPD PRESCRIPTION | Product | FORA NORMAL CONTROL SOLU | KARWOWSKI, CHARITY | D/DEA | 1.00 | 1.90 | 5.17 L |
| 1 | 6008161 | 09/17/2013 | SYS | CR | MPD PRESCRIPTION | MPD PRESCRIPTION | Product | LANCING DEVICE | BARTER, MARK | D/DEA | 1.00 | 0.84 | 13.73 L |
| 1 | 6008163 | 09/17/2013 | SYS | CR | MPD PRESCRIPTION | MPD PRESCRIPTION | Product | FORA V12 GLUCOSE TEST STRIP | BARTER, MARK | D/DEA | 400.00 | 54.00 | 611.12 L |
| 1 | 6008099 | 09/17/2013 | SYS | CR | MPD PRESCRIPTION | MPD PRESCRIPTION | Product | SAFETY SEAL 30G LANCETS | NUSSBAUM, NICHOLAS | D/DEA | 400.00 | 3.52 | 24.32 L |
| 1 | 6008120 | 09/17/2013 | SYS | CR | MPD PRESCRIPTION | MPD PRESCRIPTION | Product | FORA NORMAL CONTROL SOLU | WINEINGER, KEVIN | D/DEA | 1.00 | 1.90 | 5.17 L |
| 1 | 6008121 | 09/17/2013 | SYS | CR | MPD PRESCRIPTION | MPD PRESCRIPTION | Product | LANCING DEVICE | WINEINGER, KEVIN | D/DEA | 1.00 | 0.84 | 13.73 L |
| 1 | 6008123 | 09/17/2013 | SYS | CR | MPD PRESCRIPTION | MPD PRESCRIPTION | Product | FORA V12 GLUCOSE TEST STRIP | WINEINGER, KEVIN | D/DEA | 100.00 | 13.50 | 153.91 L |
| 1 | 6008124 | 09/17/2013 | SYS | CR | MPD PRESCRIPTION | MPD PRESCRIPTION | Product | SAFETY SEAL 30G LANCETS | WINEINGER, KEVIN | D/DEA | 100.00 | 0.88 | 7.21 L |
| 1 | 6008155 | 09/17/2013 | SYS | CR | MPD PRESCRIPTION | MPD PRESCRIPTION | Product | FORA NORMAL CONTROL SOLU | KARWOWSKI, CHARITY | D/DEA | 1.00 | 1.90 | 5.17 L |
| 1 | 6008138 | 09/17/2013 | SYS | CR | MPD PRESCRIPTION | MPD PRESCRIPTION | Product | FORA V12 GLUCOSE TEST STRIP | LABIB, LABIB | D/DEA | 300.00 | 40.50 | 458.72 L |
| 1 | 6008139 | 09/17/2013 | SYS | CR | MPD PRESCRIPTION | MPD PRESCRIPTION | Product | SAFETY SEAL 30G LANCETS | LABIB, LABIB | D/DEA | 300.00 | 2.64 | 18.62 L |
| 1 | 6008285 | 09/17/2013 | SYS | CR | MPD PRESCRIPTION | MPD PRESCRIPTION | Product | FTCCB 20/5/2/4/3% CREAM | GUADAGNO, ROBERT | D/DEA | 240.00 | 180.00 | 0.00 |
| 1 | 6008095 | 09/17/2013 | SYS | CR | MPD PRESCRIPTION | MPD PRESCRIPTION | Product | FORA NORMAL CONTROL SOLU | NUSSBAUM, NICHOLAS | D/DEA | 1.00 | 1.90 | 5.17 L |
| 1 | 6008096 | 09/17/2013 | SYS | CR | MPD PRESCRIPTION | MPD PRESCRIPTION | Product | LANCING DEVICE | NUSSBAUM, NICHOLAS | D/DEA | 1.00 | 0.84 | 13.73 L |

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Product Activity Report

| Store | RX | Date/Dispensed | Tech | Rph | BillingMethod | Location | ProductNDC | Product | DocName | ORDEA | Quantity | AAC | Price |
|-------|---------|----------------|------|-----|------------------|----------|------------|-----------------------------|--------------------|-------|----------|-------|--------|
| 1 | 6008098 | 09/17/2013 | SYS | CR | MPD PRESCRIPTION | | 6008098 | FORA V12 GLUCOSE TEST STRIP | ROBILLARD, DANIEL | | 400.00 | 54.00 | 611.12 |
| 1 | 6008150 | 09/17/2013 | SYS | CR | MPD PRESCRIPTION | | 6008150 | FORA NORMAL CONTROL SOLU | NUSSBAUM, NICHOLAS | | 1.00 | 1.90 | 5.17 |
| 1 | 6008151 | 09/17/2013 | SYS | CR | MPD PRESCRIPTION | | 6008151 | LANCING DEVICE | STUBBE, HERMANN | | 1.00 | 0.84 | 13.73 |
| 1 | 6008153 | 09/17/2013 | SYS | CR | MPD PRESCRIPTION | | 6008153 | FORA V12 GLUCOSE TEST STRIP | STUBBE, HERMANN | | 400.00 | 54.00 | 611.12 |
| 1 | 6008154 | 09/17/2013 | SYS | CR | MPD PRESCRIPTION | | 6008154 | SAFETY SEAL 30G LANCETS | STUBBE, HERMANN | | 400.00 | 3.52 | 24.32 |
| 1 | 6008135 | 09/17/2013 | SYS | CR | MPD PRESCRIPTION | | 6008135 | FORA NORMAL CONTROL SOLU | STUBBE, HERMANN | | 1.00 | 1.90 | 5.17 |
| 1 | 6008136 | 09/17/2013 | SYS | CR | MPD PRESCRIPTION | | 6008136 | LANCING DEVICE | LABIB, LABIB | | 1.00 | 0.84 | 13.73 |
| 1 | 6008178 | 09/17/2013 | SYS | CR | MPD PRESCRIPTION | | 6008178 | FORA V12 GLUCOSE TEST STRIP | LABIB, LABIB | | 200.00 | 27.00 | 306.31 |
| 1 | 6008179 | 09/17/2013 | SYS | CR | MPD PRESCRIPTION | | 6008179 | SAFETY SEAL 30G LANCETS | ROBILLARD, DANIEL | | 200.00 | 1.76 | 12.91 |
| 1 | 6008220 | 09/17/2013 | SYS | CR | MPD PRESCRIPTION | | 6008220 | FORA NORMAL CONTROL SOLU | ROBILLARD, DANIEL | | 1.00 | 1.90 | 5.17 |
| 1 | 6008221 | 09/17/2013 | SYS | CR | MPD PRESCRIPTION | | 6008221 | LANCING DEVICE | KUNDLAS, KULMEET | | 1.00 | 0.84 | 13.73 |
| 1 | 6008223 | 09/17/2013 | SYS | CR | MPD PRESCRIPTION | | 6008223 | FORA V12 GLUCOSE TEST STRIP | KUNDLAS, KULMEET | | 300.00 | 40.50 | 458.72 |
| 1 | 6008224 | 09/17/2013 | SYS | CR | MPD PRESCRIPTION | | 6008224 | SAFETY SEAL 30G LANCETS | KUNDLAS, KULMEET | | 300.00 | 2.64 | 18.62 |
| 1 | 6008210 | 09/17/2013 | SYS | CR | MPD PRESCRIPTION | | 6008210 | FORA NORMAL CONTROL SOLU | KUNDLAS, KULMEET | | 1.00 | 1.90 | 5.17 |
| 1 | 6008211 | 09/17/2013 | SYS | CR | MPD PRESCRIPTION | | 6008211 | LANCING DEVICE | SANTAGO, MIQUEL | | 1.00 | 0.84 | 13.73 |
| 1 | 6008213 | 09/17/2013 | SYS | CR | MPD PRESCRIPTION | | 6008213 | FORA V12 GLUCOSE TEST STRIP | SANTAGO, MIQUEL | | 200.00 | 27.00 | 306.31 |
| 1 | 6008214 | 09/17/2013 | SYS | CR | MPD PRESCRIPTION | | 6008214 | SAFETY SEAL 30G LANCETS | SANTAGO, MIQUEL | | 200.00 | 1.76 | 12.91 |
| 1 | 6008175 | 09/17/2013 | SYS | CR | MPD PRESCRIPTION | | 6008175 | FORA NORMAL CONTROL SOLU | SANTAGO, MIQUEL | | 1.00 | 1.90 | 5.17 |
| 1 | 6008176 | 09/17/2013 | SYS | CR | MPD PRESCRIPTION | | 6008176 | LANCING DEVICE | ROBILLARD, DANIEL | | 1.00 | 0.84 | 13.73 |
| 1 | 6008038 | 09/17/2013 | SYS | CR | MPD PRESCRIPTION | | 6008038 | FORA V12 GLUCOSE TEST STRIP | ROBILLARD, DANIEL | | 100.00 | 13.50 | 153.91 |
| 1 | 6008039 | 09/17/2013 | SYS | CR | MPD PRESCRIPTION | | 6008039 | SAFETY SEAL 30G LANCETS | PATEL, DIVYA | | 100.00 | 0.88 | 7.21 |
| 1 | 6008090 | 09/17/2013 | SYS | CR | MPD PRESCRIPTION | | 6008090 | FORA NORMAL CONTROL SOLU | PATEL, DIVYA | | 1.00 | 1.90 | 5.17 |
| 1 | 6008091 | 09/17/2013 | SYS | CR | MPD PRESCRIPTION | | 6008091 | LANCING DEVICE | BAUTISTA, LEYNA | | 1.00 | 0.84 | 13.73 |
| 1 | 6008093 | 09/17/2013 | SYS | CR | MPD PRESCRIPTION | | 6008093 | FORA V12 GLUCOSE TEST STRIP | BAUTISTA, LEYNA | | 300.00 | 40.50 | 458.72 |
| 1 | 6008094 | 09/17/2013 | SYS | CR | MPD PRESCRIPTION | | 6008094 | SAFETY SEAL 30G LANCETS | BAUTISTA, LEYNA | | 300.00 | 2.64 | 18.62 |

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Product Activity Report

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| Store | RX | Dated/Dispensed Tech Rph | BillingMethod Location | ProductNDC PtnName | Product Doctor/Name | DRDEA | Quantity | AAC | Price |
|-------|---------|--------------------------|------------------------|--------------------|---|--------|----------|--------|--------|
| 1 | 6008170 | 09/17/2013 SYS CR | MPD PRESCRIPTION | 6008170 SYS CR | FORA NORMAL CONTROL SOLU KOHLS, REGINA | 1.00 | 1.90 | 5.17 | 5.17 |
| 1 | 6008171 | 09/17/2013 SYS CR | MPD PRESCRIPTION | 6008171 SYS CR | LANCING DEVICE KOHLS, REGINA | 1.00 | 0.84 | 13.73 | 13.73 |
| 1 | 6008173 | 09/17/2013 SYS CR | MPD PRESCRIPTION | 6008173 SYS CR | FORA V12 GLUCOSE TEST STRIP KOHLS, REGINA | 300.00 | 40.50 | 458.72 | 458.72 |
| 1 | 6008174 | 09/17/2013 SYS CR | MPD PRESCRIPTION | 6008174 SYS CR | SAFETY SEAL 30G LANCETS KOHLS, REGINA | 300.00 | 2.64 | 18.62 | 18.62 |
| 1 | 6008035 | 09/17/2013 SYS CR | MPD PRESCRIPTION | 6008035 SYS CR | FORA NORMAL CONTROL SOLU PATEL, DIVYA | 1.00 | 1.90 | 5.17 | 5.17 |
| 1 | 6008036 | 09/17/2013 SYS CR | MPD PRESCRIPTION | 6008036 SYS CR | LANCING DEVICE PATEL, DIVYA | 1.00 | 0.84 | 13.73 | 13.73 |
| 1 | 6008148 | 09/17/2013 SYS CR | MPD PRESCRIPTION | 6008148 SYS CR | FORA V12 GLUCOSE TEST STRIP GONZABA, WILLIAM | 200.00 | 27.00 | 306.34 | 306.34 |
| 1 | 6008149 | 09/17/2013 SYS CR | MPD PRESCRIPTION | 6008149 SYS CR | SAFETY SEAL 30G LANCETS GONZABA, WILLIAM | 200.00 | 1.76 | 12.91 | 12.91 |
| 1 | 6008140 | 09/17/2013 SYS CR | MPD PRESCRIPTION | 6008140 SYS CR | FORA NORMAL CONTROL SOLU JEVTC, JASNA | 1.00 | 1.90 | 5.17 | 5.17 |
| 1 | 6008141 | 09/17/2013 SYS CR | MPD PRESCRIPTION | 6008141 SYS CR | LANCING DEVICE JEVTC, JASNA | 1.00 | 0.84 | 13.73 | 13.73 |
| 1 | 6008143 | 09/17/2013 SYS CR | MPD PRESCRIPTION | 6008143 SYS CR | FORA V12 GLUCOSE TEST STRIP JEVTC, JASNA | 300.00 | 40.50 | 458.72 | 458.72 |
| 1 | 6008144 | 09/17/2013 SYS CR | MPD PRESCRIPTION | 6008144 SYS CR | SAFETY SEAL 30G LANCETS JEVTC, JASNA | 300.00 | 2.64 | 18.62 | 18.62 |
| 1 | 6008046 | 09/17/2013 SYS CR | Cash/Credit/Other | 6008046 SYS CR | LANCING DEVICE BERNSTEIN, ROBERT | 1.00 | 0.84 | 0.00 | 0.00 |
| 1 | 6008187 | 09/17/2013 SYS CR | Cash/Credit/Other | 6008187 SYS CR | FORA V12 BLOOD GLUCOSE SYR OSNOSS, KENNETH | 1.00 | 1.00 | 0.00 | 0.00 |
| 1 | 6008251 | 09/17/2013 SYS CR | Cash/Credit/Other | 6008251 SYS CR | LANCING DEVICE SHUBERT, RONALD | 1.00 | 0.84 | 0.00 | 0.00 |
| 1 | 6008252 | 09/17/2013 SYS CR | Cash/Credit/Other | 6008252 SYS CR | FORA V12 BLOOD GLUCOSE SYR SHUBERT, RONALD | 1.00 | 1.00 | 0.00 | 0.00 |
| 1 | 6008116 | 09/17/2013 SYS CR | Cash/Credit/Other | 6008116 SYS CR | LANCING DEVICE TYLER, NEIL | 1.00 | 0.84 | 0.00 | 0.00 |
| 1 | 6008117 | 09/17/2013 SYS CR | Cash/Credit/Other | 6008117 SYS CR | FORA V12 BLOOD GLUCOSE SYR TYLER, NEIL | 1.00 | 1.00 | 0.00 | 0.00 |
| 1 | 6008133 | 09/17/2013 SYS CR | Cash/Credit/Other | 6008133 SYS CR | ADVOCATE REDU-CODE+ GLU MI TRAMMELL, CHAD | 1.00 | 8.99 | 0.00 | 0.00 |
| 1 | 6008107 | 09/17/2013 SYS CR | Cash/Credit/Other | 6008107 SYS CR | FORA V12 BLOOD GLUCOSE SYR FORD III, GEORGE | 1.00 | 1.00 | 0.00 | 0.00 |
| 1 | 6008057 | 09/17/2013 SYS CR | Cash/Credit/Other | 6008057 SYS CR | FORA V12 BLOOD GLUCOSE SYR MCMILLAN, SUSAN | 1.00 | 1.00 | 0.00 | 0.00 |
| 1 | 6008066 | 09/17/2013 SYS CR | Cash/Credit/Other | 6008066 SYS CR | LANCING DEVICE HAGAN, VANESSA | 1.00 | 0.84 | 0.00 | 0.00 |
| 1 | 6008067 | 09/17/2013 SYS CR | Cash/Credit/Other | 6008067 SYS CR | ACCU-CHEK NANO SMARTVIEW HAGAN, VANESSA | 1.00 | 16.03 | 0.00 | 0.00 |
| 1 | 6008197 | 09/17/2013 SYS CR | Cash/Credit/Other | 6008197 SYS CR | FORA V12 BLOOD GLUCOSE SYR FISCHER, MELISSA | 1.00 | 1.00 | 0.00 | 0.00 |
| 1 | 6008047 | 09/17/2013 SYS CR | Cash/Credit/Other | 6008047 SYS CR | FORA V12 BLOOD GLUCOSE SYR BERNSTEIN, ROBERT | 1.00 | 1.00 | 0.00 | 0.00 |

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Product Activity Report

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| Store | RX | Date/Dispensed | Tech Rph | Billing Method | Location | Product/NCDC | Product | Product/NCDC | Product | DRDEA | Quantity | AAC | Price |
|-------|---------|----------------|----------|-------------------|-------------------|----------------------------|----------------------------|--------------|----------------------------|-------|----------|-------|-------|
| 1 | 6007982 | 09/17/2013 | SYS CR | Cash/Credit/Other | Cash/Credit/Other | ONE TOUCH ULTRAMINI METER | ONE TOUCH ULTRAMINI METER | DRDEA | STOFFEL, ELISABETH | | 1.00 | 15.08 | 0.00 |
| 1 | 6007992 | 09/17/2013 | SYS CR | Cash/Credit/Other | Cash/Credit/Other | FORA V12 BLOOD GLUCOSE SY: | FORA V12 BLOOD GLUCOSE SY: | | STOFFEL, ELISABETH | | 1.00 | 1.00 | 0.00 |
| 1 | 6008032 | 09/17/2013 | SYS CR | Cash/Credit/Other | Cash/Credit/Other | FORA V12 BLOOD GLUCOSE SY: | FORA V12 BLOOD GLUCOSE SY: | | CARLTON, CHARLES | | 1.00 | 1.00 | 0.00 |
| 1 | 6008034 | 09/17/2013 | SYS CR | Cash/Credit/Other | Cash/Credit/Other | FORA V12 BLOOD GLUCOSE SY: | FORA V12 BLOOD GLUCOSE SY: | | ROBERTS, CLAYTON | | 100.00 | 0.88 | 0.00 |
| 1 | 6008207 | 09/17/2013 | SYS CR | Cash/Credit/Other | Cash/Credit/Other | FORA V12 BLOOD GLUCOSE SY: | FORA V12 BLOOD GLUCOSE SY: | | SAFETY SEAL 30G LANCETS | | 1.00 | 1.00 | 0.00 |
| 1 | 6008071 | 09/17/2013 | SYS CR | Cash/Credit/Other | Cash/Credit/Other | FORA V12 BLOOD GLUCOSE SY: | FORA V12 BLOOD GLUCOSE SY: | | ROBERTS, CLAYTON | | 1.00 | 1.00 | 0.00 |
| 1 | 6008072 | 09/17/2013 | SYS CR | Cash/Credit/Other | Cash/Credit/Other | FORA V12 BLOOD GLUCOSE SY: | FORA V12 BLOOD GLUCOSE SY: | | WILKERSON, JOHN | | 1.00 | 0.84 | 0.00 |
| 1 | 6008027 | 09/17/2013 | SYS CR | Cash/Credit/Other | Cash/Credit/Other | FORA V12 BLOOD GLUCOSE SY: | FORA V12 BLOOD GLUCOSE SY: | | LANCING DEVICE | | 1.00 | 1.00 | 0.00 |
| 1 | 6008011 | 09/17/2013 | SYS CR | Cash/Credit/Other | Cash/Credit/Other | FORA V12 BLOOD GLUCOSE SY: | FORA V12 BLOOD GLUCOSE SY: | | LEMMON, KENNETH | | 1.00 | 1.00 | 0.00 |
| 1 | 6008014 | 09/17/2013 | SYS CR | Cash/Credit/Other | Cash/Credit/Other | FORA V12 BLOOD GLUCOSE SY: | FORA V12 BLOOD GLUCOSE SY: | | LEMMON, KENNETH | | 1.00 | 1.00 | 0.00 |
| 1 | 6008162 | 09/17/2013 | SYS CR | Cash/Credit/Other | Cash/Credit/Other | FORA V12 BLOOD GLUCOSE SY: | FORA V12 BLOOD GLUCOSE SY: | | LEMMON, KENNETH | | 1.00 | 1.00 | 0.00 |
| 1 | 6008022 | 09/17/2013 | SYS CR | Cash/Credit/Other | Cash/Credit/Other | FORA V12 BLOOD GLUCOSE SY: | FORA V12 BLOOD GLUCOSE SY: | | WILSON, DAVID | | 1.00 | 0.84 | 0.00 |
| 1 | 6007977 | 09/17/2013 | SYS CR | Cash/Credit/Other | Cash/Credit/Other | FORA V12 BLOOD GLUCOSE SY: | FORA V12 BLOOD GLUCOSE SY: | | LANCING DEVICE | | 1.00 | 1.00 | 0.00 |
| 1 | 6008102 | 09/17/2013 | SYS CR | Cash/Credit/Other | Cash/Credit/Other | FORA V12 BLOOD GLUCOSE SY: | FORA V12 BLOOD GLUCOSE SY: | | JOHNSON, EARLUE | | 300.00 | 2.54 | 0.00 |
| 1 | 6007997 | 09/17/2013 | SYS CR | Cash/Credit/Other | Cash/Credit/Other | FORA V12 BLOOD GLUCOSE SY: | FORA V12 BLOOD GLUCOSE SY: | | SAFETY SEAL 30G LANCETS | | 1.00 | 1.00 | 0.00 |
| 1 | 6008112 | 09/17/2013 | SYS CR | Cash/Credit/Other | Cash/Credit/Other | FORA V12 BLOOD GLUCOSE SY: | FORA V12 BLOOD GLUCOSE SY: | | JOHNSON, EARLIE | | 1.00 | 1.00 | 0.00 |
| 1 | 6008087 | 09/17/2013 | SYS CR | Cash/Credit/Other | Cash/Credit/Other | FORA V12 BLOOD GLUCOSE SY: | FORA V12 BLOOD GLUCOSE SY: | | BARTER, MARK | | 1.00 | 1.00 | 0.00 |
| 1 | 6008112 | 09/17/2013 | SYS CR | Cash/Credit/Other | Cash/Credit/Other | FORA V12 BLOOD GLUCOSE SY: | FORA V12 BLOOD GLUCOSE SY: | | FORA V12 BLOOD GLUCOSE SY: | | 1.00 | 1.00 | 0.00 |
| 1 | 6008082 | 09/17/2013 | SYS CR | Cash/Credit/Other | Cash/Credit/Other | FORA V12 BLOOD GLUCOSE SY: | FORA V12 BLOOD GLUCOSE SY: | | PROST, HENRY | | 1.00 | 1.00 | 0.00 |
| 1 | 6008001 | 09/17/2013 | SYS CR | Cash/Credit/Other | Cash/Credit/Other | FORA V12 BLOOD GLUCOSE SY: | FORA V12 BLOOD GLUCOSE SY: | | FRANK, PETER | | 1.00 | 1.00 | 0.00 |
| 1 | 6008002 | 09/17/2013 | SYS CR | Cash/Credit/Other | Cash/Credit/Other | FORA V12 BLOOD GLUCOSE SY: | FORA V12 BLOOD GLUCOSE SY: | | FRANK, PETER | | 1.00 | 1.00 | 0.00 |
| 1 | 6008097 | 09/17/2013 | SYS CR | Cash/Credit/Other | Cash/Credit/Other | FORA V12 BLOOD GLUCOSE SY: | FORA V12 BLOOD GLUCOSE SY: | | LANGE, DAVID | | 1.00 | 1.00 | 0.00 |
| 1 | 6008122 | 09/17/2013 | SYS CR | Cash/Credit/Other | Cash/Credit/Other | FORA V12 BLOOD GLUCOSE SY: | FORA V12 BLOOD GLUCOSE SY: | | FORA V12 BLOOD GLUCOSE SY: | | 1.00 | 1.00 | 0.00 |
| 1 | 6008181 | 09/17/2013 | SYS CR | Cash/Credit/Other | Cash/Credit/Other | FORA V12 BLOOD GLUCOSE SY: | FORA V12 BLOOD GLUCOSE SY: | | FRANK, PETER | | 1.00 | 1.00 | 0.00 |
| 1 | 6008182 | 09/17/2013 | SYS CR | Cash/Credit/Other | Cash/Credit/Other | FORA V12 BLOOD GLUCOSE SY: | FORA V12 BLOOD GLUCOSE SY: | | FRANK, PETER | | 1.00 | 1.00 | 0.00 |
| 1 | 6008157 | 09/17/2013 | SYS CR | Cash/Credit/Other | Cash/Credit/Other | FORA V12 BLOOD GLUCOSE SY: | FORA V12 BLOOD GLUCOSE SY: | | FRANK, PETER | | 1.00 | 1.00 | 0.00 |

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Product Activity Report

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| Store | RX | Date/Dispensed | Tech | Rph | Billing/Method | Location | Product/NC | PHName | Product | Doctor/Name | DRDEA | Quantity | AAC | Price |
|-------|---------|----------------|------|-----|-------------------|-------------------|----------------|--------------------|----------------------------|-------------|-------|-----------|---------|-------|
| 1 | 6007996 | 09/17/2013 | SYS | CR | Cash/Credit/Other | Cash/Credit/Other | LANCING DEVICE | LANCING DEVICE | LANCING DEVICE | | | 1.00 | 0.84 | 0.00 |
| 1 | 6008051 | 09/17/2013 | SYS | CR | Cash/Credit/Other | Cash/Credit/Other | LANCING DEVICE | FLETCHALL, TIMOTHY | LANCING DEVICE | | | 1.00 | 0.84 | 0.00 |
| 1 | 6008052 | 09/17/2013 | SYS | CR | Cash/Credit/Other | Cash/Credit/Other | LANCING DEVICE | ERDOS, ZOLTAN | FORA V12 BLOOD GLUCOSE SY: | | | 1.00 | 1.00 | 0.00 |
| 1 | 6008177 | 09/17/2013 | SYS | CR | Cash/Credit/Other | Cash/Credit/Other | LANCING DEVICE | ERDOS, ZOLTAN | FORA V12 BLOOD GLUCOSE SY: | | | 1.00 | 1.00 | 0.00 |
| 1 | 6008222 | 09/17/2013 | SYS | CR | Cash/Credit/Other | Cash/Credit/Other | LANCING DEVICE | ROBILLARD, DANIEL | FORA V12 BLOOD GLUCOSE SY: | | | 1.00 | 1.00 | 0.00 |
| 1 | 6008152 | 09/17/2013 | SYS | CR | Cash/Credit/Other | Cash/Credit/Other | LANCING DEVICE | KUNDLAS, KULMEET | FORA V12 BLOOD GLUCOSE SY: | | | 1.00 | 1.00 | 0.00 |
| 1 | 6008137 | 09/17/2013 | SYS | CR | Cash/Credit/Other | Cash/Credit/Other | LANCING DEVICE | STUBBE, HERMANN | FORA V12 BLOOD GLUCOSE SY: | | | 1.00 | 1.00 | 0.00 |
| 1 | 6008127 | 09/17/2013 | SYS | CR | Cash/Credit/Other | Cash/Credit/Other | LANCING DEVICE | LABIB, LABIB | FORA V12 BLOOD GLUCOSE SY: | | | 1.00 | 1.00 | 0.00 |
| 1 | 6008217 | 09/17/2013 | SYS | CR | Cash/Credit/Other | Cash/Credit/Other | LANCING DEVICE | SHOOK, DAVID | FORA V12 BLOOD GLUCOSE SY: | | | 1.00 | 1.00 | 0.00 |
| 1 | 6008227 | 09/17/2013 | SYS | CR | Cash/Credit/Other | Cash/Credit/Other | LANCING DEVICE | HALBERT, DEAN | FORA V12 BLOOD GLUCOSE SY: | | | 1.00 | 1.00 | 0.00 |
| 1 | 6008077 | 09/17/2013 | SYS | CR | Cash/Credit/Other | Cash/Credit/Other | LANCING DEVICE | OMIRY ORBACH, GAL | FORA V12 BLOOD GLUCOSE SY: | | | 1.00 | 1.00 | 0.00 |
| 1 | 6008247 | 09/17/2013 | SYS | CR | Cash/Credit/Other | Cash/Credit/Other | LANCING DEVICE | ALLEN, MARIAN | FORA V12 BLOOD GLUCOSE SY: | | | 1.00 | 1.00 | 0.00 |
| 1 | 6008212 | 09/17/2013 | SYS | CR | Cash/Credit/Other | Cash/Credit/Other | LANCING DEVICE | GARFIELD, MARC | FORA V12 BLOOD GLUCOSE SY: | | | 1.00 | 1.00 | 0.00 |
| 1 | 6008061 | 09/17/2013 | SYS | CR | Cash/Credit/Other | Cash/Credit/Other | LANCING DEVICE | SANTIAGO, MIQUEL | LANCING DEVICE | | | 1.00 | 0.84 | 0.00 |
| 1 | 6008062 | 09/17/2013 | SYS | CR | Cash/Credit/Other | Cash/Credit/Other | LANCING DEVICE | PLOTNIKOV, ALEKSEI | ACCU-CHEK NANO SMARTVIEW | | | 1.00 | 16.03 | 0.00 |
| 1 | 6008172 | 09/17/2013 | SYS | CR | Cash/Credit/Other | Cash/Credit/Other | LANCING DEVICE | PLOTNIKOV, ALEKSEI | FORA V12 BLOOD GLUCOSE SY: | | | 1.00 | 1.00 | 0.00 |
| 1 | 6008037 | 09/17/2013 | SYS | CR | Cash/Credit/Other | Cash/Credit/Other | LANCING DEVICE | KOHLIS, REGINA | FORA V12 BLOOD GLUCOSE SY: | | | 1.00 | 1.00 | 0.00 |
| 1 | 6008092 | 09/17/2013 | SYS | CR | Cash/Credit/Other | Cash/Credit/Other | LANCING DEVICE | PATEL, DIVYA | FORA V12 BLOOD GLUCOSE SY: | | | 1.00 | 1.00 | 0.00 |
| 1 | 6008009 | 09/17/2013 | SYS | CR | Cash/Credit/Other | Cash/Credit/Other | LANCING DEVICE | BAUTISTA, LEYNA | SAFETY SEAL 30G LANCETS | | | 100.00 | 0.88 | 0.00 |
| 1 | 6008016 | 09/17/2013 | SYS | CR | Cash/Credit/Other | Cash/Credit/Other | LANCING DEVICE | WILSON, DAVID | LANCING DEVICE | | | 1.00 | 0.84 | 0.00 |
| 1 | 6008017 | 09/17/2013 | SYS | CR | Cash/Credit/Other | Cash/Credit/Other | LANCING DEVICE | BROWN, LESTER | FORA V12 BLOOD GLUCOSE SY: | | | 1.00 | 1.00 | 0.00 |
| 1 | 6008019 | 09/17/2013 | SYS | CR | Cash/Credit/Other | Cash/Credit/Other | LANCING DEVICE | BROWN, LESTER | SAFETY SEAL 30G LANCETS | | | 100.00 | 0.88 | 0.00 |
| 1 | 6008142 | 09/17/2013 | SYS | CR | Cash/Credit/Other | Cash/Credit/Other | LANCING DEVICE | BROWN, LESTER | FORA V12 BLOOD GLUCOSE SY: | | | 1.00 | 1.00 | 0.00 |
| 1 | 6007986 | 09/17/2013 | SYS | CR | Cash/Credit/Other | Cash/Credit/Other | LANCING DEVICE | JEVTIC, JASNA | LANCING DEVICE | | | 1.00 | 0.84 | 0.00 |
| 1 | 6007987 | 09/17/2013 | SYS | CR | Cash/Credit/Other | Cash/Credit/Other | LANCING DEVICE | GUADRON, RODOLFO | FORA V12 BLOOD GLUCOSE SY: | | | 1.00 | 1.00 | 0.00 |
| | | | | | | | | | | | | 700000001 | 66717.8 | |

Product Activity Report

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| Store | RX | Date/Dispensed | Tech | Rph | Billing Method | Location | Product/DC | PthName | Product | Doctor/Name | DR/DEA | Quantity | AAC | Price |
|-------|---------|----------------|------|-----|-------------------|----------|----------------------------|---------|---------|----------------------|--------|----------|------|-------|
| 1 | 6008044 | 09/17/2013 | SYS | CR | Cash/Credit/Other | | SAFETY SEAL 30G LANCETS | | | | | 100.00 | 0.88 | 0.00 |
| 1 | 6008237 | 09/17/2013 | SYS | CR | Cash/Credit/Other | | FORA V12 BLOOD GLUCOSE SY: | | | MESERVE, JOHN | | 1.00 | 1.00 | 0.00 |
| 1 | 6008242 | 09/17/2013 | SYS | CR | Cash/Credit/Other | | FORA V12 BLOOD GLUCOSE SY: | | | ITABLE, FERNANDO | | 1.00 | 1.00 | 0.00 |
| 1 | 6008201 | 09/17/2013 | SYS | CR | Cash/Credit/Other | | FORA V12 BLOOD GLUCOSE SY: | | | WELCH, ANINA | | 1.00 | 0.84 | 0.00 |
| 1 | 6008202 | 09/17/2013 | SYS | CR | Cash/Credit/Other | | LANCING DEVICE | | | CANNON, ANTHONY | | 1.00 | 1.00 | 0.00 |
| 1 | 6008147 | 09/17/2013 | SYS | CR | Cash/Credit/Other | | FORA V12 BLOOD GLUCOSE SY: | | | CANNON, ANTHONY | | 1.00 | 1.00 | 0.00 |
| 1 | 6008192 | 09/17/2013 | SYS | CR | Cash/Credit/Other | | FORA V12 BLOOD GLUCOSE SY: | | | GONZABA, WILLIAM | | 1.00 | 1.00 | 0.00 |
| 1 | 6008257 | 09/17/2013 | SYS | CR | Cash/Credit/Other | | FORA V12 BLOOD GLUCOSE SY: | | | ALCANTARA, FREDERICK | | 1.00 | 1.00 | 0.00 |
| 1 | 6008231 | 09/17/2013 | SYS | CR | Cash/Credit/Other | | LANCING DEVICE | | | ZIA, TARIQ | | 1.00 | 0.84 | 0.00 |
| 1 | 6008232 | 09/17/2013 | SYS | CR | Cash/Credit/Other | | FORA V12 BLOOD GLUCOSE SY: | | | KOTAGIRI, CHAITANYA | | 1.00 | 1.00 | 0.00 |
| 1 | 6008041 | 09/17/2013 | SYS | CR | Cash/Credit/Other | | LANCING DEVICE | | | KOTAGIRI, CHAITANYA | | 1.00 | 0.84 | 0.00 |
| 1 | 6008042 | 09/17/2013 | SYS | CR | Cash/Credit/Other | | FORA V12 BLOOD GLUCOSE SY: | | | MESERVE, JOHN | | 1.00 | 1.00 | 0.00 |

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Product / vity Report

| Store | RX | Dated/Dispensed | Billing/Method | Product/NC | Product | Doctor/Name | DPDEA | Quantity | AAC | Price |
|-------|---------|-----------------|--------------------|---|-----------------------------|--------------------|-----------|----------|--------|----------|
| 1 | 6001650 | 09/23/2013 | BLUE CROSS BLUE S | Product/NC <td>CLEVER CHEK TEST STRIPS</td> <td>WESTCOTT, ROBERT</td> <td></td> <td>50.00</td> <td>6.50</td> <td>51.03</td> | CLEVER CHEK TEST STRIPS | WESTCOTT, ROBERT | | 50.00 | 6.50 | 51.03 |
| 1 | 6008735 | 09/23/2013 | PAID NORTHWEST AI | Product/NC | FORA NORMAL CONTROL SOLU | RICHARDS, GLORIA | | 1.00 | 1.90 | 4.89 |
| 1 | 6008738 | 09/23/2013 | PAID NORTHWEST AI | Product/NC | FORA V12 GLUCOSE TEST STRIP | RICHARDS, GLORIA | | 100.00 | 13.50 | 146.86 |
| 1 | 6008739 | 09/23/2013 | PAID NORTHWEST AI | Product/NC | SAFETY SEAL 30G LANCETS | RICHARDS, GLORIA | | 100.00 | 0.60 | 7.04 |
| 1 | 6008758 | 09/23/2013 | PAID PRESCRIPTION: | Product/NC | FORA V12 GLUCOSE TEST STRIP | ROBINE, ROBERT | | 50.00 | 6.75 | 28.50 |
| 1 | 6008308 | 09/23/2013 | PAID PRESCRIPTION: | Product/NC | FBCGL 20/4/2/6/5% CREAM | KYMBERG, ROGER | | 120.00 | 90.00 | 3,777.01 |
| 1 | 6008309 | 09/23/2013 | PAID PRESCRIPTION: | Product/NC | FBCGL 20/4/2/6/5% CREAM | FLORES, DAVID | | 240.00 | 180.00 | 7,553.01 |
| 1 | 6008810 | 09/23/2013 | PAID PRESCRIPTION: | Product/NC | FBCGL 20/4/2/6/5% CREAM | MILLER, RICHARD | | 240.00 | 180.00 | 7,553.01 |
| 1 | 6008864 | 09/23/2013 | PAID PRESCRIPTION: | Product/NC | SAFETY SEAL 30G LANCETS | LAHTINEN, DUNCAN | BL2325670 | 100.00 | 0.60 | 15.09 |
| 1 | 6008760 | 09/23/2013 | PAID PRESCRIPTION: | Product/NC | ACCUCHEK COMPACT BLUE CC | MOORE, MARTHA | | 1.00 | 4.75 | 15.95 |
| 1 | 6003257 | 09/23/2013 | PAID PRESCRIPTION: | Product/NC | ACCUCHEK COMPACT DRUM S | SAADDINE, YSSA | | 150.00 | 146.97 | 184.53 |
| 1 | 6003258 | 09/23/2013 | PAID PRESCRIPTION: | Product/NC | LISINAPRIL 10 MG TABLET | SAADDINE, YSSA | | 90.00 | 2.03 | 13.00 |
| 1 | 6002926 | 09/23/2013 | PAID PRESCRIPTION: | Product/NC | METFORMIN HCL 1,000 MG TABL | RYLY BRANDOW, RUTH | | 180.00 | 7.40 | 13.01 |
| 1 | 6002927 | 09/23/2013 | PAID PRESCRIPTION: | Product/NC | FORA V12 GLUCOSE TEST STRIP | SNYDER, HOWARD | | 50.00 | 6.75 | 73.93 |
| 1 | 6008768 | 09/23/2013 | PAID PRESCRIPTION: | Product/NC | SAFETY SEAL 30G LANCETS | SNYDER, HOWARD | | 100.00 | 0.60 | 7.04 |
| 1 | 6008769 | 09/23/2013 | PAID PRESCRIPTION: | Product/NC | FBCGL 20/4/2/6/5% CREAM | ACUNA, RENE | | 240.00 | 180.00 | 7,553.01 |
| 1 | 6008805 | 09/23/2013 | PAID PRESCRIPTION: | Product/NC | FORA NORMAL CONTROL SOLU | ACUNA, RENE | | 1.00 | 1.90 | 10.46 |
| 1 | 6008806 | 09/23/2013 | PAID PRESCRIPTION: | Product/NC | STUCKEY MELTON | ACUNA, RENE | | 1.00 | 0.84 | 27.19 |
| 1 | 6008806 | 09/23/2013 | PAID PRESCRIPTION: | Product/NC | LANCING DEVICE | STUCKEY MELTON | | 1.00 | 0.84 | 27.19 |
| 1 | 6008809 | 09/23/2013 | PAID PRESCRIPTION: | Product/NC | SAFETY SEAL 30G LANCETS | STUCKEY MELTON | | 200.00 | 1.20 | 25.00 |
| 1 | 6001185 | 09/23/2013 | PAID PRESCRIPTION: | Product/NC | CLEVER CHEK TEST STRIPS | GLADMAN, JANICE | | 100.00 | 15.00 | 101.16 |
| 1 | 6001187 | 09/23/2013 | PAID PRESCRIPTION: | Product/NC | SAFETY SEAL 30G LANCETS | COX, JAMIE | | 100.00 | 0.60 | 7.04 |
| 1 | 6001190 | 09/23/2013 | PAID PRESCRIPTION: | Product/NC | ONE TOUCH ULTRA TEST STRIP | COX, JAMIE | | 100.00 | 80.00 | 123.67 |
| 1 | 6008287 | 09/23/2013 | PAID PRESCRIPTION: | Product/NC | FBCGL 20/4/2/6/5% CREAM | DELLRICH, CHERI | | 240.00 | 180.00 | 7,553.01 |
| 1 | 6008765 | 09/23/2013 | PAID PRESCRIPTION: | Product/NC | FORA NORMAL CONTROL SOLU | SNYDER, HOWARD | | 1.00 | 1.90 | 4.89 |

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Product / Activity Report

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| Store | RX | Date/Dispensed | Billing/Method | Product/NC | Product | Doctor/Name | QTY/DEA | AAC | Price |
|-------|---------|----------------|-------------------|------------|-----------------------------|-------------------------|---------|--------|----------|
| 1 | 6008766 | 09/23/2013 | PAID PRESCRIPTION | | LANCING DEVICE | | 1.00 | 0.84 | 13.95 |
| 1 | 6007606 | 09/23/2013 | PAID PRESCRIPTION | | SNYDER, HOWARD | | 120.00 | 90.00 | 3,508.50 |
| 1 | 6008723 | 09/23/2013 | PAID PRESCRIPTION | | FBCGL 20/4/2/6/5% CREAM | ARIMAH, GEORGE | 240.00 | 180.00 | 7,553.01 |
| 1 | 6008307 | 09/23/2013 | PAID PRESCRIPTION | | FBCGL 20/4/2/6/5% CREAM | Perez, ANGEL | 240.00 | 180.00 | 7,553.01 |
| 1 | 6008605 | 09/23/2013 | PAID PRESCRIPTION | | FBCGL 20/4/2/6/5% CREAM | HERMOSA, JOSEPH | 240.00 | 180.00 | 7,553.01 |
| 1 | 6001182 | 09/23/2013 | PAID PRESCRIPTION | | FBCGL 20/4/2/6/5% CREAM | JONES, MARK | 100.00 | 0.60 | 7.04 |
| 1 | 6001184 | 09/23/2013 | PAID PRESCRIPTION | | SAFETY SEAL 30G LANCETS | GLADMAN, JANICE | 1.00 | 2.00 | 11.20 |
| 1 | 6008763 | 09/23/2013 | PAID PRESCRIPTION | | CLEVER CHEK CONTROL SOLUT | GLADMAN, JANICE | 1.00 | 0.84 | 13.95 |
| 1 | 6008761 | 09/23/2013 | PAID PRESCRIPTION | | LANCING DEVICE | MOORE, MARTHA | 1.00 | 6.50 | 5.40 |
| 1 | 6008763 | 09/23/2013 | PAID PRESCRIPTION | | ACCU-CHEK SMARTVIEW CONTI | MOORE, MARTHA | 50.00 | 45.95 | 62.04 |
| 1 | 6008764 | 09/23/2013 | PAID PRESCRIPTION | | ACCU-CHEK SMARTVIEW STRIP | MOORE, MARTHA | 1.00 | 1.90 | 10.46 |
| 1 | 6008750 | 09/23/2013 | PAID PRESCRIPTION | | FORA NORMAL CONTROL SOLU | BABALOLA, CECILIA | 200.00 | 27.00 | 322.64 |
| 1 | 6008753 | 09/23/2013 | PAID PRESCRIPTION | | FORA V12 GLUCOSE TEST STRI | BABALOLA, CECILIA | 200.00 | 1.20 | 25.67 |
| 1 | 6008754 | 09/23/2013 | PAID PRESCRIPTION | | SAFETY SEAL 30G LANCETS | BABALOLA, CECILIA | 200.00 | 1.20 | 11.48 |
| 1 | 6008745 | 09/23/2013 | CATALYST RX | | SAFETY SEAL 30G LANCETS | KASSAR, WAHID | 200.00 | 160.00 | 242.73 |
| 1 | 6008748 | 09/23/2013 | CATALYST RX | | ONE TOUCH ULTRA TEST STRIP | KASSAR, WAHID | 1.00 | 4.75 | 8.41 |
| 1 | 6008749 | 09/23/2013 | CATALYST RX | | ONE TOUCH ULTRA CONTROL S | KASSAR, WAHID | 120.00 | 195.04 | 203.67 |
| 1 | 6004290 | 09/23/2013 | MEDICAID FLORIDA | | LOVAZA 1 GM CAPSULE | ZAPATA, CARLOS | 30.00 | 6.33 | 11.52 |
| 1 | 6003990 | 09/23/2013 | MEDICAID FLORIDA | | ATORVASTATIN 80 MG TABLET | ZAPATA, CARLOS | 30.00 | 5.07 | 12.29 |
| 1 | 6003992 | 09/23/2013 | MEDICAID FLORIDA | | PIOGLITAZONE HCL 15 MG TABL | ZAPATA, CARLOS | 60.00 | 6.37 | 11.57 |
| 1 | 6004289 | 09/23/2013 | MEDICAID FLORIDA | | METFORMIN HCL ER 750 MG TAB | ZAPATA, CARLOS | 100.00 | 15.00 | 99.75 |
| 1 | 6001665 | 09/23/2013 | UNITED HEALTHCARE | | CLEVER CHEK TEST STRIPS | WENZEL, MARC | 240.00 | 180.00 | 7,559.51 |
| 1 | 6008312 | 09/23/2013 | UNITED HEALTHCARE | | FBCGL 20/4/2/6/5% CREAM | HUGHES, JEANNINE | 100.00 | 64.00 | 49.97 |
| 1 | 6008742 | 09/23/2013 | US SCRIPT | | TRUETRACK GLUCOSE TEST ST | PEREZ PUELLES, GENIBERT | 1.00 | 4.50 | 6.52 |
| 1 | 6008743 | 09/23/2013 | US SCRIPT | | TRUECONTROL GLUCOSE SOLU | PEREZ PUELLES, GENIBERT | 100.00 | 0.60 | 7.45 |
| 1 | 6008740 | 09/23/2013 | US SCRIPT | | SAFETY SEAL 30G LANCETS | PEREZ PUELLES, GENIBERT | | | |

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Product, Inventory Report

| Store | RX | Date/Dispensed | Billing Method | Product/NCDC | Product | Quantity | AAC | Price |
|-------|---------|----------------|------------------|----------------------------|----------------------------|----------|-------|--------|
| 1 | 6008741 | 09/23/2013 | US SCRIPT | LANCING DEVICE | LANCING DEVICE | 1.00 | 0.84 | 14.25 |
| 1 | 6000834 | 09/23/2013 | WALGREENS HEALTH | PEREZ PUELLES, GENIBERT | PEREZ PUELLES, GENIBERT | 100.00 | 0.60 | 7.54 |
| 1 | 6000837 | 09/23/2013 | WALGREENS HEALTH | KISHUN JIT, NIRMALA | KISHUN JIT, NIRMALA | 1.00 | 4.75 | 8.75 |
| 1 | 6000838 | 09/23/2013 | WALGREENS HEALTH | ACCU-CHEK AVIVA SOLUTION | ACCU-CHEK AVIVA SOLUTION | 100.00 | 95.90 | 123.46 |
| 1 | 6001461 | 09/23/2013 | MEDIMPACT | KISHUN JIT, NIRMALA | KISHUN JIT, NIRMALA | 100.00 | 15.00 | 97.39 |
| 1 | 6006467 | 09/23/2013 | MEDIMPACT | CLEVER CHEK TEST STRIPS | CLEVER CHEK TEST STRIPS | 300.00 | 1.80 | 18.26 |
| 1 | 6006468 | 09/23/2013 | MEDIMPACT | SAFETY SEAL 30G LANCETS | SAFETY SEAL 30G LANCETS | 1.00 | 0.84 | 13.33 |
| 1 | 6002592 | 09/23/2013 | MEDIMPACT | AKHRASS, FIRAS | AKHRASS, FIRAS | 90.00 | 2.30 | 16.73 |
| 1 | 6003358 | 09/23/2013 | MEDIMPACT | LANCING DEVICE | LANCING DEVICE | 25.00 | 39.09 | 11.23 |
| 1 | 6008795 | 09/23/2013 | MEDIMPACT | LISINAPRIL 20 MG TABLET | LISINAPRIL 20 MG TABLET | 1.00 | 2.00 | 7.16 |
| 1 | 6008797 | 09/23/2013 | MEDIMPACT | VARGO, RONALD | VARGO, RONALD | 100.00 | 13.00 | 99.53 |
| 1 | 6002911 | 09/23/2013 | MEDIMPACT | NITROSTAT 0.4 MG TABLET SL | NITROSTAT 0.4 MG TABLET SL | 90.00 | 27.26 | 27.97 |
| 1 | 6002912 | 09/23/2013 | MEDIMPACT | NAGALDINNE, GOVINDARAJULU | NAGALDINNE, GOVINDARAJULU | 90.00 | 4.28 | 16.89 |
| 1 | 6002914 | 09/23/2013 | MEDIMPACT | GLUCOCARD EXPRESSION CNTI | GLUCOCARD EXPRESSION CNTI | 90.00 | 16.99 | 75.20 |
| 1 | 6002933 | 09/23/2013 | MEDIMPACT | EDWARDS, NICOLE | EDWARDS, NICOLE | 360.00 | 64.48 | 113.46 |
| 1 | 6002934 | 09/23/2013 | MEDIMPACT | GLUCOCARD EXPRESSION TEST | GLUCOCARD EXPRESSION TEST | 90.00 | 7.14 | 39.95 |
| 1 | 6001752 | 09/23/2013 | MEDIMPACT | LEVOTHYROXINE 100 MCG TABL | LEVOTHYROXINE 100 MCG TABL | 60.00 | 10.30 | 35.56 |
| 1 | 6001755 | 09/23/2013 | MEDIMPACT | HUXFORD, JEFFREY | HUXFORD, JEFFREY | 30.00 | 9.93 | 141.68 |
| 1 | 6001757 | 09/23/2013 | MEDIMPACT | HUXFORD, JEFFREY | HUXFORD, JEFFREY | 120.00 | 2.70 | 12.74 |
| 1 | 6001759 | 09/23/2013 | MEDIMPACT | GLYBURIDE 5 MG TABLET | GLYBURIDE 5 MG TABLET | 30.00 | 1.91 | 11.80 |
| 1 | 6006530 | 09/23/2013 | MEDIMPACT | NGUYEN, KHANH | NGUYEN, KHANH | 1.00 | 1.90 | 4.70 |
| 1 | 6006531 | 09/23/2013 | MEDIMPACT | OMEPRAZOLE DR 20 MG CAPSU | OMEPRAZOLE DR 20 MG CAPSU | 1.00 | 0.84 | 13.33 |
| 1 | 6006533 | 09/23/2013 | MEDIMPACT | OMEPRAZOLE DR 40 MG CAPSU | OMEPRAZOLE DR 40 MG CAPSU | 300.00 | 40.50 | 438.59 |
| 1 | 6006534 | 09/23/2013 | MEDIMPACT | MONTELUKAST SOD 10 MG TABI | MONTELUKAST SOD 10 MG TABI | 300.00 | 1.80 | 18.26 |
| 1 | 6002799 | 09/23/2013 | MEDIMPACT | EUBANKS, AMY | EUBANKS, AMY | 180.00 | 26.96 | 90.93 |

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Productivity Report

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| Store | RX | Date/Dispensed | Tech | Rph | Billing/Method | Location | Product/NC | PtName | Product | Doctor/Name | DR/EA | Quantity | AAC | Price |
|-------|---------|----------------|------|-----|------------------|----------|------------|--------|------------------------------|-------------------|-------|----------|--------|--------|
| 1 | 6002932 | 09/23/2013 | CR | CR | MPD MEDCO MEDDPf | | | | METOPROLOL TARTRATE 50 MG | NGUYEN, KHANH | | 180.00 | 3.91 | 10.99 |
| 1 | 6002919 | 09/23/2013 | CR | CR | MPD MEDCO MEDDPf | | | | CLOPIDOGREL 75 MG TABLET | | | 90.00 | 9.09 | 94.86 |
| 1 | 6002921 | 09/23/2013 | CR | CR | MPD MEDCO MEDDPf | | | | TONER, JEFFREY | | | 90.00 | 1.54 | 11.00 |
| 1 | 6002807 | 09/23/2013 | CR | CR | MPD MEDCO MEDDPf | | | | TONER, JEFFREY | | | 180.00 | 7.07 | 42.44 |
| 1 | 6002808 | 09/23/2013 | CR | CR | MPD MEDCO MEDDPf | | | | CARVEDILOL 25 MG TABLET | MOORE, CHRISTINE | | 90.00 | 3.53 | 23.96 |
| 1 | 6002809 | 09/23/2013 | CR | CR | MPD MEDCO MEDDPf | | | | CITALOPRAM HBR 40 MG TABLET | MOORE, CHRISTINE | | 90.00 | 24.07 | 24.81 |
| 1 | 6001377 | 09/23/2013 | CR | CR | MPD MEDCO MEDDPf | | | | LEVOTHYROXINE 50 MCG TABLET | MOORE, CHRISTINE | | 90.00 | 2.30 | 20.67 |
| 1 | 6008798 | 09/23/2013 | CR | CR | MPD MEDCO MEDDPf | | | | LISINAPRIL 20 MG TABLET | TOWNSEND, RAY | | 100.00 | 0.60 | 6.75 |
| 1 | 6008799 | 09/23/2013 | CR | CR | MPD MEDCO MEDDPf | | | | SAFETY SEAL 30G LANCETS | EDWARDS, NICOLE | | 1.00 | 0.84 | 13.33 |
| 1 | 6004950 | 09/23/2013 | CR | CR | MPD MEDCO MEDDPf | | | | LANCING DEVICE | EDWARDS, NICOLE | | 90.00 | 486.05 | 485.15 |
| 1 | 6002887 | 09/23/2013 | CR | CR | MPD MEDCO MEDDPf | | | | ZETA 10 MG TABLET | BARKIS, LESLIE | | 30.00 | 4.70 | 50.80 |
| 1 | 6002888 | 09/23/2013 | CR | CR | MPD MEDCO MEDDPf | | | | VENLAFAXINE HCL ER 37.5 MG C | RIDOLFO, ARDYCE | | 45.00 | 28.33 | 38.46 |
| 1 | 6002915 | 09/23/2013 | CR | CR | MPD MEDCO MEDDPf | | | | METOPROLOL SUCC ER 25 MG T | RIDOLFO, ARDYCE | | 180.00 | 7.40 | 36.08 |
| 1 | 6008785 | 09/23/2013 | CR | CR | MPD MEDCO MEDDPf | | | | METFORMIN HCL 1,000 MG TABL | TONER, JEFFREY | | 400.00 | 2.40 | 24.32 |
| 1 | 6008788 | 09/23/2013 | CR | CR | MPD MEDCO MEDDPf | | | | SAFETY SEAL 30G LANCETS | KAVECANSKY, JURAJ | | 400.00 | 59.92 | 379.66 |
| 1 | 6007094 | 09/23/2013 | CR | CR | MPD MEDCO MEDDPf | | | | CLEVER CHOICE PRO TEST STR | KAVECANSKY, JURAJ | | 180.00 | 5.96 | 23.66 |
| 1 | 6006554 | 09/23/2013 | CR | CR | MPD MEDCO MEDDPf | | | | GULPIZIDE 5 MG TABLET | WARDOLAS, GEORGE | | 30.00 | 8.19 | 16.41 |
| 1 | 6002892 | 09/23/2013 | CR | CR | MPD MEDCO MEDDPf | | | | SPIRONOLACTONE 50 MG TABL | WARDOLAS, GEORGE | | 90.00 | 27.05 | 20.05 |
| 1 | 6002894 | 09/23/2013 | CR | CR | MPD MEDCO MEDDPf | | | | LEVOTHYROXINE 88 MCG TABLET | MONROE, SUMMER | | 90.00 | 9.09 | 23.23 |
| 1 | 6008731 | 09/23/2013 | CR | CR | MPD MEDCO MEDDPf | | | | CLOPIDOGREL 75 MG TABLET | MONROE, SUMMER | | 1.00 | 0.84 | 13.73 |
| 1 | 6008733 | 09/23/2013 | CR | CR | MPD MEDCO MEDDPf | | | | LANCING DEVICE | RHEE, CHOO | | 400.00 | 54.00 | 611.12 |
| 1 | 6008734 | 09/23/2013 | CR | CR | MPD MEDCO MEDDPf | | | | FORA V12 GLUCOSE TEST STRIP | RHEE, CHOO | | 400.00 | 2.40 | 24.32 |
| 1 | 6008801 | 09/23/2013 | CR | CR | MPD MEDCO MEDDPf | | | | SAFETY SEAL 30G LANCETS | RHEE, CHOO | | 1.00 | 0.84 | 13.73 |
| 1 | 6008803 | 09/23/2013 | CR | CR | MPD MEDCO MEDDPf | | | | LANCING DEVICE | WEBER, PHILIP | | 300.00 | 40.50 | 458.72 |
| 1 | 6003581 | 09/23/2013 | CR | CR | MPD MEDCO MEDDPf | | | | FORA V12 GLUCOSE TEST STRIP | WEBER, PHILIP | | 1.00 | 1.90 | 4.94 |
| | | | | | | | | | FORA NORMAL CONTROL SOLU | MILLER, MICHAEL | | | | |

3835.1025 81198.96

Product / Inventory Report

| Store | RX | Date/Dispensed | Billing Method | Product/NC | Product | DRDEA | Quantity | AAC | Price |
|-------|---------|----------------|-------------------|-----------------------------|--------------------|-----------|----------|--------|--------|
| 1 | 6003585 | 09/23/2013 | MPD PRESCRIPTION | SAFETY SEAL 30G LANCETS | MILLER, MICHAEL | | 100.00 | 0.60 | 7.07 |
| 1 | 6003584 | 09/23/2013 | MPD PRESCRIPTION | FORA V12 GLUCOSE TEST STRIP | MILLER, MICHAEL | | 100.00 | 13.50 | 160.61 |
| 1 | 6008730 | 09/23/2013 | MPD PRESCRIPTION | FORA NORMAL CONTROL SOLU | RHEE, CHOD | | 1.00 | 1.90 | 5.17 |
| 1 | 6008773 | 09/23/2013 | MPD PRESCRIPTION | ACCUCHEK COMPACT BLUE CC | RAMIREZ, ROBERT | | 1.00 | 4.75 | 8.35 |
| 1 | 6008774 | 09/23/2013 | MPD PRESCRIPTION | ACCUCHEK COMPACT DRUM S | RAMIREZ, ROBERT | | 300.00 | 293.94 | 349.37 |
| 1 | 6000770 | 09/23/2013 | MPD PRESCRIPTION | SAFETY SEAL 30G LANCETS | TORRES, DIEGO | | 200.00 | 1.20 | 12.91 |
| 1 | 6000772 | 09/23/2013 | MPD PRESCRIPTION | TORRES, DIEGO | TORRES, DIEGO | | 1.00 | 4.75 | 6.99 |
| 1 | 6000773 | 09/23/2013 | MPD PRESCRIPTION | FREESTYLE LITE TEST STRIP | TORRES, DIEGO | | 200.00 | 196.00 | 232.28 |
| 1 | 6008800 | 09/23/2013 | MPD PRESCRIPTION | FORA NORMAL CONTROL SOLU | WEBER, PHILIP | | 1.00 | 1.90 | 5.17 |
| 1 | 6002910 | 09/23/2013 | MPD PRESCRIPTION | LEVOTHYROXINE 75 MCG TABLET | RODRIGUEZ, OSVALDO | BR3504380 | 90.00 | 26.60 | 21.01 |
| 1 | 6008780 | 09/23/2013 | MPD PRESCRIPTION | FORA NORMAL CONTROL SOLU | STASIAK, JONI | | 1.00 | 1.90 | 5.17 |
| 1 | 6008781 | 09/23/2013 | MPD PRESCRIPTION | LANCING DEVICE | STASIAK, JONI | | 1.00 | 0.84 | 13.73 |
| 1 | 6008783 | 09/23/2013 | MPD PRESCRIPTION | FORA V12 GLUCOSE TEST STRIP | STASIAK, JONI | | 200.00 | 27.00 | 306.31 |
| 1 | 6008770 | 09/23/2013 | MPD PRESCRIPTION | SAFETY SEAL 30G LANCETS | RAMIREZ, ROBERT | | 300.00 | 1.80 | 18.62 |
| 1 | 6008771 | 09/23/2013 | MPD PRESCRIPTION | LANCING DEVICE | RAMIREZ, ROBERT | | 1.00 | 0.84 | 13.73 |
| 1 | 6008804 | 09/23/2013 | Cash/Credit/Other | SAFETY SEAL 30G LANCETS | WEBER, PHILIP | | 300.00 | 1.80 | 0.00 |
| 1 | 6008786 | 09/23/2013 | Cash/Credit/Other | LANCING DEVICE | KAVECANSKY, JURAJ | | 1.00 | 0.84 | 0.00 |
| 1 | 6008789 | 09/23/2013 | Cash/Credit/Other | CLEVER CHOICE PRO GLUCOSE | KAVECANSKY, JURAJ | | 1.00 | 3.00 | 0.00 |
| 1 | 6008756 | 09/23/2013 | Cash/Credit/Other | LANCING DEVICE | ROBINE, ROBERT | | 1.00 | 0.84 | 0.00 |
| 1 | 6008757 | 09/23/2013 | Cash/Credit/Other | FORA V12 BLOOD GLUCOSE SYX | ROBINE, ROBERT | | 1.00 | 1.00 | 0.00 |
| 1 | 6008759 | 09/23/2013 | Cash/Credit/Other | SAFETY SEAL 30G LANCETS | ROBINE, ROBERT | | 100.00 | 0.60 | 0.00 |
| 1 | 6008796 | 09/23/2013 | Cash/Credit/Other | GLUCOCARD EXPRESSION METI | EDWARDS, NICOLE | | 1.00 | 3.00 | 0.00 |
| 1 | 6008777 | 09/23/2013 | Cash/Credit/Other | FORA V12 BLOOD GLUCOSE SYX | MESTAS, FELIX | | 1.00 | 1.00 | 0.00 |
| 1 | 6008807 | 09/23/2013 | Cash/Credit/Other | FORA V12 BLOOD GLUCOSE SYX | STUCKEY, MELTON | | 1.00 | 1.00 | 0.00 |
| 1 | 6003190 | 09/23/2013 | Cash/Credit/Other | SAFETY SEAL 30G LANCETS | SAADDINE, YSSA | | 200.00 | 1.20 | 0.00 |

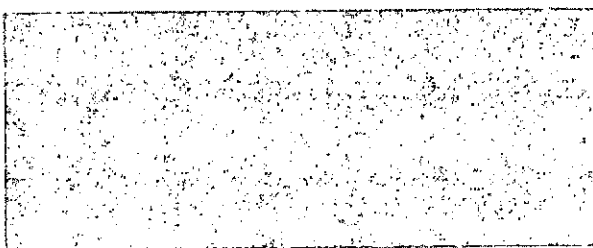
4426.9065 82365.45

Product Activity Report

30

| Store | RX | Date Dispensed | Billing Method | Product | Product DC | Product | Doctor Name | Dr/DEA | Quantity | AAC | Price |
|-------|---------|----------------|-------------------|----------------------------|------------|----------------------------|-------------------------|--------|----------|-------|-------|
| 1 | 6008732 | 09/23/2013 | Cash/Credit/Other | FORA V12 BLOOD GLUCOSE SYR | | FORA V12 BLOOD GLUCOSE SYR | RHEE, CHOO | | 1.00 | 1.00 | 0.00 |
| 1 | 6008772 | 09/23/2013 | Cash/Credit/Other | ACCU-CHEK COMPACT PLUS KIT | | ACCU-CHEK COMPACT PLUS KIT | RAMIREZ, ROBERT | | 1.00 | 60.30 | 0.00 |
| 1 | 6006532 | 09/23/2013 | Cash/Credit/Other | FORA V12 BLOOD GLUCOSE SYR | | FORA V12 BLOOD GLUCOSE SYR | YOUSEFIAN, MEHRDAD | | 1.00 | 1.00 | 0.00 |
| 1 | 6008802 | 09/23/2013 | Cash/Credit/Other | FORA V12 BLOOD GLUCOSE SYR | | FORA V12 BLOOD GLUCOSE SYR | WEBER, PHILIP | | 1.00 | 1.00 | 0.00 |
| 1 | 6008736 | 09/23/2013 | Cash/Credit/Other | LANCING DEVICE | | LANCING DEVICE | RICHARDS, GLORIA | | 1.00 | 0.84 | 0.00 |
| 1 | 6008737 | 09/23/2013 | Cash/Credit/Other | FORA V12 BLOOD GLUCOSE SYR | | FORA V12 BLOOD GLUCOSE SYR | RICHARDS, GLORIA | | 1.00 | 1.00 | 0.00 |
| 1 | 6008767 | 09/23/2013 | Cash/Credit/Other | FORA V12 BLOOD GLUCOSE SYR | | FORA V12 BLOOD GLUCOSE SYR | SNYDER, HOWARD | | 1.00 | 1.00 | 0.00 |
| 1 | 6008762 | 09/23/2013 | Cash/Credit/Other | ACCU-CHEK NANO SMARTVIEW | | ACCU-CHEK NANO SMARTVIEW | MOORE, MARTHA | | 1.00 | 16.03 | 0.00 |
| 1 | 6008744 | 09/23/2013 | Cash/Credit/Other | TRUETRACK SMART SYSTEM | | TRUETRACK SMART SYSTEM | PEREZ PUELLES, GENIBERT | | 1.00 | 12.00 | 0.00 |
| 1 | 6008782 | 09/23/2013 | Cash/Credit/Other | FORA V12 BLOOD GLUCOSE SYR | | FORA V12 BLOOD GLUCOSE SYR | STASIAK, JONI | | 1.00 | 1.00 | 0.00 |
| 1 | 6008784 | 09/23/2013 | Cash/Credit/Other | SAFETY SEAL 30G LANCETS | | SAFETY SEAL 30G LANCETS | STASIAK, JONI | | 200.00 | 1.20 | 0.00 |
| 1 | 6008751 | 09/23/2013 | Cash/Credit/Other | LANCING DEVICE | | LANCING DEVICE | BABALOLA, CECILIA | | 1.00 | 0.84 | 0.00 |
| 1 | 6008752 | 09/23/2013 | Cash/Credit/Other | FORA V12 BLOOD GLUCOSE SYR | | FORA V12 BLOOD GLUCOSE SYR | BABALOLA, CECILIA | | 1.00 | 1.00 | 0.00 |

HIPAA



4525.1165 82365.45

Product, Activity Report

| Store | RX | DateDispensed | Tech | Rph | BillingMethod | Location | ProductINDC | PtName | Product | DoctorName | DPDEA | Quantity | AAC | Price |
|-------|---------|---------------|------|-----|-------------------|-------------------|-------------|--------------|-----------------------------|-----------------------|-------|----------|-------|--------|
| 1 | 6002659 | 09/24/2013 | SYS | CR | HEALTH PARTNERS | HEALTH PARTNERS | | HIPAA | SAFETY SEAL 30G LANCETS | FERRARIO, LINDA | | 100.00 | 0.60 | 6.99 |
| 1 | 6002662 | 09/24/2013 | SYS | CR | HEALTH PARTNERS | HEALTH PARTNERS | | HIPAA | ACCUCHEK SMARTVIEW CONTI | FERRARIO, LINDA | | 1.00 | 6.50 | 5.39 |
| 1 | 6002663 | 09/24/2013 | SYS | CR | HEALTH PARTNERS | HEALTH PARTNERS | | HIPAA | ACCUCHEK SMARTVIEW STRIP | FERRARIO, LINDA | | 50.00 | 45.95 | 60.56 |
| 1 | 6009166 | 09/24/2013 | SYS | CR | PAID PRESCRIPTION | PAID PRESCRIPTION | | HIPAA | FORA V12 GLUCOSE TEST STRIP | WALSH, LYLE | | 100.00 | 13.50 | 146.86 |
| 1 | 6009167 | 09/24/2013 | SYS | CR | PAID PRESCRIPTION | PAID PRESCRIPTION | | HIPAA | SAFETY SEAL 30G LANCETS | WALSH, LYLE | | 100.00 | 0.60 | 7.12 |
| 1 | 6008853 | 09/24/2013 | SYS | CR | PAID PRESCRIPTION | PAID PRESCRIPTION | | HIPAA | FORA NORMAL CONTROL SOLU | MUNDLURU, ANURADHA | | 1.00 | 1.90 | 3.33 |
| 1 | 6008854 | 09/24/2013 | SYS | CR | PAID PRESCRIPTION | PAID PRESCRIPTION | | HIPAA | LANCING DEVICE | MUNDLURU, ANURADHA | | 1.00 | 0.84 | 11.10 |
| 1 | 6008856 | 09/24/2013 | SYS | CR | PAID PRESCRIPTION | PAID PRESCRIPTION | | HIPAA | FORA V12 GLUCOSE TEST STRIP | MUNDLURU, ANURADHA | | 100.00 | 13.50 | 138.38 |
| 1 | 6008857 | 09/24/2013 | SYS | CR | PAID PRESCRIPTION | PAID PRESCRIPTION | | HIPAA | SAFETY SEAL 30G LANCETS | MUNDLURU, ANURADHA | | 100.00 | 0.60 | 5.18 |
| 1 | 6009091 | 09/24/2013 | SYS | CR | PAID PRESCRIPTION | PAID PRESCRIPTION | | HIPAA | FORA V12 GLUCOSE TEST STRIP | REHEEM FARAG, KHALED | | 100.00 | 13.50 | 146.86 |
| 1 | 6009092 | 09/24/2013 | SYS | CR | PAID PRESCRIPTION | PAID PRESCRIPTION | | HIPAA | SAFETY SEAL 30G LANCETS | REHEEM FARAG, KHALED | | 100.00 | 0.60 | 7.04 |
| 1 | 6008888 | 09/24/2013 | SYS | CR | PAID PRESCRIPTION | PAID PRESCRIPTION | | HIPAA | FORA NORMAL CONTROL SOLU | REHEEM FARAG, KHALED | | 1.00 | 1.90 | 4.89 |
| 1 | 6008889 | 09/24/2013 | SYS | CR | PAID PRESCRIPTION | PAID PRESCRIPTION | | HIPAA | SALAZAR, JOSE ALBERTO | SALAZAR, JOSE ALBERTO | | 1.00 | 0.84 | 13.95 |
| 1 | 6008891 | 09/24/2013 | SYS | CR | PAID PRESCRIPTION | PAID PRESCRIPTION | | HIPAA | LANCING DEVICE | SALAZAR, JOSE ALBERTO | | 50.00 | 6.75 | 73.93 |
| 1 | 6008892 | 09/24/2013 | SYS | CR | PAID PRESCRIPTION | PAID PRESCRIPTION | | HIPAA | FORA V12 GLUCOSE TEST STRIP | SALAZAR, JOSE ALBERTO | | 100.00 | 0.60 | 7.04 |
| 1 | 6008866 | 09/24/2013 | SYS | CR | PAID PRESCRIPTION | PAID PRESCRIPTION | | HIPAA | FORA V12 GLUCOSE TEST STRIP | SHAPIRO, DAVID | | 300.00 | 40.50 | 438.56 |
| 1 | 6008867 | 09/24/2013 | SYS | CR | PAID PRESCRIPTION | PAID PRESCRIPTION | | HIPAA | SAFETY SEAL 30G LANCETS | SHAPIRO, DAVID | | 300.00 | 1.80 | 20.00 |
| 1 | 6001741 | 09/24/2013 | SYS | CR | PAID PRESCRIPTION | PAID PRESCRIPTION | | HIPAA | SAFETY SEAL 30G LANCETS | LOEWY, ANDREW | | 100.00 | 0.60 | 7.04 |
| 1 | 6001744 | 09/24/2013 | SYS | CR | PAID PRESCRIPTION | PAID PRESCRIPTION | | HIPAA | ACCUCHEK SMARTVIEW CONTI | LOEWY, ANDREW | | 1.00 | 6.50 | 5.40 |
| 1 | 6009088 | 09/24/2013 | SYS | CR | PAID PRESCRIPTION | PAID PRESCRIPTION | | HIPAA | FORA NORMAL CONTROL SOLU | LOEWY, ANDREW | | 1.00 | 1.90 | 4.89 |
| 1 | 6009089 | 09/24/2013 | SYS | CR | PAID PRESCRIPTION | PAID PRESCRIPTION | | HIPAA | LANCING DEVICE | REHEEM FARAG, KHALED | | 1.00 | 0.84 | 13.95 |
| 1 | 6008852 | 09/24/2013 | SYS | CR | PAID PRESCRIPTION | PAID PRESCRIPTION | | HIPAA | SAFETY SEAL 30G LANCETS | REHEEM FARAG, KHALED | | 200.00 | 1.20 | 25.67 |
| 1 | 6009128 | 09/24/2013 | SYS | CR | PAID PRESCRIPTION | PAID PRESCRIPTION | | HIPAA | FORA NORMAL CONTROL SOLU | SIEGEL, GLENN | | 1.00 | 1.90 | 5.15 |
| 1 | 6009131 | 09/24/2013 | SYS | CR | PAID PRESCRIPTION | PAID PRESCRIPTION | | HIPAA | FORA V12 GLUCOSE TEST STRIP | MCGILL, CHARLES | | 50.00 | 6.75 | 73.93 |
| 1 | 6009132 | 09/24/2013 | SYS | CR | PAID PRESCRIPTION | PAID PRESCRIPTION | | HIPAA | SAFETY SEAL 30G LANCETS | MCGILL, CHARLES | | 100.00 | 0.60 | 7.28 |

170.77 1240.51

Product Activity Report

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| Store | RX | Date/Dispensed | BillingMethod | Product/NC | Product | Doctor/Name | DR/DEA | Quantity | AAC | Price |
|-------|---------|----------------|--------------------|------------|-----------------------------|----------------------|--------|----------|-------|--------|
| 1 | 6008863 | 09/24/2013 | PAID PRESCRIPTION: | Product/NC | FORA NORMAL CONTROL SOLU | SHAPIRO, DAVID | | 1.00 | 1.90 | 10.46 |
| 1 | 6008864 | 09/24/2013 | PAID PRESCRIPTION: | Product/NC | LANCING DEVICE | SHAPIRO, DAVID | | 1.00 | 0.84 | 20.00 |
| 1 | 6009184 | 09/24/2013 | PAID PRESCRIPTION: | Product/NC | LANCING DEVICE | JENSON, REBECCA | | 1.00 | 0.84 | 14.64 |
| 1 | 6009186 | 09/24/2013 | PAID PRESCRIPTION: | Product/NC | FORA V12 GLUCOSE TEST STRIP | JENSON, REBECCA | | 400.00 | 54.00 | 585.44 |
| 1 | 6009187 | 09/24/2013 | PAID PRESCRIPTION: | Product/NC | SAFETY SEAL 30G LANCETS | JENSON, REBECCA | | 400.00 | 2.40 | 25.59 |
| 1 | 6009111 | 09/24/2013 | PAID PRESCRIPTION: | Product/NC | FORA V12 GLUCOSE TEST STRIP | JENSON, REBECCA | | 100.00 | 13.50 | 146.86 |
| 1 | 6009112 | 09/24/2013 | PAID PRESCRIPTION: | Product/NC | FORA V12 GLUCOSE TEST STRIP | BUZA, RICHARD | | 100.00 | 0.60 | 7.04 |
| 1 | 6008851 | 09/24/2013 | PAID PRESCRIPTION: | Product/NC | SAFETY SEAL 30G LANCETS | BUZA, RICHARD | | 200.00 | 27.00 | 322.64 |
| 1 | 6008982 | 09/24/2013 | PAID PRESCRIPTION: | Product/NC | FORA V12 GLUCOSE TEST STRIP | SEIGEL, GLENN | | 100.00 | 0.60 | 7.04 |
| 1 | 6008963 | 09/24/2013 | PAID PRESCRIPTION: | Product/NC | FORA NORMAL CONTROL SOLU | LIPSKY, JEFFREY | | 1.00 | 1.90 | 4.89 |
| 1 | 6008964 | 09/24/2013 | PAID PRESCRIPTION: | Product/NC | LANCING DEVICE | ELLIS, VERNON | | 1.00 | 0.84 | 13.95 |
| 1 | 6008966 | 09/24/2013 | PAID PRESCRIPTION: | Product/NC | FORA V12 GLUCOSE TEST STRIP | ELLIS, VERNON | | 50.00 | 6.75 | 73.93 |
| 1 | 6008967 | 09/24/2013 | PAID PRESCRIPTION: | Product/NC | SAFETY SEAL 30G LANCETS | ELLIS, VERNON | | 100.00 | 0.60 | 7.04 |
| 1 | 6009183 | 09/24/2013 | PAID PRESCRIPTION: | Product/NC | FORA NORMAL CONTROL SOLU | JENSON, REBECCA | | 1.00 | 1.90 | 5.79 |
| 1 | 6009014 | 09/24/2013 | PAID PRESCRIPTION: | Product/NC | LANCING DEVICE | JENSON, REBECCA | | 1.00 | 0.84 | 13.95 |
| 1 | 6009016 | 09/24/2013 | PAID PRESCRIPTION: | Product/NC | FORA V12 GLUCOSE TEST STRIP | STALLWORTH, ACQUAWON | | 100.00 | 13.50 | 146.86 |
| 1 | 6009017 | 09/24/2013 | PAID PRESCRIPTION: | Product/NC | FORA V12 GLUCOSE TEST STRIP | STALLWORTH, ACQUAWON | | 100.00 | 0.60 | 7.04 |
| 1 | 6008978 | 09/24/2013 | PAID PRESCRIPTION: | Product/NC | SAFETY SEAL 30G LANCETS | STALLWORTH, ACQUAWON | | 1.00 | 1.90 | 4.89 |
| 1 | 6008979 | 09/24/2013 | PAID PRESCRIPTION: | Product/NC | FORA NORMAL CONTROL SOLU | LIPSKY, JEFFREY | | 1.00 | 0.84 | 13.95 |
| 1 | 6008981 | 09/24/2013 | PAID PRESCRIPTION: | Product/NC | LANCING DEVICE | LIPSKY, JEFFREY | | 50.00 | 6.75 | 73.93 |
| 1 | 6009107 | 09/24/2013 | PAID PRESCRIPTION: | Product/NC | FORA V12 GLUCOSE TEST STRIP | LIPSKY, JEFFREY | | 100.00 | 0.60 | 7.04 |
| 1 | 6008828 | 09/24/2013 | PAID PRESCRIPTION: | Product/NC | SAFETY SEAL 30G LANCETS | JACKSON, ALLEN | | 1.00 | 1.90 | 4.89 |
| 1 | 6008829 | 09/24/2013 | PAID PRESCRIPTION: | Product/NC | FORA NORMAL CONTROL SOLU | JACKSON, ALLEN | | 1.00 | 0.84 | 13.95 |
| 1 | 6008831 | 09/24/2013 | PAID PRESCRIPTION: | Product/NC | LANCING DEVICE | MOID, ALVIA | | 100.00 | 13.50 | 146.86 |
| 1 | 6008832 | 09/24/2013 | PAID PRESCRIPTION: | Product/NC | FORA V12 GLUCOSE TEST STRIP | MOID, ALVIA | | 100.00 | 0.60 | 7.04 |

HIPAA

326.31 2926.22

Productivity Report

PHIPA

| Store | RX | Date/Dispensed | BillingMethod | Product/NC | Product | DoctorName | ORDEA | Quantity | AAC | Price |
|-------|---------|----------------|--------------------|------------|-----------------------------|------------|-------|----------|-------|--------|
| 1 | 6009013 | 09/24/2013 | PAID PRESCRIPTION: | | FORA NORMAL CONTROL SOLU | | | 1.00 | 1.90 | 4.97 |
| 1 | 6009162 | 09/24/2013 | PAID PRESCRIPTION: | | STALLWORTH ACQUAWON | | | 200.00 | 1.20 | 25.67 |
| 1 | 6009123 | 09/24/2013 | PAID PRESCRIPTION: | | HUGHES, FRANCES | | | 1.00 | 1.90 | 10.46 |
| 1 | 6009124 | 09/24/2013 | PAID PRESCRIPTION: | | FORA NORMAL CONTROL SOLU | | | 1.00 | 0.84 | 27.19 |
| 1 | 6009126 | 09/24/2013 | PAID PRESCRIPTION: | | LANCING DEVICE | | | 50.00 | 6.75 | 73.93 |
| 1 | 6009127 | 09/24/2013 | PAID PRESCRIPTION: | | FORA V12 GLUCOSE TEST STRIP | | | 100.00 | 0.60 | 15.09 |
| 1 | 6009106 | 09/24/2013 | PAID PRESCRIPTION: | | SHIBATA, KENNETH | | | 100.00 | 13.50 | 146.86 |
| 1 | 6009119 | 09/24/2013 | PAID PRESCRIPTION: | | SHIBATA, KENNETH | | | 1.00 | 0.84 | 13.95 |
| 1 | 6009121 | 09/24/2013 | PAID PRESCRIPTION: | | LANCING DEVICE | | | 50.00 | 6.75 | 73.93 |
| 1 | 6009122 | 09/24/2013 | PAID PRESCRIPTION: | | FORA V12 GLUCOSE TEST STRIP | | | 100.00 | 0.60 | 7.09 |
| 1 | 6009158 | 09/24/2013 | PAID PRESCRIPTION: | | ARTHUR, ROBERT | | | 1.00 | 1.90 | 10.46 |
| 1 | 6009159 | 09/24/2013 | PAID PRESCRIPTION: | | FORA NORMAL CONTROL SOLU | | | 1.00 | 0.84 | 27.00 |
| 1 | 6009161 | 09/24/2013 | PAID PRESCRIPTION: | | HUGHES, FRANCES | | | 200.00 | 27.00 | 295.09 |
| 1 | 6009137 | 09/24/2013 | PAID PRESCRIPTION: | | HUGHES, FRANCES | | | 100.00 | 0.60 | 7.28 |
| 1 | 6009113 | 09/24/2013 | PAID PRESCRIPTION: | | SOOD, PRERNA | | | 1.00 | 1.90 | 4.89 |
| 1 | 6009114 | 09/24/2013 | PAID PRESCRIPTION: | | FORA NORMAL CONTROL SOLU | | | 1.00 | 0.84 | 13.95 |
| 1 | 6009116 | 09/24/2013 | PAID PRESCRIPTION: | | LANCING DEVICE | | | 50.00 | 6.75 | 73.93 |
| 1 | 6009117 | 09/24/2013 | PAID PRESCRIPTION: | | GIULIANI, NICHOLAS | | | 100.00 | 0.60 | 7.04 |
| 1 | 6009118 | 09/24/2013 | PAID PRESCRIPTION: | | GIULIANI, NICHOLAS | | | 1.00 | 1.90 | 4.97 |
| 1 | 6008952 | 09/24/2013 | PAID PRESCRIPTION: | | FORA NORMAL CONTROL SOLU | | | 100.00 | 0.60 | 7.04 |
| 1 | 6009171 | 09/24/2013 | PAID PRESCRIPTION: | | ARTHUR, ROBERT | | | 50.00 | 6.75 | 73.93 |
| 1 | 6009172 | 09/24/2013 | PAID PRESCRIPTION: | | SAFETY SEAL 30G LANCETS | | | 100.00 | 0.60 | 7.04 |
| 1 | 6009133 | 09/24/2013 | PAID PRESCRIPTION: | | HARMATZ, LEE | | | 1.00 | 1.90 | 5.14 |
| 1 | 6009134 | 09/24/2013 | PAID PRESCRIPTION: | | FORA NORMAL CONTROL SOLU | | | 1.00 | 0.84 | 13.95 |
| 1 | 6009136 | 09/24/2013 | PAID PRESCRIPTION: | | LANCING DEVICE | | | 100.00 | 13.50 | 146.86 |

427.71 4023.93

Product Activity Report

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| Store | RX | DateDispensed | BillingMethod | ProductNDC | Product | DoctorName | D/DEA | Quantity | AAC | Price |
|-------|---------|---------------|--------------------|------------|-----------------------------|----------------------|-------|----------|--------|----------|
| 1 | 6009027 | 09/24/2013 | PAID PRESCRIPTION: | 6009027 | SAFETY SEAL 30G LANCETS | MOORE, MERCY ROSSANA | | 500.00 | 3.00 | 25.90 |
| 1 | 6004306 | 09/24/2013 | PAID PRESCRIPTION: | 6004306 | FTCCB 20/5/24/3% CREAM | HINES, JENNIFER | | 240.00 | 180.00 | 6,849.80 |
| 1 | 6008923 | 09/24/2013 | PAID PRESCRIPTION: | 6008923 | FORA NORMAL CONTROL SOLU | THOMAS, JOHN | | 1.00 | 1.90 | 4.89 |
| 1 | 6008926 | 09/24/2013 | PAID PRESCRIPTION: | 6008926 | FORA V12 GLUCOSE TEST STRIP | THOMAS, JOHN | | 100.00 | 13.50 | 146.86 |
| 1 | 6008927 | 09/24/2013 | PAID PRESCRIPTION: | 6008927 | SAFETY SEAL 30G LANCETS | THOMAS, JOHN | | 100.00 | 0.60 | 7.04 |
| 1 | 6008951 | 09/24/2013 | PAID PRESCRIPTION: | 6008951 | FORA V12 GLUCOSE TEST STRIP | HARMATZ, LEE | | 50.00 | 6.75 | 73.93 |
| 1 | 6008813 | 09/24/2013 | PAID PRESCRIPTION: | 6008813 | FORA NORMAL CONTROL SOLU | LANDRY, KEITH | | 1.00 | 1.90 | 4.97 |
| 1 | 6008814 | 09/24/2013 | PAID PRESCRIPTION: | 6008814 | LANCING DEVICE | LANDRY, KEITH | | 1.00 | 0.84 | 13.95 |
| 1 | 6008816 | 09/24/2013 | PAID PRESCRIPTION: | 6008816 | FORA V12 GLUCOSE TEST STRIP | LANDRY, KEITH | | 100.00 | 13.50 | 146.86 |
| 1 | 6008817 | 09/24/2013 | PAID PRESCRIPTION: | 6008817 | SAFETY SEAL 30G LANCETS | LANDRY, KEITH | | 100.00 | 0.60 | 7.09 |
| 1 | 6009023 | 09/24/2013 | PAID PRESCRIPTION: | 6009023 | FORA NORMAL CONTROL SOLU | MOORE, MERCY ROSSANA | | 1.00 | 1.90 | 3.33 |
| 1 | 6009026 | 09/24/2013 | PAID PRESCRIPTION: | 6009026 | FORA V12 GLUCOSE TEST STRIP | MOORE, MERCY ROSSANA | | 450.00 | 60.75 | 622.74 |
| 1 | 6008983 | 09/24/2013 | PAID PRESCRIPTION: | 6008983 | FORA NORMAL CONTROL SOLU | BEHARI, VISHNU | | 1.00 | 1.90 | 4.97 |
| 1 | 6008984 | 09/24/2013 | PAID PRESCRIPTION: | 6008984 | LANCING DEVICE | BEHARI, VISHNU | | 1.00 | 0.84 | 13.95 |
| 1 | 6008986 | 09/24/2013 | PAID PRESCRIPTION: | 6008986 | FORA V12 GLUCOSE TEST STRIP | BEHARI, VISHNU | | 100.00 | 13.50 | 146.86 |
| 1 | 6008987 | 09/24/2013 | PAID PRESCRIPTION: | 6008987 | SAFETY SEAL 30G LANCETS | BEHARI, VISHNU | | 100.00 | 0.60 | 7.09 |
| 1 | 6008861 | 09/24/2013 | PAID PRESCRIPTION: | 6008861 | FORA V12 GLUCOSE TEST STRIP | LEDBETTER, THOMAS | | 100.00 | 13.50 | 55.99 |
| 1 | 6008862 | 09/24/2013 | PAID PRESCRIPTION: | 6008862 | SAFETY SEAL 30G LANCETS | LEDBETTER, THOMAS | | 100.00 | 0.60 | 7.04 |
| 1 | 6008839 | 09/24/2013 | PAID PRESCRIPTION: | 6008839 | LANCING DEVICE | POUND, LORA | | 1.00 | 0.84 | 13.95 |
| 1 | 6008841 | 09/24/2013 | PAID PRESCRIPTION: | 6008841 | FORA V12 GLUCOSE TEST STRIP | POUND, LORA | | 100.00 | 13.50 | 146.86 |
| 1 | 6008842 | 09/24/2013 | PAID PRESCRIPTION: | 6008842 | SAFETY SEAL 30G LANCETS | POUND, LORA | | 100.00 | 0.60 | 7.04 |
| 1 | 6008906 | 09/24/2013 | PAID PRESCRIPTION: | 6008906 | FORA V12 GLUCOSE TEST STRIP | FERRIO, LINDA | | 50.00 | 6.75 | 81.41 |
| 1 | 6008907 | 09/24/2013 | PAID PRESCRIPTION: | 6008907 | SAFETY SEAL 30G LANCETS | FERRIO, LINDA | | 100.00 | 0.60 | 7.02 |
| 1 | 6004310 | 09/24/2013 | PAID PRESCRIPTION: | 6004310 | FTCCB 20/5/24/3% CREAM | BOBLICK, WILLIAM | | 240.00 | 180.00 | 6,849.80 |
| 1 | 6009062 | 09/24/2013 | PAID PRESCRIPTION: | 6009062 | SAFETY SEAL 30G LANCETS | KASE, JEFFREY | | 100.00 | 0.60 | 7.04 |

946.78 19280.28

Productivity Report

35

| Store | RX | Dated/Dispensed | Tech | Rph | Billing/Method | Location | PtName | Product/NC | Product | Doctor/Name | D/DEA | Quantity | AAC | Price |
|-------|---------|-----------------|------|-----|-------------------|-------------------|--------------|------------|-----------------------------|-------------------|-------|----------|-------|--------|
| 1 | 6008833 | 09/24/2013 | SYS | CR | PAID PRESCRIPTION | PAID PRESCRIPTION | HIPAA | | FORA NORMAL CONTROL SOLU | BERNIER, ARACELIA | | 1.00 | 1.90 | 10.467 |
| 1 | 6008834 | 09/24/2013 | SYS | CR | PAID PRESCRIPTION | PAID PRESCRIPTION | | | LANCING DEVICE | BERNIER, ARACELIA | | 1.00 | 0.84 | 27.19 |
| 1 | 6008836 | 09/24/2013 | SYS | CR | PAID PRESCRIPTION | PAID PRESCRIPTION | | | FORA V12 GLUCOSE TEST STRIP | BERNIER, ARACELIA | | 100.00 | 13.50 | 150.14 |
| 1 | 6008837 | 09/24/2013 | SYS | CR | PAID PRESCRIPTION | PAID PRESCRIPTION | | | SAFETY SEAL 30G LANCETS | BERNIER, ARACELIA | | 100.00 | 0.60 | 15.09 |
| 1 | 6008838 | 09/24/2013 | SYS | CR | PAID PRESCRIPTION | PAID PRESCRIPTION | | | FORA NORMAL CONTROL SOLU | POUND, LORA | | 1.00 | 1.90 | 4.97 |
| 1 | 6009094 | 09/24/2013 | SYS | CR | PAID PRESCRIPTION | PAID PRESCRIPTION | | | LANCING DEVICE | BROWN, STACEY | | 1.00 | 0.84 | 27.19 |
| 1 | 6009096 | 09/24/2013 | SYS | CR | PAID PRESCRIPTION | PAID PRESCRIPTION | | | FORA V12 GLUCOSE TEST STRIP | BROWN, STACEY | | 100.00 | 13.50 | 146.86 |
| 1 | 6009097 | 09/24/2013 | SYS | CR | PAID PRESCRIPTION | PAID PRESCRIPTION | | | SAFETY SEAL 30G LANCETS | BROWN, STACEY | | 100.00 | 0.60 | 15.09 |
| 1 | 6009058 | 09/24/2013 | SYS | CR | PAID PRESCRIPTION | PAID PRESCRIPTION | | | FORA NORMAL CONTROL SOLU | KASE, JEFFREY | | 1.00 | 1.90 | 4.89 |
| 1 | 6009059 | 09/24/2013 | SYS | CR | PAID PRESCRIPTION | PAID PRESCRIPTION | | | LANCING DEVICE | KASE, JEFFREY | | 1.00 | 0.84 | 13.95 |
| 1 | 6009061 | 09/24/2013 | SYS | CR | PAID PRESCRIPTION | PAID PRESCRIPTION | | | FORA V12 GLUCOSE TEST STRIP | KASE, JEFFREY | | 100.00 | 13.50 | 146.86 |
| 1 | 6008882 | 09/24/2013 | SYS | CR | PAID PRESCRIPTION | PAID PRESCRIPTION | | | ACCU-CHEK AVIVA PLUS TEST S | JENSEN, RAYMOND | | 100.00 | 95.90 | 123.09 |
| 1 | 6008873 | 09/24/2013 | SYS | CR | PAID PRESCRIPTION | PAID PRESCRIPTION | | | FORA NORMAL CONTROL SOLU | SUMMERS, ASHLEY | | 1.00 | 1.90 | 4.89 |
| 1 | 6008874 | 09/24/2013 | SYS | CR | PAID PRESCRIPTION | PAID PRESCRIPTION | | | LANCING DEVICE | SUMMERS, ASHLEY | | 1.00 | 0.84 | 13.95 |
| 1 | 6008876 | 09/24/2013 | SYS | CR | PAID PRESCRIPTION | PAID PRESCRIPTION | | | FORA V12 GLUCOSE TEST STRIP | SUMMERS, ASHLEY | | 50.00 | 6.75 | 73.93 |
| 1 | 6008877 | 09/24/2013 | SYS | CR | PAID PRESCRIPTION | PAID PRESCRIPTION | | | SAFETY SEAL 30G LANCETS | SUMMERS, ASHLEY | | 100.00 | 0.60 | 7.04 |
| 1 | 6009093 | 09/24/2013 | SYS | CR | PAID PRESCRIPTION | PAID PRESCRIPTION | | | FORA NORMAL CONTROL SOLU | BROWN, STACEY | | 1.00 | 1.90 | 10.46 |
| 1 | 6009019 | 09/24/2013 | SYS | CR | PAID PRESCRIPTION | PAID PRESCRIPTION | | | LANCING DEVICE | BABBITT, NANCY | | 1.00 | 0.84 | 13.95 |
| 1 | 6009021 | 09/24/2013 | SYS | CR | PAID PRESCRIPTION | PAID PRESCRIPTION | | | FORA V12 GLUCOSE TEST STRIP | BABBITT, NANCY | | 100.00 | 13.50 | 146.86 |
| 1 | 6009022 | 09/24/2013 | SYS | CR | PAID PRESCRIPTION | PAID PRESCRIPTION | | | SAFETY SEAL 30G LANCETS | BABBITT, NANCY | | 100.00 | 0.60 | 7.09 |
| 1 | 6008878 | 09/24/2013 | SYS | CR | PAID PRESCRIPTION | PAID PRESCRIPTION | | | SAFETY SEAL 30G LANCETS | JENSEN, RAYMOND | | 100.00 | 0.60 | 7.04 |
| 1 | 6008879 | 09/24/2013 | SYS | CR | PAID PRESCRIPTION | PAID PRESCRIPTION | | | LANCING DEVICE | JENSEN, RAYMOND | | 1.00 | 0.84 | 13.95 |
| 1 | 6008881 | 09/24/2013 | SYS | CR | PAID PRESCRIPTION | PAID PRESCRIPTION | | | ACCU-CHEK AVIVA SOLUTION | JENSEN, RAYMOND | | 1.00 | 4.75 | 8.25 |
| 1 | 6008992 | 09/24/2013 | SYS | CR | PAID PRESCRIPTION | PAID PRESCRIPTION | | | SAFETY SEAL 30G LANCETS | CHILD, DONALD | | 100.00 | 0.60 | 7.04 |
| 1 | 6008959 | 09/24/2013 | SYS | CR | PAID PRESCRIPTION | PAID PRESCRIPTION | | | LANCING DEVICE | CORBIN, WENDY | | 1.00 | 0.84 | 0.00 |

1127.16 20280.51

Productivity Report

| Store | RX | Dated/Dispensed | Billing Method | Product/DC | Product | Dr/DEA | Quantity | AAC | Price |
|-------|---------|-----------------|--------------------|--------------|-----------------------------|--------|----------|-------|--------|
| | | Tech Rph | Location | PName | Doctor/Name | | | | |
| 1 | 6008962 | 09/24/2013 | PAID PRESCRIPTION: | HIPAA | SAFETY SEAL 30G LANCETS | | 200.00 | 1.20 | 0.00 |
| 1 | 6008958 | 09/24/2013 | PAID PRESCRIPTION: | | CORBIN, WENDY | | 1.00 | 1.90 | 0.00 |
| 1 | 6008961 | 09/24/2013 | PAID PRESCRIPTION: | | CORBIN, WENDY | | 150.00 | 20.25 | 0.00 |
| 1 | 6009018 | 09/24/2013 | PAID PRESCRIPTION: | | FORA V12 GLUCOSE TEST STRIP | | 1.00 | 1.90 | 4.97 |
| 1 | 6009139 | 09/24/2013 | PAID PRESCRIPTION: | | FORA NORMAL CONTROL SOLU | | 1.00 | 0.84 | 11.10 |
| 1 | 6009141 | 09/24/2013 | PAID PRESCRIPTION: | | LANCING DEVICE | | 200.00 | 27.00 | 276.76 |
| 1 | 6009142 | 09/24/2013 | PAID PRESCRIPTION: | | FORA V12 GLUCOSE TEST STRIP | | 200.00 | 1.20 | 10.36 |
| 1 | 6008988 | 09/24/2013 | PAID PRESCRIPTION: | | SAFETY SEAL 30G LANCETS | | 1.00 | 1.90 | 4.89 |
| 1 | 6008989 | 09/24/2013 | PAID PRESCRIPTION: | | KING, SCOTTIE | | 1.00 | 0.84 | 13.95 |
| 1 | 6008991 | 09/24/2013 | PAID PRESCRIPTION: | | FORA NORMAL CONTROL SOLU | | 100.00 | 13.50 | 146.86 |
| 1 | 6008896 | 09/24/2013 | PAID PRESCRIPTION: | | FORA V12 GLUCOSE TEST STRIP | | 150.00 | 20.25 | 83.48 |
| 1 | 6008897 | 09/24/2013 | PAID PRESCRIPTION: | | FORA V12 GLUCOSE TEST STRIP | | 200.00 | 1.20 | 13.09 |
| 1 | 6008938 | 09/24/2013 | PAID PRESCRIPTION: | | CASDORPH, DEBORAH | | 1.00 | 1.90 | 4.89 |
| 1 | 6008941 | 09/24/2013 | PAID PRESCRIPTION: | | SAFETY SEAL 30G LANCETS | | 150.00 | 20.25 | 219.79 |
| 1 | 6008942 | 09/24/2013 | PAID PRESCRIPTION: | | FORA NORMAL CONTROL SOLU | | 200.00 | 1.20 | 13.09 |
| 1 | 6009138 | 09/24/2013 | PAID PRESCRIPTION: | | DAVISON, EMMY | | 1.00 | 1.90 | 3.33 |
| 1 | 6008996 | 09/24/2013 | PAID PRESCRIPTION: | | FORA V12 GLUCOSE TEST STRIP | | 50.00 | 6.75 | 82.16 |
| 1 | 6008997 | 09/24/2013 | PAID PRESCRIPTION: | | FORA V12 GLUCOSE TEST STRIP | | 100.00 | 0.60 | 7.77 |
| 1 | 6008976 | 09/24/2013 | PAID PRESCRIPTION: | | SAFETY SEAL 30G LANCETS | | 50.00 | 6.75 | 81.41 |
| 1 | 6008977 | 09/24/2013 | PAID PRESCRIPTION: | | FORA V12 GLUCOSE TEST STRIP | | 100.00 | 0.60 | 7.02 |
| 1 | 6008893 | 09/24/2013 | PAID PRESCRIPTION: | | SHUTKIN, PETER | | 1.00 | 1.90 | 4.89 |
| 1 | 6008894 | 09/24/2013 | PAID PRESCRIPTION: | | FORA NORMAL CONTROL SOLU | | 1.00 | 0.84 | 13.95 |
| 1 | 6008818 | 09/24/2013 | PAID PRESCRIPTION: | | LANCING DEVICE | | 1.00 | 1.90 | 10.46 |
| 1 | 6008819 | 09/24/2013 | PAID PRESCRIPTION: | | FORA NORMAL CONTROL SOLU | | 1.00 | 0.84 | 15.00 |
| 1 | 6008821 | 09/24/2013 | PAID PRESCRIPTION: | | LANCING DEVICE | | 100.00 | 13.50 | 160.10 |

1278.07 21469.83

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Product Activity Report

| Store | RX | Date/Dispensed | Billing/Method | Product/NC | Product | Doctor/Name | DR/DEA | Quantity | AAC | Price |
|-------|---------|----------------|----------------|-------------------|-----------------------------|------------------|--------|----------|-------|--------|
| 1 | 6008822 | 09/24/2013 | CR | UNITED HEALTHCARE | SAFETY SEAL 30G LANCETS | JOHNSON, CHARLES | | 100.00 | 0.60 | 15.00 |
| 1 | 6009048 | 09/24/2013 | CR | UNITED HEALTHCARE | FORA NORMAL CONTROL SOLU | NGUYEN, PHUONG | | 1.00 | 1.90 | 10.46 |
| 1 | 6009049 | 09/24/2013 | CR | UNITED HEALTHCARE | LANCING DEVICE | NGUYEN, PHUONG | | 1.00 | 0.84 | 27.19 |
| 1 | 6009051 | 09/24/2013 | CR | UNITED HEALTHCARE | FORA V12 GLUCOSE TEST STRIP | NGUYEN, PHUONG | | 50.00 | 6.75 | 80.63 |
| 1 | 6009052 | 09/24/2013 | CR | UNITED HEALTHCARE | FORA V12 GLUCOSE TEST STRIP | NGUYEN, PHUONG | | 100.00 | 0.60 | 15.09 |
| 1 | 6008901 | 09/24/2013 | CR | UNITED HEALTHCARE | FORA V12 GLUCOSE TEST STRIP | NGUYEN, PHUONG | | 100.00 | 13.50 | 241.32 |
| 1 | 6008933 | 09/24/2013 | CR | ALABAMA PUBLIC ED | FORA V12 GLUCOSE TEST STRIP | NGUYEN, PHUONG | | 1.00 | 1.90 | 5.24 |
| 1 | 6008936 | 09/24/2013 | CR | ALABAMA PUBLIC ED | FORA V12 GLUCOSE TEST STRIP | NGUYEN, PHUONG | | 50.00 | 6.75 | 79.11 |
| 1 | 6008937 | 09/24/2013 | CR | ALABAMA PUBLIC ED | FORA V12 GLUCOSE TEST STRIP | NGUYEN, PHUONG | | 100.00 | 0.60 | 7.31 |
| 1 | 6008928 | 09/24/2013 | CR | MEDICARE SXC DISC | FORA V12 GLUCOSE TEST STRIP | NGUYEN, PHUONG | | 200.00 | 1.20 | 12.48 |
| 1 | 6008932 | 09/24/2013 | CR | MEDICARE SXC DISC | FORA V12 GLUCOSE TEST STRIP | NGUYEN, PHUONG | | 200.00 | 1.20 | 12.48 |
| 1 | 6003966 | 09/24/2013 | CR | MEDICARE SXC DISC | FORA V12 GLUCOSE TEST STRIP | NGUYEN, PHUONG | | 200.00 | 1.20 | 12.48 |
| 1 | 6004297 | 09/24/2013 | CR | MEDICARE SXC DISC | FORA V12 GLUCOSE TEST STRIP | NGUYEN, PHUONG | | 200.00 | 1.20 | 12.48 |
| 1 | 6002409 | 09/24/2013 | CR | MEDICARE SXC DISC | FORA V12 GLUCOSE TEST STRIP | NGUYEN, PHUONG | | 200.00 | 1.20 | 12.48 |
| 1 | 6009008 | 09/24/2013 | CR | MEDICARE SXC DISC | FORA V12 GLUCOSE TEST STRIP | NGUYEN, PHUONG | | 200.00 | 1.20 | 12.48 |
| 1 | 6009009 | 09/24/2013 | CR | MEDICARE SXC DISC | FORA V12 GLUCOSE TEST STRIP | NGUYEN, PHUONG | | 200.00 | 1.20 | 12.48 |
| 1 | 6009011 | 09/24/2013 | CR | MEDICARE SXC DISC | FORA V12 GLUCOSE TEST STRIP | NGUYEN, PHUONG | | 200.00 | 1.20 | 12.48 |
| 1 | 6009012 | 09/24/2013 | CR | MEDICARE SXC DISC | FORA V12 GLUCOSE TEST STRIP | NGUYEN, PHUONG | | 200.00 | 1.20 | 12.48 |
| 1 | 6004880 | 09/24/2013 | CR | MEDICARE SXC DISC | FORA V12 GLUCOSE TEST STRIP | NGUYEN, PHUONG | | 200.00 | 1.20 | 12.48 |
| 1 | 6004271 | 09/24/2013 | CR | MEDICARE SXC DISC | FORA V12 GLUCOSE TEST STRIP | NGUYEN, PHUONG | | 200.00 | 1.20 | 12.48 |
| 1 | 6009033 | 09/24/2013 | CR | MEDICARE SXC DISC | FORA V12 GLUCOSE TEST STRIP | NGUYEN, PHUONG | | 200.00 | 1.20 | 12.48 |
| 1 | 6009034 | 09/24/2013 | CR | MEDICARE SXC DISC | FORA V12 GLUCOSE TEST STRIP | NGUYEN, PHUONG | | 200.00 | 1.20 | 12.48 |
| 1 | 6009035 | 09/24/2013 | CR | MEDICARE SXC DISC | FORA V12 GLUCOSE TEST STRIP | NGUYEN, PHUONG | | 200.00 | 1.20 | 12.48 |
| 1 | 6009036 | 09/24/2013 | CR | MEDICARE SXC DISC | FORA V12 GLUCOSE TEST STRIP | NGUYEN, PHUONG | | 200.00 | 1.20 | 12.48 |
| 1 | 6004279 | 09/24/2013 | CR | MEDICARE SXC DISC | FORA V12 GLUCOSE TEST STRIP | NGUYEN, PHUONG | | 200.00 | 1.20 | 12.48 |

HIPAA

2039.4051 23370.76

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Product Activity Report

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| Store | RX | Date/Dispensed | Tech | Rph | Billing Method | Location | Product/NC | Product | Doctor Name | QTY | AAC | Price |
|-------|---------|----------------|------|-----|-------------------|-------------------|------------|-----------------------------|-------------|--------|-------|--------|
| 1 | 6004280 | 09/24/2013 | CR | CR | MPD PRESCRIPTION | MPD PRESCRIPTION | HIPAA | GABAPENTIN 600 MG TABLET | DRDEA | 135.00 | 30.38 | 26.062 |
| 1 | 6009188 | 09/24/2013 | SYS | CR | MPD PRESCRIPTION | MPD PRESCRIPTION | HIPAA | FORA NORMAL CONTROL SOLU | | 1.00 | 1.90 | 5.17 |
| 1 | 6009189 | 09/24/2013 | SYS | CR | MPD PRESCRIPTION | MPD PRESCRIPTION | HIPAA | LANCING DEVICE | | 1.00 | 0.84 | 13.73 |
| 1 | 6009191 | 09/24/2013 | SYS | CR | MPD PRESCRIPTION | MPD PRESCRIPTION | HIPAA | FORA V12 GLUCOSE TEST STRIP | | 200.00 | 27.00 | 306.31 |
| 1 | 6009192 | 09/24/2013 | SYS | CR | MPD PRESCRIPTION | MPD PRESCRIPTION | HIPAA | LANCING DEVICE | | 200.00 | 1.20 | 12.91 |
| 1 | 6001919 | 09/24/2013 | SYS | CR | MPD PRESCRIPTION | MPD PRESCRIPTION | HIPAA | FORA V12 GLUCOSE TEST STRIP | | 200.00 | 1.20 | 12.91 |
| 1 | 6001921 | 09/24/2013 | CR | CR | MPD PRESCRIPTION | MPD PRESCRIPTION | HIPAA | FORA V12 GLUCOSE TEST STRIP | | 200.00 | 1.20 | 12.91 |
| 1 | 6009043 | 09/24/2013 | CR | CR | MPD PRESCRIPTION | MPD PRESCRIPTION | HIPAA | FORA V12 GLUCOSE TEST STRIP | | 200.00 | 1.20 | 12.91 |
| 1 | 6009044 | 09/24/2013 | CR | CR | MPD PRESCRIPTION | MPD PRESCRIPTION | HIPAA | FORA V12 GLUCOSE TEST STRIP | | 200.00 | 1.20 | 12.91 |
| 1 | 6009046 | 09/24/2013 | CR | CR | MPD PRESCRIPTION | MPD PRESCRIPTION | HIPAA | FORA V12 GLUCOSE TEST STRIP | | 200.00 | 1.20 | 12.91 |
| 1 | 6009047 | 09/24/2013 | CR | CR | MPD PRESCRIPTION | MPD PRESCRIPTION | HIPAA | FORA V12 GLUCOSE TEST STRIP | | 200.00 | 1.20 | 12.91 |
| 1 | 6009056 | 09/24/2013 | CR | CR | MPD PRESCRIPTION | MPD PRESCRIPTION | HIPAA | FORA V12 GLUCOSE TEST STRIP | | 200.00 | 1.20 | 12.91 |
| 1 | 6009057 | 09/24/2013 | CR | CR | MPD PRESCRIPTION | MPD PRESCRIPTION | HIPAA | FORA V12 GLUCOSE TEST STRIP | | 200.00 | 1.20 | 12.91 |
| 1 | 6009087 | 09/24/2013 | CR | CR | MPD PRESCRIPTION | MPD PRESCRIPTION | HIPAA | FORA V12 GLUCOSE TEST STRIP | | 200.00 | 1.20 | 12.91 |
| 1 | 6009084 | 09/24/2013 | CR | CR | MPD PRESCRIPTION | MPD PRESCRIPTION | HIPAA | FORA V12 GLUCOSE TEST STRIP | | 200.00 | 1.20 | 12.91 |
| 1 | 6009100 | 09/24/2013 | CR | CR | MPD PRESCRIPTION | MPD PRESCRIPTION | HIPAA | FORA V12 GLUCOSE TEST STRIP | | 200.00 | 1.20 | 12.91 |
| 1 | 6009101 | 09/24/2013 | CR | CR | MPD PRESCRIPTION | MPD PRESCRIPTION | HIPAA | FORA V12 GLUCOSE TEST STRIP | | 200.00 | 1.20 | 12.91 |
| 1 | 6009038 | 09/24/2013 | CR | CR | MPD PRESCRIPTION | MPD PRESCRIPTION | HIPAA | FORA V12 GLUCOSE TEST STRIP | | 200.00 | 1.20 | 12.91 |
| 1 | 6009039 | 09/24/2013 | CR | CR | MPD PRESCRIPTION | MPD PRESCRIPTION | HIPAA | FORA V12 GLUCOSE TEST STRIP | | 200.00 | 1.20 | 12.91 |
| 1 | 6009041 | 09/24/2013 | CR | CR | MPD PRESCRIPTION | MPD PRESCRIPTION | HIPAA | FORA V12 GLUCOSE TEST STRIP | | 200.00 | 1.20 | 12.91 |
| 1 | 6009042 | 09/24/2013 | CR | CR | MPD PRESCRIPTION | MPD PRESCRIPTION | HIPAA | FORA V12 GLUCOSE TEST STRIP | | 200.00 | 1.20 | 12.91 |
| 1 | 6009053 | 09/24/2013 | CR | CR | MPD PRESCRIPTION | MPD PRESCRIPTION | HIPAA | FORA V12 GLUCOSE TEST STRIP | | 200.00 | 1.20 | 12.91 |
| 1 | 6009054 | 09/24/2013 | CR | CR | MPD PRESCRIPTION | MPD PRESCRIPTION | HIPAA | FORA V12 GLUCOSE TEST STRIP | | 200.00 | 1.20 | 12.91 |
| 1 | 6009164 | 09/24/2013 | CR | CR | Cash/Credit/Other | Cash/Credit/Other | HIPAA | LANCING DEVICE | | 1.00 | 0.84 | 13.73 |
| 1 | 6009165 | 09/24/2013 | CR | CR | Cash/Credit/Other | Cash/Credit/Other | HIPAA | LANCING DEVICE | | 1.00 | 0.84 | 13.73 |

2255.5321 25039.57

9/25/13 9:07:41 AM

9/24/2013 Through 9/24/2013

Productivity Report

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| Store | RX | Dated/Dispensed | Tech Rph | Billing Method | Location | Product/NC | Pthname | Product | DoctorName | D/DEA | Quantity | AAC | Price |
|-------|---------|-----------------|----------|-------------------|-------------------|----------------------------|----------------------------|----------------------------|-----------------------|-------|----------|-------|-------|
| 1 | 6008855 | 09/24/2013 | CR | Cash/Credit/Other | Cash/Credit/Other | FORA V12 BLOOD GLUCOSE SY; | FORA V12 BLOOD GLUCOSE SY; | FORA V12 BLOOD GLUCOSE SY; | MUNDLURU, ANURADHA | | 1.00 | 1.00 | 0.00 |
| 1 | 6008994 | 09/24/2013 | CR | Cash/Credit/Other | Cash/Credit/Other | LANCING DEVICE | LANCING DEVICE | LANCING DEVICE | LAMBERT, LISE | | 1.00 | 0.84 | 0.00 |
| 1 | 6008995 | 09/24/2013 | CR | Cash/Credit/Other | Cash/Credit/Other | FORA V12 BLOOD GLUCOSE SY; | FORA V12 BLOOD GLUCOSE SY; | FORA V12 BLOOD GLUCOSE SY; | LAMBERT, LISE | | 1.00 | 1.00 | 0.00 |
| 1 | 6009179 | 09/24/2013 | CR | Cash/Credit/Other | Cash/Credit/Other | LANCING DEVICE | LANCING DEVICE | LANCING DEVICE | DAVOLI ROBERT | | 1.00 | 0.84 | 0.00 |
| 1 | 6008057 | 09/24/2013 | CR | Cash/Credit/Other | Cash/Credit/Other | FORA V12 BLOOD GLUCOSE SY; | FORA V12 BLOOD GLUCOSE SY; | FORA V12 BLOOD GLUCOSE SY; | MCMILLAN, SUSAN | | 1.00 | 1.00 | 0.00 |
| 1 | 6009190 | 09/24/2013 | CR | Cash/Credit/Other | Cash/Credit/Other | FORA V12 BLOOD GLUCOSE SY; | FORA V12 BLOOD GLUCOSE SY; | FORA V12 BLOOD GLUCOSE SY; | FROHSIN, HENRY | | 1.00 | 1.00 | 0.00 |
| 1 | 6008899 | 09/24/2013 | CR | Cash/Credit/Other | Cash/Credit/Other | LANCING DEVICE | LANCING DEVICE | LANCING DEVICE | RES JINGO, AHMAD | | 1.00 | 0.84 | 0.00 |
| 1 | 6008900 | 09/24/2013 | CR | Cash/Credit/Other | Cash/Credit/Other | FORA V12 BLOOD GLUCOSE SY; | FORA V12 BLOOD GLUCOSE SY; | FORA V12 BLOOD GLUCOSE SY; | RES JINGO, AHMAD | | 1.00 | 1.00 | 0.00 |
| 1 | 6008845 | 09/24/2013 | CR | Cash/Credit/Other | Cash/Credit/Other | FORA V12 BLOOD GLUCOSE SY; | FORA V12 BLOOD GLUCOSE SY; | FORA V12 BLOOD GLUCOSE SY; | BUONOCORE, CAMILLE | | 1.00 | 1.00 | 0.00 |
| 1 | 6009155 | 09/24/2013 | CR | Cash/Credit/Other | Cash/Credit/Other | FORA V12 BLOOD GLUCOSE SY; | FORA V12 BLOOD GLUCOSE SY; | FORA V12 BLOOD GLUCOSE SY; | KENNEDY, DIANA | | 1.00 | 1.00 | 0.00 |
| 1 | 6009090 | 09/24/2013 | CR | Cash/Credit/Other | Cash/Credit/Other | FORA V12 BLOOD GLUCOSE SY; | FORA V12 BLOOD GLUCOSE SY; | FORA V12 BLOOD GLUCOSE SY; | REHEEM FARAG, KHALED | | 1.00 | 1.00 | 0.00 |
| 1 | 6009005 | 09/24/2013 | CR | Cash/Credit/Other | Cash/Credit/Other | ACCU-CHEK NANO SMARTVIEW | ACCU-CHEK NANO SMARTVIEW | ACCU-CHEK NANO SMARTVIEW | CHUN, ALEXANDER | | 1.00 | 16.03 | 0.00 |
| 1 | 6009045 | 09/24/2013 | CR | Cash/Credit/Other | Cash/Credit/Other | FORA V12 BLOOD GLUCOSE SY; | FORA V12 BLOOD GLUCOSE SY; | FORA V12 BLOOD GLUCOSE SY; | MAILLE, JACKSON | | 1.00 | 1.00 | 0.00 |
| 1 | 6008890 | 09/24/2013 | CR | Cash/Credit/Other | Cash/Credit/Other | FORA V12 BLOOD GLUCOSE SY; | FORA V12 BLOOD GLUCOSE SY; | FORA V12 BLOOD GLUCOSE SY; | SALAZAR, JOSE ALBERTO | | 1.00 | 1.00 | 0.00 |
| 1 | 6008865 | 09/24/2013 | CR | Cash/Credit/Other | Cash/Credit/Other | FORA V12 BLOOD GLUCOSE SY; | FORA V12 BLOOD GLUCOSE SY; | FORA V12 BLOOD GLUCOSE SY; | SHAPIRO, DAVID | | 1.00 | 1.00 | 0.00 |
| 1 | 6009079 | 09/24/2013 | CR | Cash/Credit/Other | Cash/Credit/Other | LANCING DEVICE | LANCING DEVICE | LANCING DEVICE | LUKASAVAGE, JUSTIN | | 1.00 | 0.84 | 0.00 |
| 1 | 6009080 | 09/24/2013 | CR | Cash/Credit/Other | Cash/Credit/Other | FORA V12 BLOOD GLUCOSE SY; | FORA V12 BLOOD GLUCOSE SY; | FORA V12 BLOOD GLUCOSE SY; | LUKASAVAGE, JUSTIN | | 1.00 | 1.00 | 0.00 |
| 1 | 6009144 | 09/24/2013 | CR | Cash/Credit/Other | Cash/Credit/Other | LANCING DEVICE | LANCING DEVICE | LANCING DEVICE | SPARACINO, KATHY | | 1.00 | 0.84 | 0.00 |
| 1 | 6009145 | 09/24/2013 | CR | Cash/Credit/Other | Cash/Credit/Other | FORA V12 BLOOD GLUCOSE SY; | FORA V12 BLOOD GLUCOSE SY; | FORA V12 BLOOD GLUCOSE SY; | SPARACINO, KATHY | | 1.00 | 1.00 | 0.00 |
| 1 | 6008844 | 09/24/2013 | CR | Cash/Credit/Other | Cash/Credit/Other | LANCING DEVICE | LANCING DEVICE | LANCING DEVICE | BUONOCORE, CAMILLE | | 1.00 | 0.84 | 0.00 |
| 1 | 6009109 | 09/24/2013 | CR | Cash/Credit/Other | Cash/Credit/Other | LANCING DEVICE | LANCING DEVICE | LANCING DEVICE | BUZA, RICHARD | | 1.00 | 0.84 | 0.00 |
| 1 | 6009110 | 09/24/2013 | CR | Cash/Credit/Other | Cash/Credit/Other | FORA V12 BLOOD GLUCOSE SY; | FORA V12 BLOOD GLUCOSE SY; | FORA V12 BLOOD GLUCOSE SY; | BUZA, RICHARD | | 1.00 | 1.00 | 0.00 |
| 1 | 6008849 | 09/24/2013 | CR | Cash/Credit/Other | Cash/Credit/Other | LANCING DEVICE | LANCING DEVICE | LANCING DEVICE | SIEGEL, GLENN | | 1.00 | 0.84 | 0.00 |
| 1 | 6008850 | 09/24/2013 | CR | Cash/Credit/Other | Cash/Credit/Other | FORA V12 BLOOD GLUCOSE SY; | FORA V12 BLOOD GLUCOSE SY; | FORA V12 BLOOD GLUCOSE SY; | SIEGEL, GLENN | | 1.00 | 1.00 | 0.00 |
| 1 | 6009129 | 09/24/2013 | CR | Cash/Credit/Other | Cash/Credit/Other | LANCING DEVICE | LANCING DEVICE | LANCING DEVICE | MCGILL, CHARLES | | 1.00 | 0.84 | 0.00 |

HIPAA

2294.1221 25039.57

Productivity Report

25

| Store | RX | Date/Dispensed | Billing/Method | Product/NC | Product | Quantity | AAC | Price |
|-------|---------|----------------|-------------------|------------|----------------------------|----------|-------|-------|
| 1 | 6009130 | 09/24/2013 | Cash/Credit/Other | Product/NC | FORA V12 BLOOD GLUCOSE SYS | 1.00 | 1.00 | 0.00 |
| 1 | 6008929 | 09/24/2013 | Cash/Credit/Other | Product/NC | LANCING DEVICE | 1.00 | 0.84 | 0.00 |
| 1 | 6008931 | 09/24/2013 | Cash/Credit/Other | Product/NC | LANCING DEVICE | 1.00 | 15.08 | 0.00 |
| 1 | 6009015 | 09/24/2013 | Cash/Credit/Other | Product/NC | LANCING DEVICE | 1.00 | 1.00 | 0.00 |
| 1 | 6008980 | 09/24/2013 | Cash/Credit/Other | Product/NC | LANCING DEVICE | 1.00 | 1.00 | 0.00 |
| 1 | 6008965 | 09/24/2013 | Cash/Credit/Other | Product/NC | LANCING DEVICE | 1.00 | 1.00 | 0.00 |
| 1 | 6009185 | 09/24/2013 | Cash/Credit/Other | Product/NC | LANCING DEVICE | 1.00 | 1.00 | 0.00 |
| 1 | 6008909 | 09/24/2013 | Cash/Credit/Other | Product/NC | LANCING DEVICE | 1.00 | 0.84 | 0.00 |
| 1 | 6008910 | 09/24/2013 | Cash/Credit/Other | Product/NC | LANCING DEVICE | 1.00 | 1.00 | 0.00 |
| 1 | 6009125 | 09/24/2013 | Cash/Credit/Other | Product/NC | LANCING DEVICE | 1.00 | 1.00 | 0.00 |
| 1 | 6009104 | 09/24/2013 | Cash/Credit/Other | Product/NC | LANCING DEVICE | 1.00 | 0.84 | 0.00 |
| 1 | 6009105 | 09/24/2013 | Cash/Credit/Other | Product/NC | LANCING DEVICE | 1.00 | 1.00 | 0.00 |
| 1 | 6008830 | 09/24/2013 | Cash/Credit/Other | Product/NC | LANCING DEVICE | 1.00 | 1.00 | 0.00 |
| 1 | 6009102 | 09/24/2013 | Cash/Credit/Other | Product/NC | LANCING DEVICE | 1.00 | 6.00 | 0.00 |
| 1 | 6009050 | 09/24/2013 | Cash/Credit/Other | Product/NC | LANCING DEVICE | 1.00 | 1.00 | 0.00 |
| 1 | 6009029 | 09/24/2013 | Cash/Credit/Other | Product/NC | LANCING DEVICE | 1.00 | 0.84 | 0.00 |
| 1 | 6009030 | 09/24/2013 | Cash/Credit/Other | Product/NC | LANCING DEVICE | 1.00 | 1.00 | 0.00 |
| 1 | 6009120 | 09/24/2013 | Cash/Credit/Other | Product/NC | LANCING DEVICE | 1.00 | 1.00 | 0.00 |
| 1 | 6009160 | 09/24/2013 | Cash/Credit/Other | Product/NC | LANCING DEVICE | 1.00 | 1.00 | 0.00 |
| 1 | 6009040 | 09/24/2013 | Cash/Credit/Other | Product/NC | LANCING DEVICE | 1.00 | 1.00 | 0.00 |
| 1 | 6009055 | 09/24/2013 | Cash/Credit/Other | Product/NC | LANCING DEVICE | 1.00 | 0.84 | 0.00 |
| 1 | 6008999 | 09/24/2013 | Cash/Credit/Other | Product/NC | LANCING DEVICE | 1.00 | 1.00 | 0.00 |
| 1 | 6009000 | 09/24/2013 | Cash/Credit/Other | Product/NC | LANCING DEVICE | 1.00 | 1.00 | 0.00 |
| 1 | 6009135 | 09/24/2013 | Cash/Credit/Other | Product/NC | LANCING DEVICE | 1.00 | 1.00 | 0.00 |
| 1 | 6009115 | 09/24/2013 | Cash/Credit/Other | Product/NC | LANCING DEVICE | 1.00 | 1.00 | 0.00 |

Product/NC
PIName
HIPAA

Product
DoctorName

DPOEA

2337.4021 25039.57

Productivity Report

42

| Store | RX | DateDispensed | Tech | Rph | BillingMethod | Location | ProductNDC | Product | DoctorName | DHDEA | Quantity | AAC | Price |
|-------|---------|---------------|------|-----|-------------------|-------------------|----------------------------|----------------------------|----------------------------|-------|----------|-------|-------|
| 1 | 6008990 | 09/24/2013 | SYS | CR | Cash/Credit/Other | Cash/Credit/Other | FORA V12 BLOOD GLUCOSE SYS | FORA V12 BLOOD GLUCOSE SYS | FORA V12 BLOOD GLUCOSE SYS | | 1.00 | 1.00 | 0.00 |
| 1 | 6008960 | 09/24/2013 | SYS | CR | Cash/Credit/Other | Cash/Credit/Other | FORA V12 BLOOD GLUCOSE SYS | FORA V12 BLOOD GLUCOSE SYS | FORA V12 BLOOD GLUCOSE SYS | | 1.00 | 1.00 | 0.00 |
| 1 | 6009020 | 09/24/2013 | SYS | CR | Cash/Credit/Other | Cash/Credit/Other | FORA V12 BLOOD GLUCOSE SYS | FORA V12 BLOOD GLUCOSE SYS | FORA V12 BLOOD GLUCOSE SYS | | 1.00 | 1.00 | 0.00 |
| 1 | 6008880 | 09/24/2013 | SYS | CR | Cash/Credit/Other | Cash/Credit/Other | FORA V12 BLOOD GLUCOSE SYS | FORA V12 BLOOD GLUCOSE SYS | FORA V12 BLOOD GLUCOSE SYS | | 1.00 | 16.03 | 0.00 |
| 1 | 6008875 | 09/24/2013 | SYS | CR | Cash/Credit/Other | Cash/Credit/Other | FORA V12 BLOOD GLUCOSE SYS | FORA V12 BLOOD GLUCOSE SYS | FORA V12 BLOOD GLUCOSE SYS | | 1.00 | 1.00 | 0.00 |
| 1 | 6008870 | 09/24/2013 | SYS | CR | Cash/Credit/Other | Cash/Credit/Other | FORA V12 BLOOD GLUCOSE SYS | FORA V12 BLOOD GLUCOSE SYS | FORA V12 BLOOD GLUCOSE SYS | | 1.00 | 1.00 | 0.00 |
| 1 | 6009037 | 09/24/2013 | SYS | CR | Cash/Credit/Other | Cash/Credit/Other | FORA V12 BLOOD GLUCOSE SYS | FORA V12 BLOOD GLUCOSE SYS | FORA V12 BLOOD GLUCOSE SYS | | 1.00 | 6.00 | 0.00 |
| 1 | 6008934 | 09/24/2013 | SYS | CR | Cash/Credit/Other | Cash/Credit/Other | FORA V12 BLOOD GLUCOSE SYS | FORA V12 BLOOD GLUCOSE SYS | FORA V12 BLOOD GLUCOSE SYS | | 1.00 | 0.84 | 0.00 |
| 1 | 6008935 | 09/24/2013 | SYS | CR | Cash/Credit/Other | Cash/Credit/Other | FORA V12 BLOOD GLUCOSE SYS | FORA V12 BLOOD GLUCOSE SYS | FORA V12 BLOOD GLUCOSE SYS | | 1.00 | 1.00 | 0.00 |
| 1 | 6008969 | 09/24/2013 | SYS | CR | Cash/Credit/Other | Cash/Credit/Other | FORA V12 BLOOD GLUCOSE SYS | FORA V12 BLOOD GLUCOSE SYS | FORA V12 BLOOD GLUCOSE SYS | | 1.00 | 0.84 | 0.00 |
| 1 | 6008970 | 09/24/2013 | SYS | CR | Cash/Credit/Other | Cash/Credit/Other | FORA V12 BLOOD GLUCOSE SYS | FORA V12 BLOOD GLUCOSE SYS | FORA V12 BLOOD GLUCOSE SYS | | 1.00 | 1.00 | 0.00 |
| 1 | 6008939 | 09/24/2013 | SYS | CR | Cash/Credit/Other | Cash/Credit/Other | FORA V12 BLOOD GLUCOSE SYS | FORA V12 BLOOD GLUCOSE SYS | FORA V12 BLOOD GLUCOSE SYS | | 1.00 | 0.84 | 0.00 |
| 1 | 6008940 | 09/24/2013 | SYS | CR | Cash/Credit/Other | Cash/Credit/Other | FORA V12 BLOOD GLUCOSE SYS | FORA V12 BLOOD GLUCOSE SYS | FORA V12 BLOOD GLUCOSE SYS | | 1.00 | 1.00 | 0.00 |
| 1 | 6008820 | 09/24/2013 | SYS | CR | Cash/Credit/Other | Cash/Credit/Other | FORA V12 BLOOD GLUCOSE SYS | FORA V12 BLOOD GLUCOSE SYS | FORA V12 BLOOD GLUCOSE SYS | | 1.00 | 1.00 | 0.00 |
| 1 | 6009174 | 09/24/2013 | SYS | CR | Cash/Credit/Other | Cash/Credit/Other | FORA V12 BLOOD GLUCOSE SYS | FORA V12 BLOOD GLUCOSE SYS | FORA V12 BLOOD GLUCOSE SYS | | 1.00 | 0.84 | 0.00 |
| 1 | 6009175 | 09/24/2013 | SYS | CR | Cash/Credit/Other | Cash/Credit/Other | FORA V12 BLOOD GLUCOSE SYS | FORA V12 BLOOD GLUCOSE SYS | FORA V12 BLOOD GLUCOSE SYS | | 1.00 | 1.00 | 0.00 |
| 1 | 6009140 | 09/24/2013 | SYS | CR | Cash/Credit/Other | Cash/Credit/Other | FORA V12 BLOOD GLUCOSE SYS | FORA V12 BLOOD GLUCOSE SYS | FORA V12 BLOOD GLUCOSE SYS | | 1.00 | 1.00 | 0.00 |
| 1 | 6009180 | 09/24/2013 | SYS | CR | Cash/Credit/Other | Cash/Credit/Other | FORA V12 BLOOD GLUCOSE SYS | FORA V12 BLOOD GLUCOSE SYS | FORA V12 BLOOD GLUCOSE SYS | | 1.00 | 1.00 | 0.00 |
| 1 | 6009064 | 09/24/2013 | SYS | CR | Cash/Credit/Other | Cash/Credit/Other | FORA V12 BLOOD GLUCOSE SYS | FORA V12 BLOOD GLUCOSE SYS | FORA V12 BLOOD GLUCOSE SYS | | 1.00 | 0.84 | 0.00 |
| 1 | 6008974 | 09/24/2013 | SYS | CR | Cash/Credit/Other | Cash/Credit/Other | FORA V12 BLOOD GLUCOSE SYS | FORA V12 BLOOD GLUCOSE SYS | FORA V12 BLOOD GLUCOSE SYS | | 1.00 | 0.84 | 0.00 |
| 1 | 6008975 | 09/24/2013 | SYS | CR | Cash/Credit/Other | Cash/Credit/Other | FORA V12 BLOOD GLUCOSE SYS | FORA V12 BLOOD GLUCOSE SYS | FORA V12 BLOOD GLUCOSE SYS | | 1.00 | 1.00 | 0.00 |
| 1 | 6008985 | 09/24/2013 | SYS | CR | Cash/Credit/Other | Cash/Credit/Other | FORA V12 BLOOD GLUCOSE SYS | FORA V12 BLOOD GLUCOSE SYS | FORA V12 BLOOD GLUCOSE SYS | | 1.00 | 1.00 | 0.00 |
| 1 | 6009075 | 09/24/2013 | SYS | CR | Cash/Credit/Other | Cash/Credit/Other | FORA V12 BLOOD GLUCOSE SYS | FORA V12 BLOOD GLUCOSE SYS | FORA V12 BLOOD GLUCOSE SYS | | 1.00 | 1.00 | 0.00 |

ProductNDC
 PName
HIPAA

[REDACTED]

2417.0321 25054.66



Plaza Pharmacy

Rx 119763

Fax Cover Sheet

Urgent Reply ASAP Please Comment Please Review Info Only

| | |
|---|--------------------------------|
| To: DAVID KAVTARADZE | From: PLAZA PHARMACY |
| Attention: | Date: |
| RE: HIPAA DOB: HIPAA PHS ID: 1376516484 | Phone Number: (334) 408 - 2617 |
| Fax Number: 12292714609 Alt Fax Number: | Fax Number: (877) 888 - 3889 |

Notes:

Our mutual patient, **HIPAA**, has chosen Plaza Pharmacy to be his preferred supplier of prescription medications. To fill this request, we will need prescriptions for the medications listed below. Please fax to (877) 888 - 3889.

If you would prefer to call in a verbal order, our staff pharmacist, Monica Abdou (Pharmacy License Number PH26083), can be reached at (877) 806 - 3443, ext: 240. Thank you!

Requester
AMLODIP

WIL121002102
DAVID KAVTARADZE, M.D., INC. 13055
Internal Medicine & Geriatrics
 1008 N. 7th Street • Cordele, Georgia 31015
 229-271-4608 • Fax: 229-271-4609

VIX; MIRI

David Kavtaradze, M.D.
DEA # BK7848596

Holly K. Sneed, NP-C
DEA # MS2725349

NAME: **HIPAA** DATE: 6-6-13

ADDRESS:

DOM effecti

The docum
sending the
company) ick
as permitted
unless other

Rx Amlodipine 10mg - p.o. daily #90
 Atenolol 50mg - p.o. daily #90
 Cilostazol 100mg - p.o. BID #180
 Lisinopril HCTZ 20/12.5 - p.o. daily #90
 Label 3 Crestor 40mg - p.o. daily #90

he company
ndividual (or
ation except
een fulfilled,
structions."

Refill: 3 Times PRN NR

This prescription authorized through

Holly K. Sneed, NP-C #02

EXHIBIT # SI-4

CONFIDENTIAL

43

PLAZA PHARMACY INC.

Rx# 6002796 6/20/2013

DOB:

DEA: MS2725349
HOLLY SNEED
1008 N 7TH ST
CORDELE, GA 31015

HIPAA

HIPAA

(229) 271-4808

Price: \$11.00

AAC: \$1.40

Payment Method: MEDICARE PART D Copay: \$1.15

Take 1 tablet by mouth daily

ATENOLOL 50 MG TABLET

NDC: 50742010201 Qty: 90

3.00 REFILLS Rph MA

Expires: 6/6/2014

Mfg: INGENUS PHARMAC

[Handwritten signature]

UNPAID

UH

RX 158238

SUMTER FAMILY HEALTH CENTER
Russell V. Brant, M.D. Nelson H. Sturgis III, M.D.
Carol Alan, M.D. David Justice, M.D. Donna Mizelle, M.D.
1278 N. Lafayette Dr. Sumter, SC 29150
PHONE: (803) 774-4500 FAX: (803) 774-4626

CYNTHIA RICHARDSON NP
DEA: MR2002195 License #: 3605 NPI: 1184884702

Date: 07/10/2013
Patient: HIPAA DOB: HIPAA
Address: HIPAA
PHONE: HIPAA PATIENT ID#: HIPAA

Prescription for:
Lisinopril 10 mg tablet
Dispense: 30 (thirty)
SIG: 1 tab po daily for blood pressure and Kidney problems ~

Refills: 3 (three)

Dispense As Written

Substitution Permitted

#02

PLAZA PHARMACY INC

Rx#6009768 7/25/2013
HIPAA

DOR: **HIPAA**

DEA:MR2002195
CYNTHIA RICHARDSON
1278 N LAFAYETTE DR
SUMTER, SC 29150

Price: \$7.16 (803) 774-4500
AAC: \$0.88
Payment Method: MEDICARE PART D Copay: \$1.15

Take 1 tablet by mouth every day for blood pressure and kidney problems

LISINAPRIL 10 MG TABLET
NDC: 00185010101 Qty: 30
3.00 REFILLS Rph CR Lot:
Expires: 7/10/2014 Mfg: SANDOZ

RX 158.738

SUMTER FAMILY HEALTH CENTER
Russell V. Bran, M.D. Nelson H. Sturgis III, M.D.
Carol Alan, M.D. David Justice, M.D. Donna Mizelle, M.D.
1276 N. Lafayette Dr. Sumter, SC 29150
PHONE: (803) 774-4500 FAX: (803) 774-4626

CYNTHIA RICHARDSON NP
DEA: MR2002185 License #: 3605 NPI: 1184884702

Date: 07/10/2013
Patient: [HIPAA] DOB: [HIPAA]
Address: [HIPAA]
PHONE: [HIPAA] PATIENT ID#: [HIPAA]

Prescription for:
pravastatin 10 mg tablet
Dispense: 30 (thirty)
SIG: 1 tab po at night for cholesterol ~

Refills: 5 (five)

Dispense As Written

Substitution Permitted

#104

47

PLAZA PHARMACY INC

Rx# 6004880 8/28/2013 DOB: DEA: MR2002195
HIPAA **HIPAA** CYNTHIA RICHARDSON
1278 N LAFAYETTE DR
SUMTER, SC 29180

(803) 774-4500
Price: \$11.93 AAC: \$1.98
Payment Method: MEDICARE-PART D Copay: \$1.15
Take 1 tablet by mouth every night for cholesterol

PRAVASTATIN SODIUM 10 MG TAB
NDC: 68180048509 Qty: 30
5.00 REFILLS Rph CR Lot
Expires: 7/10/2014 Mfg: LUPIN PHARMACEU

42

RX158238

SUMTER FAMILY HEALTH CENTER
Russell V. Brent, M.D. Nelson H. Sturgis III, M.D.
Carol Alan, M.D. David Justice, M.D. Donna Mizelle, M.D.
1278 N. Lafayette Dr. Sumter, SC 29150
PHONE: (803) 774-4600 FAX: (803) 774-4626

CYNTHIA RICHARDSON NP
DEA: MR2002195 License #: 3805 NPI: 1164884702

Date: 07/10/2013
Patient: [HIPAA] DOB: [HIPAA]
Address: [HIPAA]
PHONE: [HIPAA] PATIENT ID#: [HIPAA]

Prescription for:
Detro LA 4 mg capsule, extended release 24hr
Dispense: 30 (thirty)
SIG: take one daily ~

Refills: 3 (three)

Dispense As Written

Substitution Permitted

SCANNED

JUL 11 2013

#01

49

PLAZA PHARMACY INC

DOB: 7/25/2013
HIPAA

DOB: **HIPAA**

DEA: MR2002185
CYNTHIA RICHARDSON
1278 N LAFAYETTE DR
SUMTER, SC 29150

(803) 774-4500
AAC: \$201.92

Price: \$212.32
Payment Method: MEDICARE PART D Copay: \$3.50
Take 1 capsule by mouth every day

DETROL LA 4 MG CAPSULE
NDC: 00009519102 Qty: 30
3.00 REFILLS Rph CR Lot: *OK*
Expires: 7/10/2014 Mfg: PHARMACIA/UPJHN

CONFIDENTIAL

THIS DOCUMENT IS VOID WITHOUT A BLUE & GREEN BACKGROUND AND AN ARTIFICIAL WATERMARK FINGERPRINT SEAL ON THE BACK. HOLD AT ANGLE TO VIEW SEAL.

Northwest Florida Diagnostic

Carlos A Zapata, MD
 2173 B Centerville Place
 Tallahassee, FL 32308
 Phone: 850-878-2113 Fax: 850-878-2839

For: **HIPAA**

Date prescribed: July 9, 2013
 Start date: July 9, 2013
 Date printed: July 9, 2013

Rx Lipitor 80 mg tablet
 1 Tablet(s) 1x Day for 30 Day(s)
 take at bedtime daily

Dispense: 30 Tablet(s)
 Allow 5 refills

Electronically signed
 Carlos A Zapata, MD
 License #: ME-0037183

THIS PRESCRIPTION WILL BE FILLED GENERALLY UNLESS PRESCRIBER WRITES IN THE BOX BELOW

Dispense as written

ABSENCE OF U.S. PATENT NUMBERS IN THE BOTTOM MARGIN INDICATES THAT THIS DOCUMENT IS FRAUDULENT. THIS AREA IS PRINTED WITH A PERMANENT SECURITY INK THAT WILL CLEARLY REVEAL ITSELF UNDER UV LIGHT. BOTTOM BORDER CONTAINS MICRO PRINTING - FINGERPRINT SECURITY MAY BE SEEN UNDER MAGNIFICATION.

Northwest Florida Diagnostic

Carlos A Zapata, MD
 2173 B Centerville Place
 Tallahassee, FL 32308
 Phone: 850-878-2113 Fax: 850-878-2839

For: **HIPAA**

Date prescribed: July 9, 2013
 Start date: July 9, 2013
 Date printed: July 9, 2013

Rx Actos 15 mg Tab
 1 Tablet(s) 1x Day for 30 Day(s)

Dispense: 30 Tablet(s)
 Allow 5 refills

Electronically signed
 Carlos A Zapata, MD
 License #: ME-0037183

SCANNED
 JUL 11 2013

THIS PRESCRIPTION WILL BE FILLED GENERALLY UNLESS PRESCRIBER WRITES IN THE BOX BELOW

Dispense as written

ABSENCE OF U.S. PATENT NUMBERS IN THE BOTTOM MARGIN INDICATES THAT THIS DOCUMENT IS FRAUDULENT. THIS AREA IS PRINTED WITH A PERMANENT SECURITY INK THAT WILL CLEARLY REVEAL ITSELF UNDER UV LIGHT. BOTTOM BORDER CONTAINS MICRO PRINTING - FINGERPRINT SECURITY MAY BE SEEN UNDER MAGNIFICATION.

#101

PLAZA PHARMACY INC

Rx# 5003990

8/26/2013

DOB:
 HIPAA

DEA: *OK*
CARLOS ZAPATA
2173 CENTERVILLE PL STE B
TALLAHASSEE, FL 32308

HIPAA

(850) 878-2113
AAC: \$6.33

Price: \$11.52
Payment Method: MEDICAID FLORIDA(Copay: \$0.00
Take 1 tablet by mouth every day at bedtime

OK
ATORVASTATIN 80 MG TABLET ✓
NDC: 60506267109 Qty: 30
5.00 REFILLS Rph CR Lot:
Expires: 7/9/2014 ✓ Mfg: APOTEX CORP

08/26/13 10:03

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VOID

VOID

Northwest Florida Diagnostics

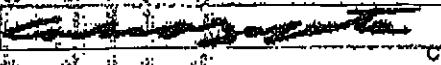
Carlos A Zapata, MD
2173 B Centerville Place
Tallahassee, FL 32308
Phone: 850-878-2113 Fax: 650-878-2839

For: **HIPAA**

Date prescribed: July 9, 2013
Start date: July 9, 2013
Date printed: July 9, 2013

Rx Lipitor 80 mg tablet
1 Tablet(s) 1x Day for 30 Day(s)
take at bedtime daily

Dispense: 30 Tablet(s)
Allow 6 refills

 Electronically signed
Carlos A Zapata, MD

License #: ME-0037183

THIS PRESCRIPTION WILL BE FILLED GENERICALLY UNLESS PRESCRIBER WRITES "NO" IN THE BOX BELOW

ABSENCE OF U.S. PATENT NUMBERS IN THE BOTTOM MARGIN INDICATES THAT THIS DOCUMENT IS FRAUDULENT. THIS AREA IS PRINTED WITH A PINK HEAT SENSITIVE INK THAT WILL CLEARLY DISAPPEAR IF COPIED OR REPRODUCED. THE BOTTOM BORDER CONTAINS MICRO PRINTING - "FINGERPRINT SECURITY" MAY BE SEEN UNDER MAGNIFICATION.

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VOID

Northwest Florida Diagnostics

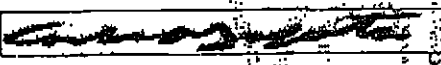
Carlos A Zapata, MD
2173 B Centerville Place
Tallahassee, FL 32308
Phone: 850-878-2113 Fax: 650-878-2839

For: **HIPAA**

Date prescribed: July 9, 2013
Start date: July 9, 2013
Date printed: July 9, 2013

Rx Actos 15 mg Tab
1 Tablet(s) 1x Day for 30 Day(s)

Dispense: 30 Tablet(s)
Allow 6 refills

 Electronically signed
Carlos A Zapata, MD

License #: ME-0037183

THIS PRESCRIPTION WILL BE FILLED GENERICALLY UNLESS PRESCRIBER WRITES "NO" IN THE BOX BELOW

ABSENCE OF U.S. PATENT NUMBERS IN THE BOTTOM MARGIN INDICATES THAT THIS DOCUMENT IS FRAUDULENT. THIS AREA IS PRINTED WITH A PINK HEAT SENSITIVE INK THAT WILL CLEARLY DISAPPEAR IF COPIED OR REPRODUCED. THE BOTTOM BORDER CONTAINS MICRO PRINTING - "FINGERPRINT SECURITY" MAY BE SEEN UNDER MAGNIFICATION.

VOID

VOID

#103

PLAZA PHARMACY INC

Rx#6003992

8/26/2013

DOR:

DEA:

HIPAA

HIPAA

CARLOS ZAPATA
2173 CENTERVILLE PL STE B
TALLAHASSEE, FL 32308

Price: \$12.29

(850) 878-2113

AAC: \$5.07

Payment Method: MEDICAID FLORIDA(Copay: \$0.00

Take 1 tablet by mouth every day

PIOGLITAZONE HCL 15 MG TABLET

NDC: 00093204898 Qty: 30

5.00 REFILLS Rph CR

Expires: 7/8/2014 Mfg: TEVA USA

Lot:

ch

54



Fax Cover Sheet

RX 119763

Urgent Reply ASAP Please Comment Please Review Info Only

| | |
|---|--------------------------------|
| To: DAVID KAVTARADZE | From: PLAZA PHARMACY |
| Attention: | Date: |
| RE: HIPAA DOB: HIPAA PHS ID: 1376516484 | Phone Number: (334) 408 - 2517 |
| Fax Number: 12292714609 -Alt Fax Number: | Fax Number: (877) 888 - 3869 |

Notes:

Our mutual patient, **HIPAA**, has chosen Plaza Pharmacy to be his preferred supplier of prescription medications. To fill this request, we will need prescriptions for the medications listed below. Please fax to (877) 888 - 3869.

If you would prefer to call in a verbal order, our staff pharmacist, Monica Abdou (Pharmacy License Number PH26083), can be reached at (877) 606 - 3443, ext: 240. Thank you!

Requester
AMLODIPI

WIL121002102
DAVID KAVTARADZE, M.D., INC. 13055
Internal Medicine & Geriatrics
 1008 N. 7th Street • Cordele, Georgia 31015
 229-271-4608 • Fax: 229-271-4609

VIX; MIRT

David Kavtaradze, M.D.
DEA # BK7848596

Holly K. Sneed, NP-C
DEA # MS2725349

NAME: **HIPAA** DATE: 6-6-13

ADDRESS: _____

DOM effectiv

The document sending the company) is not permitted unless otherwise

Rx Amlodipine 10mg ÷ p.o. daily #90
 Atenolol 50mg ÷ p.o. daily #90
 Cilostazol 100mg ÷ p.o. BID #180
 Lisinopril HCTZ 20/12.5 ÷ p.o. daily #90
 Label Crestor 40mg ÷ p.o. daily #90

the company individual (or ration except been fulfilled; instructions."

This prescription authorized through Holly K. Sneed M.D.

#07 55

PLAZA PHARMACY INC

Prescription # 6/20/2013

HIPAA

DOB: HIPAA

DEA: MS2725349
HOLLY SNEED
1008 N 7TH ST
CORDELE, GA 31015

(229) 271-4608

Price: \$479.21

AAC: \$480.09

Payment Method: MEDICARE PART D Copay: \$3.50

Take 1 tablet by mouth daily

CRESTOR 40 MG TABLET

NDC: 00310075430 Qty: 90

3.00 REFILLS Rph: MA

Expires: 6/6/2014 Mfg: ASTRAZENECA

JA

56

MERCY FAMILY MEDICINE OF WASHINGTON
220 South Iowa Ave., Washington Iowa 52358 (319) 693-7291 Fax (319) 653-7446

Rx# 58856

TREVOR R MARTIN DO

DEA # FM1611191

Patient Name: HIPAA Rx Date: July 11, 2013
Address: HIPAA Phone: HIPAA
Gender: F DOB: HIPAA Insurance Plan: Care Improvement Plus

Rx

GABAPENTIN 300MG CAPS

Rx# 1477201

1 THREE TIMES A DAY

Per m: 7-23-13
Quantity: Two hundred seventy (270) Units not specific Days Supplied: 90 Refills: Three (3)

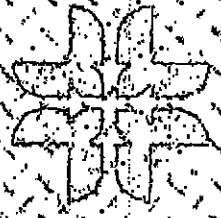
Generic Allowed: YES

Signature of Prescriber

(Do not fill unless signed by Prescriber)

MERCY FAMILY MEDICINE OF WASHINGTON

1-800-888-3869



Security Features for EMR generated prescription: Microprint signature line and border characters for quantities and refills.

#02

57

PLAZA PHARMACY INC New

Rx# 8004222 8/9/2013

HIPAA

DOB: HIPAA

DEA: FM1511131
TREVOR MARTIN
1230 S IOWA AVE
WASHINGTON, IA 52353

(515) 653-7291

Price: \$48.88

AAC: \$17.66

Payment Method: MEDICARE PART D I Copay: \$0.00

Take 1 capsule by mouth 3 times a day

GABAPENTIN 300 MG CAPSULE

NDC: 53746010201 Qty: 270 Orig Date: 7/11/2013

3.00 REFILLS Rph CR Lot:

Expires: 7/11/2014 Mfg: AMNEAL PHARMACE

7

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VOID

Carlos A Zapata, MD

2173 B Centerville Place
Tallahassee, FL 32308

Phone: 850-878-2113

Fax: 850-878-2658

For **HIPAA**

Rx Mefenamin ER 750 mg 24 hr Tab
(17 Tablets) 2x Day for 30 Day(s)

Dispense: 60 DAY

Allow 6 refills

Electronically signed

Carlos A Zapata, MD

License #: ME-0937183

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VOID

Carlos A Zapata, MD

2173 B Centerville Place
Tallahassee, FL 32308

Phone: 850-878-2113

Fax: 850-878-2658

For **HIPAA**

Rx Lovaza 1 gram Cap
3 Capsule(s) 2x Day for 30 Day(s)

Dispense: 120 Capsule(s)

Allow 6 refills

Electronically signed

Carlos A Zapata, MD

License #: ME-0937183

VOID

#104

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59-

PLAZA PHARMACY INC Refill

Rx#6004289 9/23/2013

DOB: CARLOS ZAPATA
HIPAA 2173 CENTERVILLE PL STE B
TALLAHASSEE, FL 32308

HIPAA

(850) 878-2113

Price: \$11.57 AAC: \$6.37

Payment Method: MEDICAID FLORIDA Copay: \$0.00

Take 1 tablet by mouth twice a day

METFORMIN HCL ER 750 MG TABLET
NDC: 805081329D1 Qty: 60 Orig Date: 7/9/2013
4.00 REFILLS Rph CR Lot:
Expires: 7/8/2014 Mfg: APOTEX CORP

MS

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EXEMPT FROM PUBLIC RECORDS LAWS.

456.057 - Ownership and control of patient records; report or copies of records to be
furnished.—

10)(a)All patient records obtained by the department and any other documents
maintained by the department which identify the patient by name are confidential and exempt
from s. 119.07(1) and shall be used solely for the purpose of the department and the appropriate
regulatory board in its investigation, prosecution, and appeal of disciplinary proceedings. The
records shall not be available to the public as part of the record of investigation for and
prosecution in disciplinary proceedings made available to the public by the department or the
appropriate board.

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appropriate board.

Mission:

To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.



Rick Scott
Governor

John H. Armstrong, MD, FACS
State Surgeon General & Secretary

Vision: To be the Healthiest State in the Nation

June 16, 2014

Bernard M. Cassidy, Esq.
Lubell & Rubin, Attorneys at Law
200 S. Andrews Avenue
Suite 900
Ft. Lauderdale, FL 33301

Re: DOH vs. Plaza Pharmacy, Inc.
DOH Case Number: 2013-18814

Dear Mr. Cassidy:

I am in receipt of the Settlement Agreement executed by you on June 3, 2014, concerning the above referenced case.

Our office is now making preparation for this settlement to be presented at the next regularly scheduled meeting of the Florida Board of Pharmacy. Please be advised your case has been set at the convenience of the Department and/or the Board and you will receive official notification of the date and time approximately two weeks prior to the meeting.

Thank for your attention and cooperation in this matter. Should you have any questions, please feel free to contact this office.

Sincerely,

A handwritten signature in black ink that reads "Christopher A. Jurich". The signature is written in a cursive, flowing style.

Christopher A. Jurich
Assistant General Counsel

CAJ/aed

Florida Department of Health

Office of the General Counsel • Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65 • Tallahassee, FL 32399-1701
PHONE: 850/245-4444 • FAX 850/245-4683

www.FloridasHealth.com

TWITTER: HealthyFLA
FACEBOOK: FLDepartmentofHealth
YOUTUBE: fldoh



Rick Scott
Governor

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John H. Armstrong, MD, FACS
Surgeon General & Sec

Vision: To be the Healthiest State in the Nation

**STATE OF FLORIDA
BOARD OF PHARMACY**

DEPARTMENT OF HEALTH,
PETITIONER,

VS.

CASE NO. 201315390

RX HEALTH PHARMACY, INC.,
RESPONDENT.

NOTICE

TO: RX HEALTH PHARMACY, INC.
9361 SW 40 STREET
MIAMI, FL 33165

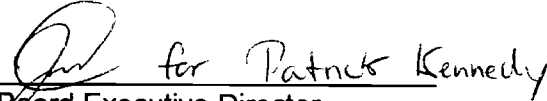
PLEASE TAKE NOTICE that a disciplinary hearing will be heard before the BOARD OF PHARMACY on Wednesday, August 13, 2014, commencing at 9 a.m. The Respondent is required to be present at this meeting. This hearing will be held at DoubleTree by Hilton, 100 Fairway Drive, Deerfield Beach, FL 33441, 1(800) 624-3606..

The purpose of the hearing is to consider a motion for: Settlement Agreement

Note: Cases shown on the agenda as "timed" items may be heard in a different order or may be heard earlier if all parties are present. Cases are scheduled beginning at 9 a.m.; therefore, it is imperative that you arrive promptly at 9 a.m. and be prepared to be at the meeting for several hours until your case is heard.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Hearing has been sent by U.S. Mail to the above address(es) this 10th day of July, 2014.



Board Executive Director
BOARD OF PHARMACY
Florida Department of Health
4052 Bald Cypress Way, Bin #
Tallahassee, FL 32399 -

Florida Department of Health
Division of Medical Quality Assurance
4052 Bald Cypress Way, Bin C10 • Tallahassee, FL 32399-3260
PHONE: (850) 245-4444 • FAX : (850) 245-4791

www.FloridasHealth.com
TWITTER:HealthyFLA
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Rick Scott

Governor

John M. Armstrong, MD, FACS

Surgeon General & Secretary

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Vision: To be the Healthiest State in the Nation

MEMORANDUM

TO: Patrick W. Kennedy, M.A., Executive Director, Board of Pharmacy

FROM: Ana Gargollo-McDonald, Assistant General Counsel

RE: Settlement Agreement

SUBJECT: DOH v. Rx Health Pharmacy, Inc., PH.

DOH Case Number: 2013-15390

DATE: June 11, 2014

Enclosed you will find materials in the above-referenced case to be placed on the agenda for final agency action for the **August 13, 2014**, meeting of the board. The following information is provided in this regard.

| | | |
|-------------------------------------|---|-----------------|
| Subject: | Rx Health Pharmacy, Inc., PH | |
| Subject's Address of Record: | 9361 SW 40th Street | |
| | Miami, FL 33165 | |
| Enforcement Address: | 9361 SW 40th Street | |
| | Miami, FL 33165 | |
| Subject's License No: | 22805 | Rank: PH |
| Licensure File No: | 15326 | |
| Initial Licensure Date: | 7/16/2007 | |
| Board Certification: | None | |
| Required to Appear: | Yes | |
| Current IPN/PRN Contract: | No | |
| Allegation(s): | Respondent has violated Section 456.072(1)(k), Florida Statutes (2012, 2013), by violating Section 465.023(1)(c), Florida Statutes (2012, 2013), and by | |

violating Section 499.005(18), Florida Statutes (2012, 2013), through a violation of Rule 61N-1.012, Florida Administrative Code.

Prior Discipline: None
Probable Cause Panel: May 8, 2014
Fallon & Glass
Subject's Attorney: Pro Se
Complainant/Address: Department Of Health/Investigative Services Unit-
[Miami]
Materials Submitted: Memorandum to the Board

Settlement Agreement

Exhibit A - Administrative Complaint

Election of Rights

Board Notification Letter

Cost Summary

Supplemental Investigative Reports dated 2/18/2014

PCP Memo

Final Investigative Report with Exhibits 1-7

GUIDELINES:

Guidelines Effective through February 4, 2014

The minimum is \$2,500 fine and two (2) years probation. The maximum is Revocation.

Guidelines Effective from February 4, 2014

The minimum is \$2,000 fine. The maximum is \$2500 to \$10,000 fine and one (1) year suspension followed by two (2) years probation, to Revocation.

PRELIMINARY CASE REMARKS

As part of the routine inspection of on or about July 3, 2013, and the reinspections of on or about December 3, 2013, and February 17, 2014, the Department Investigator conducted an audit of legend drugs to include Lidoderm. From on or about February 1, 2013, through on or about February 17, 2014, according to Respondent's records, Respondent dispensed a total of two hundred and twenty-five (225) prescriptions for Lidoderm (lidocaine 5%). Respondent failed to provide the required documentation to account for the receipt of all

the Lidoderm (lidocaine 5%) that was dispensed between on or about February 1, 2013, through on or about February 17, 2014.

The terms of the settlement agreement are:

- Appearance
- Administrative fine in the amount of \$1,500.00 payable within 90 days
- Costs not to exceed the amount of \$2,856.22 payable within 90 days
- 2 years of probation

AMD/bhh

Florida Department of Health

Office of the General Counsel • Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65 • Tallahassee, FL 32399-1701
Express mail address: 2585 Merchants Row - Suite 105
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**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO. 2013-15390

RX HEALTH PHARMACY, INC.,

RESPONDENT.

SETTLEMENT AGREEMENT

Pursuant to Section 120.57(4), Florida Statutes, the parties offer this Settlement Agreement to the Board of Pharmacy (Board) as disposition of the Administrative Complaint, attached as Exhibit A, in lieu of further administrative proceedings.

STIPULATED FACTS

1. At all times material to this matter, RX Health Pharmacy, Inc., was a licensed pharmacy in the State of Florida, having been issued permit number PH 22805. Respondent's mailing address of record is 9361 Southwest 40th Street, Miami, Florida 33165.

2. Respondent was charged by an Administrative Complaint, filed by the Department of Health (Department) and properly served upon Respondent, with violations of Chapters 456 and 465, Florida Statutes.

STIPULATED LAW

3. Respondent admits that Respondent is subject to the provisions of Chapters 456 and 465, Florida Statutes, and the jurisdiction of the Department.

4. Respondent admits that the allegations in the Administrative Complaint, if proven true, constitute violations of law and cause the Respondent to be subject to discipline by the Board of Pharmacy.

PROPOSED DISPOSITION

1. Appearance Respondent shall be present when this Settlement Agreement is presented to the Board and under oath shall answer all questions asked by the Board concerning this case and its disposition.

2. Fine The Board of Pharmacy shall impose an administrative fine of **ONE THOUSAND FIVE HUNDRED DOLLARS (\$1,500)**. The fine shall be paid by Respondent to the Department of Health, Compliance Management Unit, Bin C76, Post Office Box 6320,

Tallahassee, Florida 32314-6320, within 90 days from the date the Final Order approving and incorporating this Settlement Agreement (Final Order) is filed with the Department Clerk.

3. Costs- The Board of Pharmacy shall impose the total, administrative costs associated with the investigation and prosecution of this matter in an amount not to exceed **TWO THOUSAND EIGHT HUNDRED FIFTY-SIX DOLLARS AND TWENTY-TWO CENTS (\$2,856.22)**. Total costs shall be assessed when the Settlement Agreement is presented to the Board. The costs shall be paid by Respondent to the Department of Health, Compliance Management Unit, Bin C76, Post Office Box 6320, Tallahassee, Florida 32314-6320, within 90 days from the date the Final Order is filed with the Department Clerk.

4. Probation- Respondent shall be placed on TWO YEARS of probation. During the period of probation, Respondent shall be subject to the following terms and conditions:

- a. The Department shall conduct semi-annual inspections to ensure compliance with the laws and rules at Respondent's physical location at Respondent's cost.

b. Respondent shall make a mandatory appearance before the Board of Pharmacy during the last three (3) months of probation.

5. **Correction of Alleged Deficiencies:** At its sole expense, but without admitting any specific deficiency or violation, Respondent shall immediately, or at least forthwith, correct and address all deficiencies and violations listed or alleged in the Administrative Complaint, to the extent necessary to comply with Florida law.

6. **Future Conduct:** Respondent shall not violate Chapter 456, 465, 499, or 893, Florida Statutes; the rules promulgated pursuant thereto; or any other state or federal law, rule, or regulation relating to the practice or to the ability to practice pharmacy.

7. **Violation of Terms:** It is expressly understood that a violation of the provisions of this Settlement Agreement as approved and incorporated into the Final Order of the Board of Pharmacy shall constitute a violation of an order of the Board for which disciplinary action may be initiated against Respondent pursuant to Chapter 465, Florida Statutes.

8. **No Force or Effect until Final Order:** It is expressly understood that this Settlement Agreement is subject to approval by the

Board and has no force or effect until the Board incorporates the terms of this Settlement Agreement into its Final Order.

9. Purpose of Agreement: This Settlement Agreement is executed by Respondent for the purpose of avoiding further administrative action with respect to this particular case. In this regard, Respondent authorizes the Board to review and examine all investigative file materials concerning Respondent prior to, or in conjunction with, consideration of the Settlement Agreement. Petitioner and Respondent agree to support this Settlement Agreement at the time it is presented to the Board and shall offer no evidence, testimony, or argument that disputes or contravenes any stipulated fact or conclusion of law. Furthermore, should this Settlement Agreement not be accepted by the Board, it is agreed that the presentation and consideration of this Settlement Agreement and other documents and matters by the Board shall not unfairly or illegally prejudice the Board or any of its members from further participation, consideration, or resolution of these proceedings.

10. Not Preclude Additional Proceedings: Respondent and the Department fully understand that this Settlement Agreement as approved and incorporated into the Final Order will not preclude additional

proceedings by the Board or Department against Respondent for acts or omissions not specifically set forth in the Administrative Complaint.

11. **Waiver of Attorney's Fees and Costs:** Respondent waives the right to seek any attorney's fees and costs from the Department in connection with this disciplinary proceeding.

12. **Waiver of Procedural Rights:** Respondent waives all rights to further administrative procedure and to appeal and further review of this Settlement Agreement and the Final Order.

13. **Current Addresses:** Respondent shall keep current his mailing address and his practice address with the Board of Pharmacy and the Compliance Officer and shall notify the Board of Pharmacy and the Compliance Officer of any change of mailing address or practice address within 10 days of the change.

14. **Time of the Essence:** Time is of the essence in all respects concerning this agreement.

WHEREFORE, the parties request that the Board enter a Final Order approving and incorporating this Settlement Agreement in resolution of this matter.

SIGNED this 29 day of MAY, 2014.

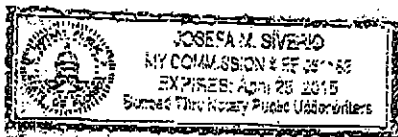
[Handwritten signature]

Institutional Representative for
RX Health Pharmacy, Inc.,
CASE NO. 2013-15390

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

Before me personally appeared Mayelis Lopez, whose identity is known to me or by _____ (type of identification), and who, under oath, acknowledges that his/her signature appears above.

Sworn to and subscribed before me this 29th day of MAY, 2014.



[Handwritten signature: Josefa M. Siverio]

Notary Public
My Commission Expires:

APPROVED this 30th day of May, 2014.

John H. Armstrong, MD, FACS
State Surgeon General and
Secretary of Health



Ana M. Gargollo-McDonald
Assistant General Counsel
Florida Bar No. 85907
Department of Health
Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, Florida 32399
Tel.: (850) 245-4444 Ext. 8133
Fax: (850) 245-4683
ana.gargollo-mcdonald@flhealth.gov
Counsel for Petitioner

STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH

Petitioner,

v.

CASE NO: 2013-15390

RX HEALTH PHARMACY, INC.,

Respondent.

ADMINISTRATIVE COMPLAINT

COMES NOW, Petitioner, Department of Health, and through its undersigned counsel, and files this administrative complaint before the Board of Pharmacy against Respondent, RX Health Pharmacy, Inc., and in support thereof alleges:

1. Petitioner is the state agency charged with regulating the practice of pharmacy pursuant to Section 20.43, Florida Statutes; Chapter 456, Florida Statutes; and Chapter 465, Florida Statutes.
2. At all times material to this complaint, Respondent was a permitted community pharmacy within the State of Florida having been issued permit number PH 22805.



3. Respondent's address of record is 9361 Southwest 40th Street, Miami, Florida 33165.

4. On or about July 3, 2013, a Department Investigator conducted a routine inspection of Respondent at its address of record.

5. On or about December 3, 2013, a Department Investigator conducted a reinspection of Respondent at its address of record.

6. On or about February 17, 2014, a Department Investigator conducted a reinspection of Respondent at its address of record.

7. As part of the routine inspection of on or about July 3, 2013, and the reinspections of on or about December 3, 2013, and February 17, 2014, the Department Investigator conducted an audit of legend drugs to include Lidoderm.

8. Lidoderm is a brand name for lidocaine topical. Lidoderm is a local anesthetic that works by blocking nerve signals in the body.

9. From on or about February 1, 2013, through on or about February 17, 2014, according to Respondent's records, Respondent dispensed a total of two hundred and twenty-five (225) prescriptions for Lidoderm (lidocaine 5%).

10. Respondent failed to provide the required documentation to account for the receipt of all the Lidoderm (lidocaine 5%) that was dispensed between on or about February 1, 2013, through on or about February 17, 2014.

11. Section 456.072(1)(k), Florida Statutes (2012, 2013), provides that failing to perform any statutory or legal obligation placed upon a licensee is grounds for disciplinary action.

12. Section 465.023(1)(c), Florida Statutes (2012, 2013), provides that the department or the board may revoke or suspend the permit of any pharmacy permittee, and may fine, place on probation, or otherwise discipline any pharmacy permittee if the permittee, or any affiliated person, partner, officer, director, or agent of the permittee, including a person fingerprinted under s. 465.022(3), has violated any of the requirements of this chapter or any of the rules of the Board of Pharmacy; and of chapter 499, known as the "Florida Drug and Cosmetic Act".

13. Section 499.005(18), Florida Statutes (2012, 2013), states that it is unlawful for a person to fail to maintain, or cause the failure of the maintenance, the records as required by this part and rules adopted under this part.

14. Rule 61N-1.012, Florida Administrative Code, provides in part, that records to document the movement of drugs, devices or cosmetics must provide a complete audit trail from a person's receipt or acquisition to sale or other disposition of the product or component. A complete audit trail includes records, which document each transaction or step in the receipt, manufacture, shipping, transfer, or other steps in the channel of trade of that person, whether or not physical possession or handling of the product or component occurs. At a minimum, records shall consist of invoices from the supplier or source, which documents acquisition of each product by the person and invoices of sale or other transfer by the person to the recipient.

15. As set forth above, Respondent failed to provide the required documentation to account for the receipt of all of the Lidoderm that was dispensed between on or about February 1, 2013, through on or about February 17, 2014.

16. Based on the foregoing, Respondent has violated Section 456.072(1)(k), Florida Statutes (2012, 2013), by violating Section 465.023(1)(c), Florida Statutes (2012, 2013), and by violating Section 499.005(18), Florida Statutes (2012, 2013), through a violation of Rule

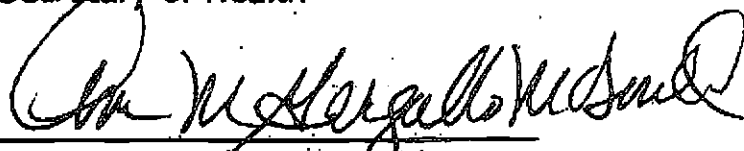
61N-1.012, Florida Administrative Code, which requires that records to document the movement of drugs, devices or cosmetics must provide a complete audit trail from a person's receipt or acquisition to sale or other disposition of the product or component.

[Remainder of page left intentionally blank]

WHEREFORE, Petitioner respectfully requests that the Board of Pharmacy enter an order imposing one or more of the following penalties: permanent revocation or suspension of Respondent's license, restriction of practice, imposition of an administrative fine, issuance of a reprimand, placement of Respondent on probation, corrective action, refund of fees billed or collected, remedial education and/or any other relief that the Board deems appropriate.

SIGNED this 8th day of May, 2014.

JOHN H. ARMSTRONG, MD, FACS
State Surgeon General and
Secretary of Health



Ana M. Gargollo-McDonald
Assistant General Counsel
DOH Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, Florida 32399-3265
Fla. Bar No. 0085907
Telephone: (850) 245-4444 Ext. 8133
Facsimile: (850) 245-4683
Ana.gargollo-mcdonald@flhealth.gov

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK

CLERK: *Bridget Coates*

DATE MAY 09 2014

/AGM
PCP: *5/8/2014*
PCP Members: *Alase & Fallon*

ELECTION OF RIGHTS

Case Name: RX Health Pharmacy, Inc. Case No. 2013-15390

PLEASE SELECT ONLY 1 OF THE 3 OPTIONS

An Explanation of Rights is attached. If you do not understand these options, please consult with your attorney or contact the attorney for the Prosecution Services Unit at the address/phone number listed at the bottom of this form.

OPTION 1. ___ I do not dispute the allegations of fact in the Administrative Complaint, but do wish to be accorded a hearing, pursuant to Section 120.57(2), Florida Statutes, at which time I will be permitted to submit oral and/or written evidence in mitigation of the complaint to the Board.

OPTION 2. I do not dispute the allegations of fact contained in the Administrative Complaint and waive my right to object or to be heard. I request that the Board enter a final order pursuant to Section 120.57, Florida Statutes.

OPTION 3. ___ I do dispute the allegations of fact contained in the Administrative Complaint and request this to be considered a petition for formal hearing, pursuant to Sections 120.569(2)(a) and 120.57(1), Florida Statutes, before an Administrative Law Judge appointed by the Division of Administrative Hearings. I specifically dispute the following paragraphs of the Administrative Complaint:

In addition to the above selection, I also elect the following:

- I accept the terms of the Settlement Agreement, have signed and am returning the Settlement Agreement or I am interested in settling this case.
 I do not wish to continue practicing and have signed and returned the Voluntary Relinquishment of licensure form.

Regardless of which option I have selected, I understand that I will be given notice of time, date, and place when this matter is to be considered by the Board for Final Action. Mediation under Section 120.573, Florida Statutes, is not available in this matter.

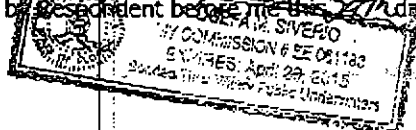
(Please sign and complete all the information below.)

Respondent's signature [Handwritten Signature]
Address: 9350 SW 40 St
Miami, FL 33165
Lic. No. PH 22805
Phone No.
Fax No.

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

Before me personally appeared Marcelis Lopez whose identity is known to be by Driver License (type of identification) and who under oath, acknowledges that his/her signature appears above. Sworn to and subscribed by respondent before me this 27th day of May, 2014.

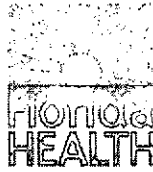
Notary Public
My Commission Expires:



PLEASE MAIL AND/OR FAX COMPLETED FORM TO: Ana M. Gargollo-McDonald, Assistant General Counsel, DOH, Prosecution Services Unit, 4052 Bald Cypress Way, Bin C-65, Tallahassee, Florida 32399-3265. Telephone Number: (850) 245-4444 FAX (850) 245-4683 TDD 1-800-955-8771.

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To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.



Rick Scott
Governor

John H. Armstrong, MD, FACS
State Surgeon General & Secretary

Vision: To be the Healthiest State in the Nation

June 11, 2014

VIA U. S. MAIL

RX HEALTH PHARMACY, INC.
9361 SOUTHWEST 40TH STREET
MIAMI, FLORIDA 33365

Re: DOH vs. RX HEALTH PHARMACY, INC.
DOH Case Number: 2013-15390

Dear Sir/Madam:

I am in receipt of the settlement agreement executed by your client on **May 29, 2014**, concerning the above referenced case.

Our office is now making preparation for this settlement to be presented at the next meeting of the Florida Board of Pharmacy, scheduled for **August 13, 2014**. Please be advised your case has been set at the convenience of the Department and/or the Florida Board of Pharmacy and you will receive official notification of the date and time approximately two weeks prior to the meeting.

Thank for your attention and cooperation in this matter. Should you have any questions, please feel free to contact this office.

Sincerely,

A handwritten signature in black ink, appearing to read "Ana M. Gargollo-McDonald".

ANA M. GARGOLLO-MCDONALD
Assistant General Counsel

AMD/bhh

Complaint Cost Summary

Complaint Number: 201315390

Subject's Name: RX HEALTH PHARMACY, INC .

| | ***** Cost to Date ***** | |
|-----------------------------|--------------------------|------------|
| | Hours | Costs |
| Complaint: | 1.00 | \$54.90 |
| Investigation: | 21.50 | \$1,373.10 |
| Legal: | 5.40 | \$550.56 |
| Compliance: | 0.00 | \$0.00 |
| | ***** | ***** |
| Sub Total: | 27.90 | \$1,978.56 |
| Expenses to Date: | | \$0.00 |
| Prior Amount: | | \$0.00 |
| Total Costs to Date: | | \$1,978.56 |



STATE OF FLORIDA

DEPARTMENT OF HEALTH

INVESTIGATIVE REPORT

| | | | | | |
|---|---------------------|--------------------------|---|----------------------------|--|
| Office: Miami XI | | Date of Case: 09/30/2013 | | Case Number: PH 2013-15390 | |
| Subject: RX HEALTH PHARMACY INC 9361 SW 40 th Street Miami, FL 33165 (305) 227-5842 (W) | | | Source: DOH/INVESTIGATIVE SERVICES UNIT-MIAMI | | |
| Prefix: 2205 | License #: 22805 | Profession: Pharmacy | Board: Pharmacy | Report Date: 02/18/14 | |
| Period of Investigation: 01/21/14 – 02/18/14 | | | Type of Report: SUPPLEMENTAL - 1 | | |
| Alleged Violation: SEE FINAL REPORT | | | | | |
| Synopsis: This investigation is predicated upon receipt of a supplemental request from ANN BROOME, Assistant for General Counsel, ANA GAROLLO-MCDONALD from the Department of health Prosecution Services Unit. Specifically, the supplemental request the following: 1) Obtain from February 2013 through present all invoices for Lidoderm; 2) all invoices for Lidocaine patch; 3) all dispensing logs; and any and all inventories of Respondent's prescription department stock. | | | | | |
| On 02/17/14, at approximately 12:15 pm, this Investigator and Medical Quality Assurance Investigator WARSHOFSKY presented at the address of RX HEALTH PHARMACY INC, located at 9361 SW 40 th Street, Miami, FL 33165. This Investigator attempted to obtain all invoices for Lidoderm; all invoices for Lidocaine and patch; all dispensing logs; and any and all inventories of Respondent's prescription department stock. | | | | | |
| Exhibits(s): S1 – Drug Utilization Report (Summary) from 12/01/13 to 02/17/14 (pg. 2). *S2 – Drug Utilization Report (Detail) from 12/01/13 to 02/17/14 (pp. 3-4). S3 – Invoices from ANDA, and PARMED (pp. 5-10). S4 – Routine Unsatisfactory re-inspection conducted on 02/17/14 (pp. 11-12). | | | | | |
| *EXHIBITS CONTAIN INFORMATION WHICH IDENTIFIES PATIENT(S) BY NAME AND ARE SEALED PURSUANT TO SECTION 456.057(10) (a), FLORIDA STATUTES | | | | | |
| Related Case(s): PS 2013-15388 | | | | | |
| Investigator/Date: February 18, 2014 Jeneice Mayers, Investigation Specialist II | | | Approved By/Date: February 18, 2014 Luis Nieves, Investigator Supervisor | | |
| Distribution: HQ/ISU | | | | | |

14 FEB 20 6:10:20
REC'D INVESTIGATIVE

Received
Investigative Services
FEB 19 2014

DOH/MQA
Tallahassee

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appropriate board.

MEMORANDUM OF FINDING OF PROBABLE CAUSE DETERMINATION

TO: Department of Health, Prosecution Services Unit
FROM: Chair, Probable Cause Panel, Florida Board of Pharmacy
RE: **DOH v. RX Health Pharmacy, Inc.**
DOH Case Number: 2013-15390

MEMBERS: Leo J. "Lee" Fallon, BPharm, Ph.D and Debra Glass

DATE OF PCP: May 8, 2014 **AGENDA ITEM:** A-05 *AM*

This matter came before the Probable Cause Panel on the above date. Having reviewed the complete investigative report, recommendations of the Department, and any information submitted by the Subject, and being otherwise fully advised in the premises, the panel finds that:

Probable cause exists and a formal complaint shall be filed for violation of statutes and rules, including but not limited to:

- Section 456.072(1)(k), Florida Statutes (2012, 2013)**
- Section 465.023(1)(c), Florida Statutes (2012, 2013)**
- Section 499.005(18), Florida Statutes (2012, 2013)**
- Violation of Rule 61N-1.012, Florida Administrative Code**

Probable Cause was **not** found in this case

In lieu of probable cause, issue **letter of guidance**

Case requires **expert review**

Case needs **further investigation**

- a)
- b)
- c)

Upon **reconsideration**, dismiss

Other

Ronald Kenny for Lee Fallon
Chair, Probable Cause Panel
Board of Pharmacy

5/15/2014
Date

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STATE OF FLORIDA
BOARD OF PHARMACY

DEPARTMENT OF HEALTH,
PETITIONER,

VS.

CASE NO. 201320214

RAYHAN AHMED,
RESPONDENT.

NOTICE

TO: RAYHAN AHMED
8957 ALEXANDRA CIRCLE
WELLINGTON, FL 33414


PLEASE TAKE NOTICE that a disciplinary hearing will be heard before the BOARD OF PHARMACY on Wednesday, August 13, 2014, commencing at 9 a.m. The Respondent is required to be present at this meeting. This hearing will be held at DoubleTree by Hilton, 100 Fairway Drive, Deerfield Beach, FL 33441, 1(800) 624-3606..

The purpose of the hearing is to consider a motion for: Settlement Agreement

Note: Cases shown on the agenda as "timed" items may be heard in a different order or may be heard earlier if all parties are present. Cases are scheduled beginning at 9 a.m.; therefore, it is imperative that you arrive promptly at 9 a.m. and be prepared to be at the meeting for several hours until your case is heard.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Hearing has been sent by U.S. Mail to the above address(es) this 10th day of July, 2014.

 for Patrick Kennedy

Board Executive Director
BOARD OF PHARMACY
Florida Department of Health
4052 Bald Cypress Way, Bin #
Tallahassee, FL 32399 -

Florida Department of Health

Division of Medical Quality Assurance
4052 Bald Cypress Way, Bin C10 • Tallahassee, FL 32399-3260
PHONE: (850) 245-4444 • FAX : (850) 245-4791

www.FloridasHealth.com

TWITTER: HealthyFLA
FACEBOOK: FLDepartmentofHealth
YOUTUBE: fldoh



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STATE OF FLORIDA
BOARD OF PHARMACY

DEPARTMENT OF HEALTH,
PETITIONER,

VS.

CASE NO. 201320214

RAYHAN AHMED,
RESPONDENT.

NOTICE

AND: BONNIE EYLER, ESQ
1555 PALM BEACH LAKES BLVD
WEST PALM BEACH, FL 33401

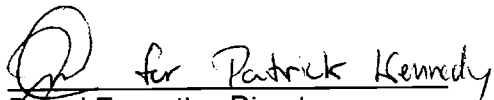
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BOARD OF PHARMACY
Florida Department of Health
4052 Bald Cypress Way, Bin #
Tallahassee, FL 32399 -

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4052 Bald Cypress Way, Bin C10 • Tallahassee, FL 32399-3260
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MEMORANDUM

TO: Patrick W. Kennedy, M.A., Executive Director, Board of Pharmacy
FROM: Matthew Witters, Assistant General Counsel (M)
RE: **Settlement Agreement**
SUBJECT: DOH v. Rayhan Ahmed, R.Ph.
 DOH Case Number 2013-20214
DATE: June 19, 2014

Enclosed you will find materials in the above-referenced case to be placed on the agenda for final agency action for the **August 13, 2014**, meeting of the board. The following information is provided in this regard.

Subject: Rayhan Ahmed
Subject's Address of Record: 8957 Alexandra Circle
 Wellington, FL 33414
Enforcement Address: 8957 Alexandra Circle
 Wellington, FL 33414
Subject's License No: 38712 **Rank:** PS
Licensure File No: 29597
Initial Licensure Date: 6/3/2004
Board Certification: No
Required to Appear: Yes
Current IPN/PRN Contract: No
Allegation(s): 456.016(1)(g), FS (2012)
Prior Discipline: None
Probable Cause Panel: May 9, 2014; Fallon & Glass
Subject's Attorney: Bonnie Eyler
 1555 Palm Beach Lakes Blvd
 West Palm Beach, FL 33401
Complainant/Address: Department Of Health/Consumer Services Unit
Materials Submitted: Memorandum to the Board
 Settlement Agreement
 Exhibit A - Administrative Complaint
 Election of Rights
 Notification Letter
 Cost Summary Report
 Supplemental Report dated 2/7/2014
 Memorandum of Probable Cause

456 materials
Final Investigative Report with Exhibits 1-12

GUIDELINES:

From a \$250 fine and continuing education in the prevention of medical errors up to revocation.

PRELIMINARY CASE REMARKS

This is a one count administrative complaint which alleges that the Respondent filled a prescription written for hydralazine with hydroxyzine for patient T.S.

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO. 2013-20214

RAYHAN AHMED, R.Ph.,

RESPONDENT.

SETTLEMENT AGREEMENT

Pursuant to Section 120.57(4), Florida Statutes, the parties offer this Settlement Agreement to the Board of Pharmacy (Board) as disposition of the Administrative Complaint, attached as Exhibit A, in lieu of further administrative proceedings.

STIPULATED FACTS

1. At all times material to this matter, **RAYHAN AHMED, R.Ph.**, was a licensed pharmacist in the state of Florida, having been issued license number PS 38712. Respondent's mailing address of record is 8957 Alexandra Circle, Wellington, Florida 33431.

2. Respondent was charged by an Administrative Complaint, filed by the Department of Health (Department) and properly served upon Respondent, with violations of Chapters 456 and 465, Florida Statutes.

STIPULATED LAW

1. Respondent admits that she is subject to the provisions of Chapters 456 and 465, Florida Statutes, and the jurisdiction of the Department.

2. Respondent admits that the allegations in the Administrative Complaint, if proven true, constitute violations of law and cause the Respondent to be subject to discipline by the Board of Pharmacy.

PROPOSED DISPOSITION

1. **Appearance**- Respondent shall be present when this Settlement Agreement is presented to the Board and under oath shall answer all questions asked by the Board concerning this case and its disposition.

2. **Fine**- The Board of Pharmacy shall impose an administrative fine of **FIVE HUNDRED DOLLARS (\$500.00)**. The fine shall be paid by Respondent to the **Department of Health, Compliance Management Unit, Bin C76, Post Office Box 6320, Tallahassee, Florida 32314-**

6320, within **30 days** from the date the Final Order approving and incorporating this Settlement Agreement (Final Order) is filed with the Department Clerk.

3. Costs- The Board of Pharmacy shall impose the total, administrative costs associated with the investigation and prosecution of this matter in an amount not to exceed **ONE THOUSAND DOLLARS (\$1,000)**. Total costs shall be assessed when the Settlement Agreement is presented to the Board. The costs shall be paid by Respondent to the **Department of Health, Compliance Management Unit, Bin C76, Post Office Box 6320, Tallahassee, Florida 32314-6320**, within **90 days** from the date the Final Order is filed with the Department Clerk.

4. CE Course- Respondent shall successfully complete a Continuing Education Course on the subject of **PREVENTION OF MEDICAL ERRORS** consisting of **EIGHT (8) HOURS** of credit, which has been approved by the Florida Board of Pharmacy, within **one (1) year** of the filing of a Final Order accepting and incorporating this Settlement Agreement. These continuing education hours shall be in addition to the hours required for license renewal. Within ten (10) days of completion of the course and/or receipt of the certificate of completion, Respondent shall

mail a copy of the continuing education certificate of completion to the Pharmacy Compliance Officer at the address listed in paragraph two (2) above.

6. **Future Conduct-** Respondent shall not violate Chapters 456, 465, 499 or 893, Florida Statutes; the rules promulgated pursuant thereto; or any other state or federal law, rule, or regulation relating to the practice or to the ability to practice pharmacy.

7. **Violation of Terms-** It is expressly understood that a violation of the provisions of this Settlement Agreement as approved and incorporated into the Final Order of the Board of Pharmacy shall constitute a violation of an order of the Board for which disciplinary action may be initiated against Respondent pursuant to Chapter 465, Florida Statutes.

8. **No Force or Effect until Final Order-** It is expressly understood that this Settlement Agreement is subject to approval by the Board and has no force or effect until the Board incorporates the terms of this Settlement Agreement into its Final Order.

9. **Purpose of Agreement-** This Settlement Agreement is executed by Respondent for the purpose of avoiding further administrative action with respect to this particular case. In this regard, Respondent

authorizes the Board to review and examine all investigative file materials concerning Respondent prior to, or in conjunction with, consideration of the Settlement Agreement. Petitioner and Respondent agree to support this Settlement Agreement at the time it is presented to the Board and shall offer no evidence, testimony, or argument that disputes or contravenes any stipulated fact or conclusion of law. Furthermore, should this Settlement Agreement not be accepted by the Board, it is agreed that the presentation and consideration of this Settlement Agreement and other documents and matters by the Board shall not unfairly or illegally prejudice the Board or any of its members from further participation, consideration, or resolution of these proceedings.

10. **Not Preclude Additional Proceedings**- Respondent and the Department fully understand that this Settlement Agreement as approved and incorporated into the Final Order will not preclude additional proceedings by the Board or Department against Respondent for acts or omissions not specifically set forth in the Administrative Complaint.

11. **Waiver of Attorney's Fees and Costs**- Respondent waives the right to seek any attorney's fees and costs from the Department in connection with this disciplinary proceeding.

12. **Waiver of Procedural Rights**- Respondent waives all rights to further administrative procedure and to appeal and further review of this Settlement Agreement and the Final Order.

13. **Current Addresses**- Respondent shall keep current her mailing address and her practice address with the Board of Pharmacy and the Compliance Officer and shall notify the Board of Pharmacy and the Compliance Officer of any change of mailing address or practice address within 10 days of the change.

WHEREFORE, the parties request that the Board enter a Final Order approving and incorporating this Settlement Agreement in resolution of this matter.

SIGNED this 30 day of May, 2014.

Rayhan Ahmed

**RAYHAN AHMED, R.Ph.
CASE NO. 2013-20214**

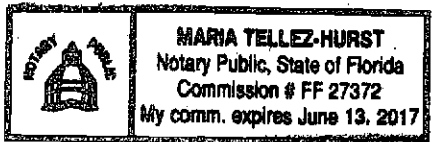
STATE OF FLORIDA

COUNTY OF Palm Beach

Before me personally appeared Rayhan Ahmed, R.Ph., whose identity is known to me or by FDL (type of identification), and who, under oath, acknowledges that his signature appears above.

Sworn to and subscribed before me this 30 day of May, 2014.

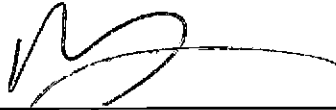
Maria Tellez-Hurst



Notary Public
My Commission Expires:

APPROVED this 16 day of June, 2014.

John H. Armstrong, MD, FACS
State Surgeon General and
Secretary of Health



Matthew G. Witters
Assistant General Counsel

Counsel for Petitioner
Matthew G. Witters
Florida Bar No. 091245
Assistant General Counsel
Department of Health
Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, Florida 32399
Tel.: 850.245.4444
Fax: 850.245.4683

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO. 2013-20214

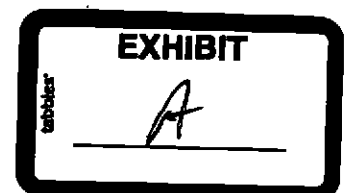
RAYHAN AHMED, R.Ph.,

RESPONDENT.

ADMINISTRATIVE COMPLAINT

COMES NOW, Petitioner, Department of Health (Department), by and through its undersigned counsel, and files this Administrative Complaint before the Board of Pharmacy against Respondent, Rayhan Ahmed, R.Ph., and in support thereof alleges:

1. Petitioner is the state agency charged with regulating the practice of pharmacy pursuant to Section 20.43, Florida Statutes; Chapter 456, Florida Statutes; and Chapter 465, Florida Statutes.
2. At all times material to this Administrative Complaint, Respondent was a licensed pharmacist within the state of Florida, having been issued license PS 38712.



3. Respondent's address of record is 8957 Alexandra Circle, Wellington, Florida 33414.

4. At all times material to this Administrative Complaint, Respondent was employed as a pharmacist at CVS Pharmacy #117 ("CVS") located in Boca Raton, Florida 33431.

5. At all times material to this Administrative Complaint, L.S., an eighty-five year old male was a patient at CVS.

6. On or about December 26, 2012, L.S. presented to CVS with a prescription for hydralazine.

7. Hydralazine is a vasodilator that works by relaxing the muscles in your blood vessels to help them dilate (widen). This lowers blood pressure and allows blood to flow more easily through your veins and arteries. Hydralazine is used to treat high blood pressure (hypertension).

8. On or about December 26, 2012, Respondent dispensed hydroxyzine instead of hydralazine to T.S.

9. Hydroxyzine reduces activity in the central nervous system. It also acts as an antihistamine that reduces the natural chemical histamine in the body. Histamine can produce symptoms of sneezing and runny nose, or

hives on the skin. Hydroxyzine is used as a sedative to treat anxiety and tension.

10. Section 465.016(1)(g), Florida Statutes (2012), provides that using in the compounding of a prescription, or furnishing upon prescription, an ingredient or article different in any manner from the ingredient or article prescribed, except as authorized in Section 465.019(6), Florida Statutes, or Section 465.025, Florida Statutes, constitutes grounds for disciplinary action.

11. As set forth above, on or about December 26, 2012, Respondent dispensed hydroxyzine instead of hydralazine to patient T.S.

12. Based on the foregoing, Respondent has violated Section 465.016(1)(g), Florida Statutes (2012), by using in the compounding of a prescription, or furnishing upon prescription, an ingredient or article different in any manner from the ingredient or article prescribed.

WHEREFORE, the Petitioner respectfully requests that the Board of Pharmacy enter an order imposing one or more of the following penalties: permanent revocation or suspension of Respondent's license, restriction of practice, imposition of an administrative fine, issuance of a reprimand, placement of the Respondent on probation, corrective action, refund of fees billed or collected, remedial education and/or any other relief that the Board deems appropriate.

SIGNED this 8 day of May, 2014.

John H. Armstrong, MD, FACS
State Surgeon General and
Secretary of Health



Matthew G. Witters
Assistant General Counsel
Fla. Bar No. 0091245
Florida Department of Health
Office of the General Counsel
4052 Bald Cypress Way, Bin #C65
Tallahassee, FL 32399-3265
Telephone: (850) 245-4444
Facsimile: (850) 245-4683
Email: matthew.witters@flhealth.gov

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK ANGEL SANDERS
DATE MAY 08 2014

PCP: May 9, 2014
PCP Members: Fallon and Glass

Department of Health v. Rayhan Ahmed, R.Ph.
Case No. 2013-20214
AC -- Misfill

NOTICE OF RIGHTS

Respondent has the right to request a hearing to be conducted in accordance with Section 120.569 and 120.57, Florida Statutes, to be represented by counsel or other qualified representative, to present evidence and argument, to call and cross-examine witnesses and to have subpoena and subpoena duces tecum issued on his or her behalf if a hearing is requested.

NOTICE REGARDING ASSESSMENT OF COSTS

Respondent is placed on notice that Petitioner has incurred costs related to the investigation and prosecution of this matter. Pursuant to Section 456.072(4), Florida Statutes, the Board shall assess costs related to the investigation and prosecution of a disciplinary matter, which may include attorney hours and costs, on the Respondent in addition to any other discipline imposed.

ELECTION OF RIGHTS

Case No. 2013-20214

Case Name: Rayhan Ahmed, R.Ph.

PLEASE SELECT ONLY 1 OF THE 3 OPTIONS

An Explanation of Rights is attached. If you do not understand these options, please consult with your attorney or contact the attorney for the Prosecution Services Unit at the address/phone number listed at the bottom of this form.

OPTION 1. I do not dispute the allegations of fact in the Administrative Complaint, but do wish to be accorded a hearing, pursuant to Section 120.57(2), Florida Statutes, at which time I will be permitted to submit oral and/or written evidence in mitigation of the complaint to the Board.

OPTION 2. X I do not dispute the allegations of fact contained in the Administrative Complaint and waive my right to object or to be heard. I request that the Board enter a final order pursuant to Section 120.57, Florida Statutes.

OPTION 3. I do dispute the allegations of fact contained in the Administrative Complaint and request this to be considered a petition for formal hearing, pursuant to Sections 120.569(2)(a) and 120.57(1), Florida Statutes, before an Administrative Law Judge appointed by the Division of Administrative Hearings. I specifically dispute the following paragraphs of the Administrative Complaint:

In addition to the above selection, I also elect the following:

- X I accept the terms of the Settlement Agreement, have signed and am returning the Settlement Agreement or I am interested in settling this case.
() I do not wish to continue practicing and have signed and returned the Voluntary Relinquishment of licensure form.

Regardless of which option I have selected, I understand that I will be given notice of time, date, and place when this matter is to be considered by the Board for Final Action. Mediation under Section 120.573, Florida Statutes, is not available in this matter.

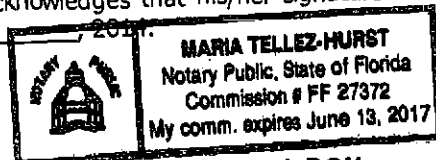
(Please sign and complete all the information below.)

Respondent Address: 8957 Alexandra Cir. Wellington FL- 33419
Lic. No. PS 38712
Phone No. 407-697-0566
Fax No. 561-557-1231

STATE OF FLORIDA COUNTY OF Palm Beach

Before me personally appeared RAYHAN AHMED, whose identity is known to be by RDI (type of identification), and who under oath, acknowledges that his/her signature appears above. Sworn to and subscribed before me this 30 day of May, 2017.

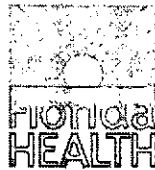
Notary Public My Commission Expires:



PLEASE MAIL AND/OR FAX COMPLETED FORM TO: Matthew G. Witters, Assistant General Counsel, DOH, Prosecution Services Unit, 4052 Bald Cypress Way, Bin C-65, Tallahassee, Florida 32399-3265. Telephone Number: (850) 245-4444; FAX (850) 245-4683 - TDD 1-800-955-8771.

Mission:

To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.



Rick Scott
Governor

John H. Armstrong, MD, FACS
State Surgeon General & Secretary

Vision: To be the Healthiest State in the Nation

June 19, 2014

Bonnie Eyler, Esquire
Adams/Coogler
1555 Palm Beach Lakes Blvd
West Palm Beach, FL 33401

Re: DOH vs. Rayhan Ahmed, R.Ph.
DOH Case Number: 2013-20214

Dear Ms. Eyler:

I am in receipt of the settlement agreement executed by your client on May 30, 2014, concerning the above referenced case.

Our office is now making preparation for this settlement to be presented at the next regularly scheduled meeting of the Florida Board of Pharmacy. Please be advised your case will be set at the convenience of the Department and/or the Board and you will be notified of the date and time approximately two weeks prior to the meeting.

Thank for your attention and cooperation in this matter. Should you have any questions, please feel free to contact this office.

Sincerely,

Matthew Witters
Assistant General Counsel

MW/ab

Florida Department of Health

Office of the General Counsel • Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65 • Tallahassee, FL 32399-1701
Express mail address: 2585 Merchants Row – Suite 105
PHONE: 850/245-4444 • FAX 850/245-4683

www.FloridasHealth.com

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FACEBOOK: FLDepartmentofHealth
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| | | | |
|--------|----------------------------------|------|------|
| Search | Complaint/Case Number: 201320214 | MAIN | HELP |
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Complaint Cost Summary

Complaint Number: 201320214

Subject's Name: AHMED, RAYHAN

| | ***** Cost to Date ***** | |
|-----------------------------|-----------------------------|----------|
| | Hours | Costs |
| Complaint: | 0.40 | \$21.86 |
| Investigation: | 11.80 | \$753.07 |
| Legal: | 2.10 | \$214.12 |
| Compliance: | 0.00 | \$0.00 |
| | ***** | ***** |
| Sub Total: | 14.30 | \$989.05 |
| Expenses to Date: | | \$0.00 |
| Prior Amount: | | \$0.00 |
| Total Costs to Date: | | \$989.05 |



STATE OF FLORIDA

DEPARTMENT OF HEALTH

INVESTIGATIVE REPORT

| | | |
|-------------------------|--------------------------|-------------------------|
| Office: West Palm Beach | Date of Case: 12/23/2014 | Case Number: 2013-20214 |
|-------------------------|--------------------------|-------------------------|

| | |
|---|---|
| Subject: RAYHAN AHMED, RPH 8957 Alexandra Circle Wellington, FL 33414 (561) 737-7086 | Source: DEPARTMENT OF HEALTH CONSUMER SERVICES UNIT |
|---|---|

| | | | | |
|---------------|---------------------|---------------------------|--------------------|------------------------|
| Prefix: PS | License #: 38712 | Profession: Pharmacist | Board: Pharmacy | Report Date: 2/7/14 |
|---------------|---------------------|---------------------------|--------------------|------------------------|

| | |
|---|------------------------------------|
| Period of Investigation: 2/4/14 - 2/7/14 | Type of Report: SUPPLEMENTAL -1 |
|---|------------------------------------|

Alleged Violation: F.S. 456.072(1)(k)(dd) and 465.016(1)(g)(r), and Rules 64B16-27.400(1)(c)(d)(g) and 64B16-27.810(10)(d), F.A.C. Violate statute/rule; failure to perform legal obligation; misfill prescription.

Synopsis: This supplemental investigation is predicated upon receipt of correspondence from patient LS which includes DOH's notification letter dated 1/28/14 (EXS-1). Patient LS indicated that he would like to be kept informed of the status of this investigation.

EXHIBITS:

*S-1. Completed patient notification letter, pages 2-3.

RECEIVED-LEGAL
14 FEB 11 07:08:00

Exhibits contain information which identifies patient(s) by name and are sealed pursuant to section 456.057(10)(a), Florida Statutes.*

Related Case(s): 2013-16031

| | |
|---|---|
| Investigator/Date: <i>Sandra Warner</i> SANDRA WARNER, MED. QUALITY ASSURANCE INVESTIGATOR, WI-92 | Approved By/Date: LOUIS DEANDA, INVESTIGATION SUPERVISOR |
|---|---|

| | |
|----------------------|---|
| Distribution: HQ/ISU | Received Page 1 Investigative Services |
|----------------------|---|

FEB 10 2014

DOH/MQA
Tallahassee HQ

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456.057 - Ownership and control of patient records; report or copies of records to be
furnished.—

10)(a)All patient records obtained by the department and any other documents
maintained by the department which identify the patient by name are confidential and exempt
from s. 119.07(1) and shall be used solely for the purpose of the department and the appropriate
regulatory board in its investigation, prosecution, and appeal of disciplinary proceedings. The
records shall not be available to the public as part of the record of investigation for and
prosecution in disciplinary proceedings made available to the public by the department or the
appropriate board.

MEMORANDUM OF PROBABLE CAUSE DETERMINATION

TO: Department of Health, Prosecution Services Unit
FROM: Chair, Probable Cause Panel, Florida Board of Pharmacy
RE: Rayhan Ahmed, R.Ph.
Case Number: 2013-20214

MEMBERS: Glass and Fallon

DATE OF PCP: May 8, 2014 **AGENDA ITEM:** A-02 MW

This matter came before the Probable Cause Panel on the above date. Having reviewed the complete investigative file, recommendations of the Department, and any information submitted by the Subject, and being otherwise fully advised in the premises, the panel finds that:

Probable cause exists and a formal complaint shall be filed for violation of statutes and rules, including but not limited to:

Section 465.016(1)(g), F.S. (2012)

Probable Cause was not found in this case

In lieu of probable cause, issue letter of guidance

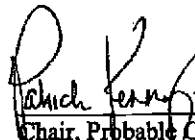
Case requires expert review

Case needs further investigation

- a)
- b)
- c)

Upon reconsideration, dismiss

Other


Patrick Kenny for Lee Fallon 5/15/2014
Chair, Probable Cause Panel
Board of Pharmacy

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prosecution in disciplinary proceedings made available to the public by the department or the
appropriate board.

CONFIDENTIAL AND EXEMPT MATERIALS

**One or more pages have been removed
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SOME OR ALL PAGES IN THIS DOCUMENT ARE PATIENT RECORDS
AND/OR DOCUMENTS THAT IDENTIFY THE PATIENT BY NAME AND ARE
EXEMPT FROM PUBLIC RECORDS LAWS.

456.057 - Ownership and control of patient records; report or copies of records to be
furnished.—

10)(a)All patient records obtained by the department and any other documents
maintained by the department which identify the patient by name are confidential and exempt
from s. 119.07(1) and shall be used solely for the purpose of the department and the appropriate
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Rick Scott
Governor

Mission:

To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.

John H. Armstrong, MD, FACS

Surgeon General & Sec

Vision: To be the **Healthiest State** in the Nation

STATE OF FLORIDA
BOARD OF PHARMACY

DEPARTMENT OF HEALTH,
PETITIONER,

VS.

CASE NO. 201402879

CORAM HEALTHCARE CORP OF FLORIDA,
RESPONDENT.

NOTICE

TO: CORAM HEALTHCARE CORP OF FLORIDA
555 17TH STREET SUITE 1500
DENVER, CO 80202

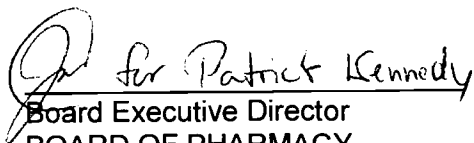
PLEASE TAKE NOTICE that a disciplinary hearing will be heard before the BOARD OF PHARMACY on Wednesday, August 13, 2014, commencing at 9 a.m. The Respondent is required to be present at this meeting. This hearing will be held at DoubleTree by Hilton, 100 Fairway Drive, Deerfield Beach, FL 33441, 1(800) 624-3606..

The purpose of the hearing is to consider a motion for: Settlement Agreement

Note: Cases shown on the agenda as "timed" items may be heard in a different order or may be heard earlier if all parties are present. Cases are scheduled beginning at 9 a.m.; therefore, it is imperative that you arrive promptly at 9 a.m. and be prepared to be at the meeting for several hours until your case is heard.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Hearing has been sent by U.S. Mail to the above address(es) this 10th day of July, 2014.


for Patrick Kennedy

Board Executive Director
BOARD OF PHARMACY
Florida Department of Health
4052 Bald Cypress Way, Bin #
Tallahassee, FL 32399 -

Florida Department of Health

Division of Medical Quality Assurance
4052 Bald Cypress Way, Bin C10 • Tallahassee, FL 32399-3260
PHONE: (850) 245-4444 • FAX : (850) 245-4791

www.FloridasHealth.com

TWITTER:HealthyFLA
FACEBOOK:FLDepartmentofHealth
YOUTUBE: fldoh



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STATE OF FLORIDA
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DEPARTMENT OF HEALTH,
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VS.

CASE NO. 201402879

CORAM HEALTHCARE CORP OF FLORIDA,
RESPONDENT.

NOTICE

TO: CORAM HEALTHCARE CORP OF FLORIDA
8508 BENJAMIN ROAD SUITE C
TAMPA, FL 33634

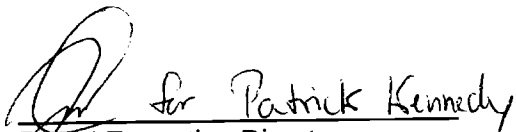
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Board Executive Director
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Florida Department of Health
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TWITTER: HealthyFLA
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**Rick Scott**

Governor

John H. Armstrong, MD, FACS

Surgeon General & Secretary

Vision: To be the Healthiest State in the Nation**MEMORANDUM**

TO: Patrick W. Kennedy, M.A., Executive Director, Board of Pharmacy
FROM: Christopher Jurich, Assistant General Counsel *CJ 6-17-14*
RE: **Settlement Agreement**
SUBJECT: DOH v. Coram Healthcare Corp. of Florida, d/b/a Coram Specialty Infusion Services
 DOH Case Number 2014-02879
DATE: June 16, 2014

Enclosed you will find materials in the above-referenced case to be placed on the agenda for final agency action for the **August 13, 2014** meeting of the board. The following information is provided in this regard.

Subject: Coram Healthcare Corp. of Florida, d/b/a Coram Specialty Infusion Systems, a CVS Caremark Company
Subject's Address of Record: 555 17th Street
 Suite 1500
 Denver, CO 80202
Enforcement Address: 8508 Benjamin Road
 Suite C
 Tampa, FL 33634
Subject's License No: 13951 **Rank:** PH
Licensure File No: 4512
Initial Licensure Date: 5/16/1996
Board Certification: None
Required to Appear: Yes
Current IPN/PRN Contract: No
Allegation(s): Section 465.023(1)(c), F.S. (2013), by and through a violation of Rule 64B16-27.797(1)(n)4., F.A.C.
Prior Discipline: None
Probable Cause Panel: May 8, 2014: Glass and Fallon
Subject's Attorney: Pro Se
Complainant/Address: Department of Health/Investigative Services
 Unit-Tallahassee
Materials Submitted: Memorandum to the Board
 Settlement Agreement

Administrative Complaint
Memorandum of Finding Probable Cause
Election of Rights
Cost Summary Report
Final Investigative Report with Exhibits 1-4
Board Notification letters

Disciplinary Guidelines:

Minimum: \$500 fine and 12 hours Laws & Rules and course governing sterile compounding, to \$2,000 fine and 1 year probation

Maximum: \$2,500 to \$10,000 fine and 1 year suspension followed by 2 years probation, to Revocation

PRELIMINARY CASE REMARKS: SETTLEMENT AGREEMENT

On or about February 19, 2014, the Department conducted a routine inspection of the Respondent. The inspection revealed that J.S., R.Ph., a licensed pharmacist employed by the Respondent, prepared a low-risk level CSP for patient D.G. that was assigned a "discard after" date of March 11, 2014, with storage instructions on the label that read "Ambient". The Department inspection revealed that there was no documentation that the CSP for patient D.G. passed a sterility test or a documented validated process.

Terms of Settlement:

- Appearance
- Administrative fine in the amount of \$1,000.00 payable within 30 days
- Costs not to exceed the amount of \$1,226.08 payable within 90 days

CJ/aed

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO. 2014-02879

**CORAM HEALTHCARE CORP OF FLORIDA,
d/b/a CORAM SPECIALTY INFUSION
SERVICES, A CVS CAREMARK COMPANY,**

RESPONDENT.

SETTLEMENT AGREEMENT

Pursuant to Section 120.57(4), Florida Statutes, the parties offer this Settlement Agreement to the Board of Pharmacy (Board) as disposition of the Administrative Complaint, attached as Exhibit A, in lieu of further administrative proceedings.

STIPULATED FACTS

1. At all times material to this matter, Coram Healthcare Corp of Florida, d/b/a Coram Specialty Infusion Services, A CVS Caremark Company, was a permitted community pharmacy in the state of Florida, having been issued license number PH13951. Respondent's mailing address of record is 8508 Benjamin Road, Suite C, Tampa, Florida 33634.

2. Respondent was charged by an Administrative Complaint, filed by the Department of Health (Department) and properly served upon Respondent, with violations of Chapters 456 and 465, Florida Statutes.

STIPULATED LAW

1. Respondent admits that Respondent is subject to the provisions of Chapters 456 and 465, Florida Statutes, and the jurisdiction of the Department.

2. Respondent admits that the allegations in the Administrative Complaint, if proven true, constitute violations of law and cause the Respondent to be subject to discipline by the Board of Pharmacy.

PROPOSED DISPOSITION

1. **Appearance**- An institutional representative of Respondent shall be present when this Settlement Agreement is presented to the Board and under oath shall answer all questions asked by the Board concerning this case and its disposition.

2. **Fine**- The Board of Pharmacy shall impose an administrative fine of **ONE THOUSAND DOLLARS (\$1,000.00)**. The fine shall be paid by Respondent to the **Department of Health, Compliance Management Unit, Bin C76, Post Office Box 6320, Tallahassee,**

Florida 32314-6320, within **30 days** from the date the Final Order approving and incorporating this Settlement Agreement (Final Order) is filed with the Department Clerk.

3. **Costs**- The Board of Pharmacy shall impose the total, administrative costs associated with the investigation and prosecution of this matter in an amount not to exceed **ONE THOUSAND TWO HUNDRED TWENTY-SIX DOLLARS AND EIGHT CENTS (\$1,226.08)**. Total costs shall be assessed when the Settlement Agreement is presented to the Board. The costs shall be paid by Respondent to the **Department of Health, Compliance Management Unit, Bin C76, Post Office Box 6320, Tallahassee, Florida 32314-6320**, within **90 days** from the date the Final Order is filed with the Department Clerk.

4. **Correction of Alleged Deficiencies**- At its sole expense, but without admitting any specific deficiency or violation, Respondent shall immediately, or at least forthwith, correct and address all deficiencies and violations listed or alleged in the Administrative Complaint, to the extent necessary to comply with Florida law.

5. **Future Conduct**- Respondent shall not violate Chapters 456, 465, 499, or 893, Florida Statutes; the rules promulgated pursuant thereto;

or any other state or federal law, rule, or regulation relating to the practice or to the ability to practice pharmacy.

6. **Violation of Terms**- It is expressly understood that a violation of the provisions of this Settlement Agreement as approved and incorporated into the Final Order of the Board of Pharmacy shall constitute a violation of an order of the Board for which disciplinary action may be initiated against Respondent pursuant to Chapter 465, Florida Statutes.

7. **No Force or Effect until Final Order**- It is expressly understood that this Settlement Agreement is subject to approval by the Board and has no force or effect until the Board incorporates the terms of this Settlement Agreement into its Final Order.

8. **Purpose of Agreement**- This Settlement Agreement is executed by Respondent for the purpose of avoiding further administrative action with respect to this particular case. In this regard, Respondent authorizes the Board to review and examine all investigative file materials concerning Respondent prior to, or in conjunction with, consideration of the Settlement Agreement. Petitioner and Respondent agree to support this Settlement Agreement at the time it is presented to the Board and shall offer no evidence, testimony, or argument that disputes or

contravenes any stipulated fact or conclusion of law. Furthermore, should this Settlement Agreement not be accepted by the Board, it is agreed that the presentation and consideration of this Settlement Agreement and other documents and matters by the Board shall not unfairly or illegally prejudice the Board or any of its members from further participation, consideration, or resolution of these proceedings.

9. **Not Preclude Additional Proceedings**- Respondent and the Department fully understand that this Settlement Agreement as approved and incorporated into the Final Order will not preclude additional proceedings by the Board or Department against Respondent for acts or omissions not specifically set forth in the Administrative Complaint.

10. **Waiver of Attorney's Fees and Costs**- Respondent waives the right to seek any attorney's fees and costs from the Department in connection with this disciplinary proceeding.

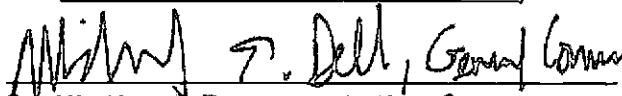
11. **Waiver of Procedural Rights**- Respondent waives all rights to further administrative procedure and to appeal and further review of this Settlement Agreement and the Final Order.

12. **Current Addresses**- Respondent shall keep current his mailing address and his practice address with the Board of Pharmacy and

the Compliance Officer and shall notify the Board of Pharmacy and the Compliance Officer of any change of mailing address or practice address within ten (10) days of the change.

WHEREFORE, the parties request that the Board enter a Final Order approving and incorporating this Settlement Agreement in resolution of this matter.

SIGNED this 9th day of June, 2014.

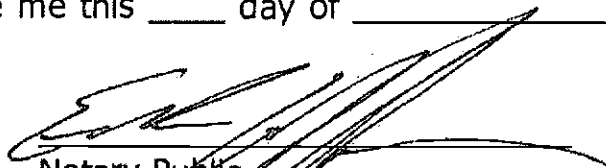

Institutional Representative for
Coram Healthcare Corp of Florida
Case No. 2014-02879

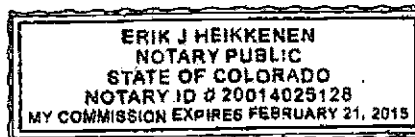
STATE OF COLORADO

COUNTY OF DENVER

Before me personally appeared Michael E. Dell, whose identity is known to me or by personal recognition (type of identification), and who, under oath, acknowledges that his/her signature appears above.

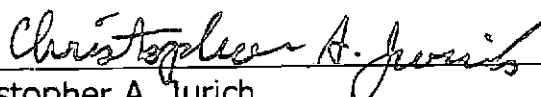
Sworn to and subscribed before me this 9th day of June, 2014.


Notary Public
My Commission Expires: 02-21-2015



APPROVED this 12th day of June, 2014.

John H. Armstrong, MD, FACS
State Surgeon General and
Secretary of Health


Christopher A. Jurich
Assistant General Counsel

Counsel for Petitioner
Christopher A. Jurich
Florida Bar No. 0099014
Assistant General Counsel
Department of Health
Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, Florida 32399
Tel.: (850) 245-4444 ext. 8174
Fax: (850) 245-4683

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO. 2014-02879

**CORAM HEALTHCARE CORP OF FLORIDA,
d/b/a CORAM SPECIALTY INFUSION
SERVICES, A CVS CAREMARK COMPANY,**

RESPONDENT.

ADMINISTRATIVE COMPLAINT

COMES NOW, Petitioner, Department of Health, by and through its undersigned counsel, and files this Administrative Complaint before the Board of Pharmacy against Respondent, Coram Healthcare Corp of Florida, d/b/a Coram Specialty Infusion Services, A CVS Caremark Company, and in support thereof alleges:

1. Petitioner is the state agency charged with regulating the practice of pharmacy pursuant to Section 20.43, Florida Statutes; Chapter 456, Florida Statutes; and Chapter 465, Florida Statutes.

EXHIBIT

A

2. At all times material to this Administrative Complaint, Respondent was a permitted community pharmacy within the state of Florida, having been issued permit number PH13951.

3. Respondent's address of record is 8508 Benjamin Road, Suite C, Tampa, Florida 33634.

4. At all times material to this Administrative Complaint, J.S., R.Ph., was employed as the prescription department manager of record for Respondent.

5. On or about February 19, 2014, the Department conducted a routine community pharmacy and sterile compounding inspection of Respondent.

6. The Department inspection on or about February 19, 2014, revealed that on or about February 18, 2014, J.S. had prepared a low-risk level compounded sterile preparation (CSP) for patient D.G. that was assigned a "discard after" date of March 11, 2014, with storage instructions on the label that read "Ambient".

7. The Department inspection on or about February 19, 2014, revealed that there was no documentation that the CSP in paragraph six had passed a sterility test or a documented validated process.

8. Section 465.023(1)(c), Florida Statutes (2013), provides that the department or the board may revoke or suspend the permit of any pharmacy permittee, and may fine, place on probation, or otherwise discipline any pharmacy permittee if the permittee, or any affiliated person, partner, officer, director, or agent of the permittee has violated any of the requirements of this chapter or the rules of the Board of Pharmacy.

9. Rule 64B16-27.797(1)(n)4., Florida Administrative Code, provides that for low-risk preparations, in the absence of passing a sterility test or a documented validated process, the storage periods cannot exceed the following time periods; before administration, the CSPs are properly stored and exposed for not more than 48 hours at controlled room temperature, and for not more than 14 days at a cold temperature (2-8 degrees Celsius) and for 45 days in a solid frozen state at -20 degrees Celsius or colder.

10. As set forth above, J.S., an employee and agent of Respondent, prepared a low-risk level compounded sterile preparation that was assigned a "discard after" date of 21 days and instructions to store the preparation in "ambient" conditions, despite no documentation that the compounded

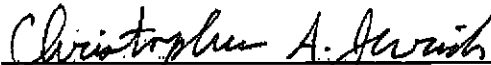
sterile preparation had passed a sterility test or a documented validated process.

11. Based on the foregoing, Respondent has violated Section 465.023(1)(c), Florida Statutes (2013), by and through a violation of Rule 64B16-27.797(1)(n)4., Florida Administrative Code.

WHEREFORE, the Petitioner respectfully requests that the Board of Pharmacy enter an order imposing one or more of the following penalties: permanent revocation or suspension of Respondent's license, restriction of practice, imposition of an administrative fine, issuance of a reprimand, placement of the Respondent on probation, corrective action, refund of fees billed or collected, remedial education and/or any other relief that the Board deems appropriate.

SIGNED this 8th day of May, 2014.

John H. Armstrong, MD, FACS
State Surgeon General and
Secretary of Health


CHRISTOPHER A. JURICH
Assistant General Counsel
Fla. Bar No. 0099014
Florida Department of Health
Office of the General Counsel
4052 Bald Cypress Way, Bin C-65
Tallahassee, FL 32399-3265
Telephone: (850) 245-4444
Facsimile: (850) 245-4683
Email: christopher.jurich@flhealth.gov

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK ANGEL SANDERS
DATE MAY 08 2014

/CAJ

PCP Meeting: May 8, 2014
PCP Members: Debra Glass, Dr. Leo Fallon

NOTICE OF RIGHTS

Respondent has the right to request a hearing to be conducted in accordance with Section 120.569 and 120.57, Florida Statutes, to be represented by counsel or other qualified representative, to present evidence and argument, to call and cross-examine witnesses and to have subpoena and subpoena duces tecum issued on his or her behalf if a hearing is requested.

NOTICE REGARDING ASSESSMENT OF COSTS

Respondent is placed on notice that Petitioner has incurred costs related to the investigation and prosecution of this matter. Pursuant to Section 456.072(4), Florida Statutes, the Board shall assess costs related to the investigation and prosecution of a disciplinary matter, which may include attorney hours and costs, on the Respondent in addition to any other discipline imposed.

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Robert Scott
Governor

John M. Armstrong, III, FACB
State Surgeon General & Secretary

MEMORANDUM OF PROBABLE CAUSE PANEL FINDINGS

TO: Department of Health

FROM: Board of Pharmacy, Probable Cause Panel

SUBJECT: Coram Healthcare Corp of Florida, d/b/a/ Coram Specialty Infusion Services, a CVS Caremark Co.
CASE NO.: 2014-02879

DATE OF PROBABLE CAUSE MEETING: May 8, 2014

This matter was brought before a Probable Cause Panel composed of: Glass and Fallon

AC-08 (CJ)

The panel, having received the investigative report and supplemental materials, having carefully reviewed said documentation and the recommendation of the agency/department, and having had the opportunity to inquire of counsel, finds that:

XX Probable cause exists herein that the Subject violated the following statutes/rules:
Section 465.023(1)(c), F.S. (2013), by and through a violation
of Rule 64B16-27.797(1)(n)4, F.A.C.

The panel suggests imposing the following penalty: N/A

 Probable cause does not exist and the case should be closed with the following closure code:

 In lieu of a finding of probable cause, the above named licensee shall be issued a letter of guidance to address the conduct in question:

 The panel has requested supplemental or additional information on the following:

 Other _____

Patrick Kennedy for Lee Fallon 5/15/2014
CHAIRPERSON, PROBABLE CAUSE PANEL
BOARD OF PHARMACY

Florida Department of Health
Office of the General Counsel - Prosecution Services Unit
4052 Bald Cypress Way, 6th C-65 • Tallahassee, FL 32309-1701
Express mail address: 2535 Meridian Row - Suite 105
PHONE: 904245-4644 • FAX 904245-4683

www.floridadohealth.com
TWITTER: HealthFLA
FACEBOOK: FLDepartmentofHealth
YOUTUBE: fdoh

ELECTION OF RIGHTS

Case Name: Coram Healthcare Corp. of Florida

Case No.: 2014-02879

PLEASE SELECT ONLY 1 OF THE 3 OPTIONS

An Explanation of Rights is attached. If you do not understand these options, please consult with your attorney or contact the attorney for the Prosecution Services Unit at the address/phone number listed at the bottom of this form.

OPTION 1. We do not dispute the allegations of fact in the Administrative Complaint, but do wish to be accorded a hearing, pursuant to Section 120.57(2), Florida Statutes, at which time I will be permitted to submit oral and/or written evidence in mitigation of the complaint to the Board.

OPTION 2. We do not dispute the allegations of fact contained in the Administrative Complaint and waive my right to object or to be heard. I request that the Board enter a final order pursuant to Section 120.57, Florida Statutes.

OPTION 3. We do dispute the allegations of fact contained in the Administrative Complaint and request this to be considered a petition for formal hearing, pursuant to Sections 120.569(2)(a) and 120.57(1), Florida Statutes, before an Administrative Law Judge appointed by the Division of Administrative Hearings. We specifically dispute the following paragraphs of the Administrative Complaint:

In addition to the above selection, we also elect the following:

We accept the terms of the Settlement Agreement, have signed and am returning the Settlement Agreement or We are interested in settling this case.

We do not wish to continue practicing and have signed and returned the Voluntary Relinquishment of licensure form.

Regardless of which option we have selected, we understand that we will be given notice of time, date, and place when this matter is to be considered by the Board for Final Action. Mediation under Section 120.573, Florida Statutes, is not available in this matter.

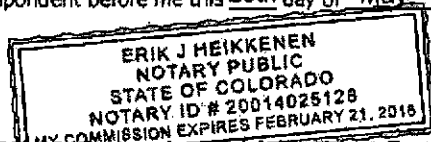
(Please sign and complete all the information below.)

Michael E. Dell, SRVP, GC & Sec.
Respondent's signature
Address: 555 17th Street, Suite 1500
Denver, CO 80202
Lic. No. PH13951
Phone No. (303) 672-8631
Fax No. (303) 298-0047

STATE OF ~~FLORIDA~~ Colorado
COUNTY OF Denver

Before me personally appeared Michael E. Dell whose identity is known to be by Driver's License (type of identification), and who under oath, acknowledges that his/her signature appears above. Sworn to and subscribed by Respondent before me this 29th day of May, 2014.

Notary Public
My Commission Expires: 02-21-2015



PLEASE MAIL AND/OR FAX COMPLETED FORM TO: Christopher J. Jorich, Assistant General Counsel, DOH,
Prosecution Services Unit, 4052 Bald Cypress Way, Bin C-65, Tallahassee, Florida 32399-3265. Telephone
Number: (850) 245-4444; FAX (850) 245-4683; TDD 1-800-955-8771.

| | | | |
|--------|----------------------------------|------|------|
| Search | Complaint/Case Number: 201402879 | MAIN | HELP |
|--------|----------------------------------|------|------|

Complaint Cost Summary

Complaint Number: 201402879

Subject's Name: CORAM HEALTHCARE CORP OF FLORIDA

| ***** Cost to Date ***** | | |
|-----------------------------|-------|----------|
| | Hours | Costs |
| Complaint: | 0.40 | \$21.86 |
| Investigation: | 3.20 | \$204.22 |
| Legal: | 2.60 | \$265.13 |
| Compliance: | 0.00 | \$0.00 |
| | ***** | ***** |
| Sub Total: | 6.20 | \$491.21 |
| Expenses to Date: | | \$0.00 |
| Prior Amount: | | \$0.00 |
| Total Costs to Date: | | \$491.21 |

Mission:

To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.



Rick Scott
Governor

John W. Armstrong, MD, FACS
State Surgeon General & Secretary

Vision: To be the Healthiest State in the Nation

June 16, 2014

Michael E. Dell, Esq.
General Counsel
Coram Healthcare Corp. of Florida
555 17th Street
Suite 1500
Denver, CO 80202

Re: DOH vs. Coram Healthcare Corp. of Florida, d/b/a Coram Specialty Infusion Services, a CVS Caremark Company
DOH Case Number: 2014-02879

Dear Mr. Dell:

I am in receipt of the Settlement Agreement executed by you on May 29, 2014, concerning the above referenced case.

Our office is now making preparation for this settlement to be presented at the next regularly scheduled meeting of the Florida Board of Pharmacy. Please be advised your case has been set at the convenience of the Department and/or the Board and you will receive official notification of the date and time approximately two weeks prior to the meeting.

Thank for your attention and cooperation in this matter. Should you have any questions, please feel free to contact this office.

Sincerely,

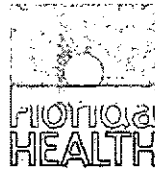
A handwritten signature in black ink that reads "Christopher A. Jurich".

Christopher A. Jurich
Assistant General Counsel

CAJ/aed

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Rick Scott
Governor

John H. Armatrong, MD, FACS
State Surgeon General & Secretary

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June 16, 2014

Coram Healthcare Corp. of Florida
8508 Benjamin Road
Suite C
Tampa, FL 33624

Re: DOH vs. Coram Healthcare Corp. of Florida, d/b/a Coram Specialty Infusion Services, a CVS Caremark Company
DOH Case Number: 2014-02879

Dear Sir:

I am in receipt of the Settlement Agreement executed by you on May 29, 2014, concerning the above referenced case.

Our office is now making preparation for this settlement to be presented at the next regularly scheduled meeting of the Florida Board of Pharmacy. Please be advised your case has been set at the convenience of the Department and/or the Board and you will receive official notification of the date and time approximately two weeks prior to the meeting.

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Sincerely,

A handwritten signature in cursive script that reads "Christopher A. Jurich".

Christopher A. Jurich
Assistant General Counsel

CAJ/aed

CONFIDENTIAL AND EXEMPT MATERIALS

**One or more pages have been removed
from this document for security reasons**

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advance to the next document if all
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SOME OR ALL PAGES IN THIS DOCUMENT ARE PATIENT RECORDS
AND/OR DOCUMENTS THAT IDENTIFY THE PATIENT BY NAME AND ARE
EXEMPT FROM PUBLIC RECORDS LAWS.

456.057 - Ownership and control of patient records; report or copies of records to be
furnished.—

10)(a)All patient records obtained by the department and any other documents
maintained by the department which identify the patient by name are confidential and exempt
from s. 119.07(1) and shall be used solely for the purpose of the department and the appropriate
regulatory board in its investigation, prosecution, and appeal of disciplinary proceedings. The
records shall not be available to the public as part of the record of investigation for and
prosecution in disciplinary proceedings made available to the public by the department or the
appropriate board.

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Surgeon General & Sec

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STATE OF FLORIDA
BOARD OF PHARMACY

DEPARTMENT OF HEALTH,
PETITIONER,

VS.

CASE NO. 201401272

AURELLIO P MARTINEZ,
RESPONDENT.

NOTICE

TO: AURELLIO P MARTINEZ
P.O BOX 530516
MIAMI SHORES, FL 33153

PLEASE TAKE NOTICE that a disciplinary hearing will be heard before the BOARD OF PHARMACY on Wednesday, August 13, 2014, commencing at 9 a.m. The Respondent is required to be present at this meeting. This hearing will be held at DoubleTree by Hilton, 100 Fairway Drive, Deerfield Beach, FL 33441, 1(800) 624-3606..

The purpose of the hearing is to consider a motion for: Settlement Agreement

Note: Cases shown on the agenda as "timed" items may be heard in a different order or may be heard earlier if all parties are present. Cases are scheduled beginning at 9 a.m.; therefore, it is imperative that you arrive promptly at 9 a.m. and be prepared to be at the meeting for several hours until your case is heard.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Hearing has been sent by U.S. Mail to the above address(es) this 10th day of July, 2014.

Board Executive Director
BOARD OF PHARMACY
Florida Department of Health
4052 Bald Cypress Way, Bin #
Tallahassee, FL 32399 -

Florida Department of Health

Division of Medical Quality Assurance
4052 Bald Cypress Way, Bin C10 • Tallahassee, FL 32399-3260
PHONE: (850) 245-4444 • FAX : (850) 245-4791

www.FloridasHealth.com

TWITTER: HealthyFLA
FACEBOOK: FLDepartmentofHealth
YOUTUBE: fldoh

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STATE OF FLORIDA
BOARD OF PHARMACY

DEPARTMENT OF HEALTH,
PETITIONER,

VS.

CASE NO. 201401272

AURELLIO P MARTINEZ,
RESPONDENT.

NOTICE

AND: BRIAN KAHAN
2300 NW CORPORATE BLVD #123
BOCA RATON, FL 33431

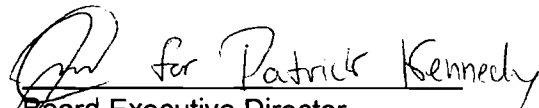
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A handwritten signature in cursive script that reads "for Patrick Kennedy".

Board Executive Director
BOARD OF PHARMACY
Florida Department of Health
4052 Bald Cypress Way, Bin #
Tallahassee, FL 32399 -

Florida Department of Health
Division of Medical Quality Assurance • Bureau of HCPR
4052 Bald Cypress Way, Bin C-04 • Tallahassee, FL 32399-1701
PHONE: 850/245-4292 • FAX 850/413-6982

www.FloridasHealth.com
TWITTER:HealthyFLA
FACEBOOK:FLDepartmentofHealth
YOUTUBE: fldoh



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MEMORANDUM

TO: Patrick W. Kennedy, M.A., Executive Director, Board of Pharmacy
FROM: Marc Taupier, Assistant General Counsel *mt*
RE: **Settlement Agreement**
SUBJECT: DOH v. Aurello P. Martinez, R.Ph., DOH Case Number 2014-01272
DATE: June 24, 2014

Enclosed you will find materials in the above-referenced case to be placed on the agenda for final agency action for the **August 13, 2014**, meeting of the board. The following information is provided in this regard.

Subject: Aurello P. Martinez
Subject's Address of Record: P.O. Box 530516
 Miami Shores, FL 33153
Enforcement Address: P.O. Box 530516
 Miami Shores, FL 33153
Subject's License No: 23198 **Rank:** PS
Licensure File No: 12323
Initial Licensure Date: 8/13/1987
Board Certification: None
Required to Appear: Yes
Current IPN/PRN Contract: None
Allegation(s): Section 456.072(1)(k), Florida Statutes (2013) through a violation of Section 465.022(11)(a), Florida Statutes (2013)
Prior Discipline: None
Probable Cause Panel: June 6, 2014
 Glass & Weizer
Subject's Attorney: Pro Se
Complainant/Address: Department Of Health/ Investigative Services Unit- Miami
Materials Submitted: Memorandum to the Board
 Settlement Agreement with Exhibit A
 Administrative Complaint
 Election of Rights
 Board Notification Letter
 Memorandum of Finding Probable Cause
 Final Investigative Report with Exhibits 1-5

Florida Department of Health
Office of the General Counsel • Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65 • Tallahassee, FL 32399-3265
Express mail address: 2585 Merchants Row - Suite 105
PHONE: 850/245-4444 • FAX 850/245-4683

www.FloridasHealth.com
TWITTER: HealthyFLA
FACEBOOK: FLDepartmentofHealth
YOUTUBE: fldoh

GUIDELINES:

Minimum of a two thousand dollar (\$2,000.00) fine up to a maximum of revocation.

PRELIMINARY CASE REMARKS

This is a one count administrative complaint which alleges that the Respondent failed to prevent access to the prescription department by persons not licensed in Florida to practice the profession of pharmacy by failing to securely lock or padlock the partition or other means of enclosure.

Florida Department of Health

Office of the General Counsel • Prosecution Services Unit
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STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO. 2014-01272

AURELLIO MARTINEZ, R.Ph.,

RESPONDENT.

SETTLEMENT AGREEMENT

Pursuant to Section 120.57(4), Florida Statutes, the parties offer this Settlement Agreement to the Board of Pharmacy (Board) as disposition of the Administrative Complaint, attached as Exhibit A, in lieu of further administrative proceedings.

STIPULATED FACTS

1. At all times material to this matter, **AURELLIO MARTINEZ, R.Ph.**, was a licensed pharmacist in the state of Florida, having been issued license number PS 23198. Respondent's mailing address of record is 7900 Harbor Island Drive, Apartment 1503, North Bay Village, Florida 33141.

2. Respondent was charged by an Administrative Complaint, filed by the Department of Health (Department) and properly served upon Respondent, with violations of Chapters 456 and 465, Florida Statutes.

STIPULATED LAW

1. Respondent admits that he is subject to the provisions of Chapters 456 and 465, Florida Statutes, and the jurisdiction of the Department.

2. Respondent admits that the allegations in the Administrative Complaint, if proven true, constitute violations of law and cause the Respondent to be subject to discipline by the Board of Pharmacy.

PROPOSED DISPOSITION

1. **Appearance:** Respondent shall be present when this Settlement Agreement is presented to the Board and under oath shall answer all questions asked by the Board concerning this case and its disposition.

2. **Fine:** The Board of Pharmacy shall impose an administrative fine of **TWO THOUSAND DOLLARS (\$2,000)**. The fine shall be paid by Respondent to the **Department of Health, Compliance Management Unit, Bin C76, Post Office Box 6320, Tallahassee, Florida 32314-**

6320, within 90 days from the date the Final Order approving and incorporating this Settlement Agreement (Final Order) is filed with the Department Clerk.

3. Costs: The Board of Pharmacy shall impose the total, administrative costs associated with the investigation and prosecution of this matter not to exceed **TWO THOUSAND FOUR HUNDRED FORTY-SIX DOLLARS AND NINETY-EIGHT CENTS (\$2,446.98)**. Total costs shall be assessed when the Settlement Agreement is presented to the Board. The costs shall be paid by Respondent to the **Department of Health, Compliance Management Unit, Bin C76, Post Office Box 6320, Tallahassee, Florida 32314-6320**, within **ONE YEAR** from the date the Final Order is filed with the Department Clerk.

4. Continuing Education: The Respondent shall successfully complete a Continuing Education Course on the subject of **LAWS AND RULES OF PHARMACY** consisting of **TWELVE HOURS** of credit, which has approved by the Florida Board of Pharmacy, within one (1) year of the filing of a Final Order accepting and incorporating this Settlement Agreement. Within ten (10) days of completion of the course and/or receipt of the certificate of completion, Respondent shall mail a copy of the

continuing education certificate of completion to the Pharmacy Compliance Officer at the address listed in paragraph two (2) above.

5. **Correction of Alleged Deficiencies:** At its sole expense, but without admitting any specific deficiency or violation, Respondent shall immediately, or at least forthwith, correct and address all deficiencies and violations listed or alleged in the Administrative Complaint, to the extent necessary to comply with Florida law.

6. **Future Conduct:** Respondent shall not violate Chapter 456, 465, 499, or 893, Florida Statutes; the rules promulgated pursuant thereto; or any other state or federal law, rule, or regulation relating to the practice or to the ability to practice pharmacy.

7. **Violation of Terms:** It is expressly understood that a violation of the provisions of this Settlement Agreement as approved and incorporated into the Final Order of the Board of Pharmacy shall constitute a violation of an order of the Board for which disciplinary action may be initiated against Respondent pursuant to Chapter 465, Florida Statutes.

8. **No Force or Effect until Final Order:** It is expressly understood that this Settlement Agreement is subject to approval by the

Board and has no force or effect until the Board incorporates the terms of this Settlement Agreement into its Final Order.

9. Purpose of Agreement: This Settlement Agreement is executed by Respondent for the purpose of avoiding further administrative action with respect to this particular case. In this regard, Respondent authorizes the Board to review and examine all investigative file materials concerning Respondent prior to, or in conjunction with, consideration of the Settlement Agreement. Petitioner and Respondent agree to support this Settlement Agreement at the time it is presented to the Board and shall offer no evidence, testimony, or argument that disputes or contravenes any stipulated fact or conclusion of law. Furthermore, should this Settlement Agreement not be accepted by the Board, it is agreed that the presentation and consideration of this Settlement Agreement and other documents and matters by the Board shall not unfairly or illegally prejudice the Board or any of its members from further participation, consideration, or resolution of these proceedings.

10. Not Preclude Additional Proceedings: Respondent and the Department fully understand that this Settlement Agreement as approved and incorporated into the Final Order will not preclude additional

proceedings by the Board or Department against Respondent for acts or omissions not specifically set forth in the Administrative Complaint.

11. **Waiver of Attorney's Fees and Costs:** Respondent waives

the right to seek any attorney's fees and costs from the Department in connection with this disciplinary proceeding.

12. **Waiver of Procedural Rights:** Respondent waives all rights to further administrative procedure and to appeal and further review of this Settlement Agreement and the Final Order.

13. **Current Addresses:** Respondent shall keep current his mailing address and his practice address with the Board of Pharmacy and the Compliance Officer and shall notify the Board of Pharmacy and the Compliance Officer of any change of mailing address or practice address within 10 days of the change.

14. **Time of the Essence:** Time is of the essence in all respects concerning this agreement.

WHEREFORE, the parties request that the Board enter a Final Order approving and incorporating this Settlement Agreement in resolution of this matter.

SIGNED this 24 day of June, 2014.

Aurelio Martinez
Aurelio Martinez, R.Ph.
CASE NO. 2014-01272

STATE OF FLA
COUNTY OF Miami Dade

Before me personally appeared Aurelio Martinez, whose identity is known to me or by FL Driver's License (type of identification), and who, under oath, acknowledges that his/her signature appears above.

Sworn to and subscribed before me this 24 day of June, 2014.

Nancy Goldring
Notary Public
My Commission Expires:



NANCY GOLDRING
MY COMMISSION # EE 860780
EXPIRES: February 15, 2017
Bonded thru Budget Notary Services

*Signed
6/20/14*

APPROVED this 24th day of June, 2014.

John H. Armstrong, MD, FACS
State Surgeon General and
Secretary of Health



Marc D. Taupier
Assistant General Counsel

Counsel for Petitioner

Marc D. Taupier
Florida Bar No. 106732
Assistant General Counsel
Department of Health
Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, Florida 32399
Tel.: (850) 245-4444
Fax: (850) 245-4683

STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO. 2014-01272

AURELLIO MARTINEZ, R.Ph.,

RESPONDENT.

ADMINISTRATIVE COMPLAINT

COMES NOW, Petitioner, Department of Health, by and through its undersigned counsel, and files this Administrative Complaint before the Board of Pharmacy against Respondent, Aurellio Martinez, R.Ph., and in support thereof alleges:

1. Petitioner is the state agency charged with regulating the practice of pharmacy pursuant to Section 20.43, Florida Statutes; Chapter 456, Florida Statutes; and Chapter 465, Florida Statutes.

2. At all times material to this Administrative Complaint, Respondent was a licensed pharmacist within the state of Florida, having been issued license number PS 23198.



3. Respondent's address of record is 7900 Harbor Island Drive, Apartment 1503, North Bay Village, Florida 33141.

4. At all times material to this Administrative Complaint, Respondent was employed as the pharmacy department manager ("PDM") of Angel's Touch Pharmacy Discount ("ATPD"), located in Miami, Florida.

5. On or about January 21, 2014, a Department Inspector attempted to conduct a routine inspection of ATPD.

6. On or about January 21, 2014, Department Inspector entered the pharmacy and observed the prescription department door open with no pharmacist on duty.

7. Section 456.072(1)(k), Florida Statutes (2013), provides that failing to perform any statutory or legal obligation placed upon a licensee is grounds for disciplinary action.

8. Section 465.022(11)(a), Florida Statutes (2013), provides that the prescription department manager must ensure the permittee's compliance with all rules adopted under those chapters as they relate to the practice of the profession of pharmacy and the sale of prescription drugs..

9. Rule 64B16-28.109, Florida Administrative Code, provides that the prescription department of any community pharmacy permittee shall be considered closed whenever the establishment is open and a pharmacist is not present and on duty, and, at all times when the prescription department is closed, either because of the absence of a pharmacist or for any other reason, it shall be separated from the remainder of the establishment by partition or other means of enclosure, thereby preventing access to the prescription department by persons not licensed in Florida to practice the profession of pharmacy. The partition or other means of enclosure shall be securely locked or padlocked and only a pharmacist shall have the means to gain access to the prescription department

10. As set forth above, on or about January 21, 2014, a Department Inspector observed the prescription department door was open with no pharmacist on duty.

11. Based on the foregoing, Respondent has violated Section 456.072(1)(k), Florida Statutes (2013), through a violation of Section 465.022(11)(a), Florida Statutes (2013), by violating Rule 64B16-28.109, Florida Administrative Code, when Respondent failed to prevent access to the prescription department by persons not licensed in Florida to practice

WHEREFORE, the Petitioner respectfully requests that the Board of Pharmacy enter an order imposing one or more of the following penalties: permanent revocation or suspension of Respondent's license, restriction of practice, imposition of an administrative fine, issuance of a reprimand, placement of the Respondent on probation, corrective action, refund of fees billed or collected, remedial education and/or any other relief that the Board deems appropriate.

SIGNED this 6th day of June, 2014.

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK

CLERK: *Bridget Cortes*

DATE JUN 06 2014

John H. Armstrong, MD, FACS
State Surgeon General and
Secretary of Health



MARC D. TAUPIER
Assistant General Counsel
Fla. Bar No. 106732
Florida Department of Health
Office of the General Counsel
4052 Bald Cypress Way, Bin C-65
Tallahassee, FL 32399-3265
Telephone: (850) 245-4444
Facsimile: (850) 245-4683
Email: marc.taupier@flhealth.gov

/MDT

PCP Meeting: *6/6/14*
PCP Members: *Glass + Weizer*

NOTICE OF RIGHTS

Respondent has the right to request a hearing to be conducted in accordance with Section 120.569 and 120.57, Florida Statutes, to be represented by counsel or other qualified representative, to present evidence and argument, to call and cross-examine witnesses and to have subpoena and subpoena duces tecum issued on his or her behalf if a hearing is requested.

NOTICE REGARDING ASSESSMENT OF COSTS

Respondent is placed on notice that Petitioner has incurred costs related to the investigation and prosecution of this matter. Pursuant to Section 456.072(4), Florida Statutes, the Board shall assess costs related to the investigation and prosecution of a disciplinary matter, which may include attorney hours and costs, on the Respondent in addition to any other discipline imposed.

ELECTION OF RIGHTS

Case Name: Aurelio Martinez, R.Ph.

Case No. 2014-01272

PLEASE SELECT ONLY 1 OF THE 3 OPTIONS

An Explanation of Rights is attached. If you do not understand these options, please consult with your attorney or contact the attorney for the Prosecution Services Unit at the address/phone number listed at the bottom of this form.

OPTION 1: I do not dispute the allegations of fact in the Administrative Complaint, but do wish to be accorded a hearing, pursuant to Section 120.57(2), Florida Statutes, at which time I will be permitted to submit oral and/or written evidence in mitigation of the complaint to the Board.

OPTION 2. I do not dispute the allegations of fact contained in the Administrative Complaint and waive my right to object or to be heard. I request that the Board enter a final order pursuant to Section 120.57, Florida Statutes.

OPTION 3. I do dispute the allegations of fact contained in the Administrative Complaint and request this to be considered a petition for formal hearing, pursuant to Sections 120.569(2)(a) and 120.57(1), Florida Statutes, before an Administrative Law Judge appointed by the Division of Administrative Hearings. I specifically dispute the following paragraphs of the Administrative Complaint:

In addition to the above selection, I also elect the following:

- I accept the terms of the Settlement Agreement, have signed and am returning the Settlement Agreement or I am interested in settling this case.
 I do not wish to continue practicing and have signed and returned the Voluntary Relinquishment of licensure form.

Regardless of which option I have selected, I understand that I will be given notice of time, date, and place when this matter is to be considered by the Board for Final Action. Mediation under Section 120.573, Florida Statutes, is not available in this matter.

(Please sign and complete all the information below.)

Respondent: [Signature]
Address: 7900 Harbor Island Dr.
APT 1503 North Bay Village, FL 33141
Lic. No. PS 23198
Phone No. 305 807 2929
Fax No.

STATE OF FLORIDA
COUNTY OF Miami Dade

Before me personally appeared Aurelio Martinez, whose identity is known to be by FL Driver's License (type of identification), and who under oath, acknowledges that his/her signature appears above. Sworn to and subscribed before me this 24 day of June, 2014.

Notary Public: Nancy Goldring
My Commission Expires: [Signature]
NANCY GOLDRING
MY COMMISSION # EE 860780
EXPIRES: February 15, 2017
Bonded Through Notary Services

PLEASE MAIL AND/OR FAX COMPLETED FORM TO: Marc D. Taupier, Assistant General Counsel, DOH, Prosecution Services Unit, 4052 Bald Cypress Way, Bin C-65, Tallahassee, Florida 32399-3265. Telephone Number: (850) 245-4444; FAX (850) 245-4683 - TDD 1-800-955-8771.

Handwritten signature/initials on the right side of the page.

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Rick Scott
Governor

John H. Armstrong, MD, FACS
State Surgeon General & Secretary

Vision: To be the Healthiest State in the Nation

June 25, 2014

Brian A. Kahan, Esquire
1800 N.W. Corporate Boulevard
Suite 200
Boca Raton, Florida 33431

Re: DOH v. Aurello Martinez, R.Ph., Case No. 2014-01272


Dear Mr. Kahan:

I am in receipt of the settlement agreement executed by your client on June 24, 2014, and received on June 24, 2014, concerning the above referenced case.

Our office is now making preparation for this settlement to be presented at the next meeting of the Florida Board of Pharmacy, scheduled for August 12, 2014, at the Double Tree by Hilton, 100 Fairway Drive, Deerfield Beach, FL 33441, (800) 624-3606. Please be advised your case has been set at the convenience of the Department and/or the Florida Board of Pharmacy and you will receive official notification of the date and time approximately two weeks prior to the meeting.

Thank for your attention and cooperation in this matter. Should you have any questions, please feel free to contact our office.

Sincerely,



Marc D. Taupier
Assistant General Counsel
MD/plp

Complaint Cost Summary

Complaint Number: 201401272

Subject's Name: MARTINEZ, AURELLIO P

| | ***** Cost to Date ***** | |
|-----------------------------|--------------------------|------------|
| | Hours | Costs |
| Complaint: | 0.00 | \$0.00 |
| Investigation: | 18.20 | \$1,161.52 |
| Legal: | 3.30 | \$336.44 |
| Compliance: | 0.00 | \$0.00 |
| | ***** | ***** |
| Sub Total: | 21.50 | \$1,497.96 |
| Expenses to Date: | | \$0.00 |
| Prior Amount: | | \$0.00 |
| Total Costs to Date: | | \$1,497.96 |

MEMORANDUM OF PROBABLE CAUSE DETERMINATION

TO: Department of Health, Prosecution Services Unit
FROM: Chair, Probable Cause Panel, Board of Pharmacy
RE: Aurello Martinez, R.Ph. Case Number: 2014-01272
MEMBERS: Glass & Weizer
DATE OF PCP: June 6, 2014 **AGENDA ITEM:** A-01 (MT)

.....

This matter came before the Probable Cause Panel on the above date. Having reviewed the complete investigative file, recommendations of the Department, and any information submitted by the Subject, and being otherwise fully advised on the premises, the Panel finds that:

Probable cause exists and a formal complaint shall be filed for violation of statutes and rules, including but not limited to:

Section 456.072(1)(k), Florida Statutes (2013) through a violation of Section 465.022(11)(a), Florida Statutes (2013)

Probable Cause was **not** found in this case

In lieu of probable cause, issue **letter of guidance**

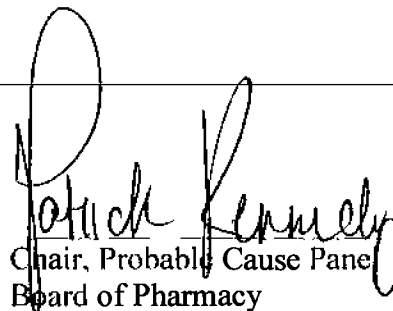
Case requires **expert review**

Case needs **further investigation**

- a)
- b)
- c)

Upon **reconsideration**, dismiss

Other _____


Patrick Kennedy for Michele Weizer
Chair, Probable Cause Panel
Board of Pharmacy

CONFIDENTIAL AND EXEMPT MATERIALS

**One or more pages have been removed
from this document for security reasons**

**Scroll down to see the available pages or
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SOME OR ALL PAGES IN THIS DOCUMENT ARE PATIENT RECORDS
AND/OR DOCUMENTS THAT IDENTIFY THE PATIENT BY NAME AND ARE
EXEMPT FROM PUBLIC RECORDS LAWS.

456.057 - Ownership and control of patient records; report or copies of records to be
furnished.—

10)(a)All patient records obtained by the department and any other documents
maintained by the department which identify the patient by name are confidential and exempt
from s. 119.07(1) and shall be used solely for the purpose of the department and the appropriate
regulatory board in its investigation, prosecution, and appeal of disciplinary proceedings. The
records shall not be available to the public as part of the record of investigation for and
prosecution in disciplinary proceedings made available to the public by the department or the
appropriate board.

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Governor

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John H. Armstrong, MD, FACS

Surgeon General & Sec

Vision: To be the Healthiest State in the Nation

STATE OF FLORIDA
BOARD OF PHARMACY

DEPARTMENT OF HEALTH,
PETITIONER,

VS.

CASE NO. 201306483

SAMANTHA SHAVON GRAHAM,
RESPONDENT.

NOTICE

TO: SAMANTHA SHAVON GRAHAM
3500 UNIVERSITY BLVD APT 2905
JACKSONVILLE, FL 32211

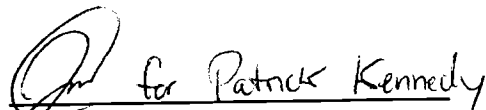
PLEASE TAKE NOTICE that a disciplinary hearing will be heard before the BOARD OF PHARMACY on Wednesday, August 13, 2014, commencing at 9 a.m. Although the Respondent is not required to be present, it is in their best interest to attend. This hearing will be held at DoubleTree by Hilton, 100 Fairway Drive, Deerfield Beach, FL 33441, 1(800) 624-3606..

The purpose of the hearing is to consider a motion for: Determination of Waiver

Note: Cases shown on the agenda as "timed" items may be heard in a different order or may be heard earlier if all parties are present. Cases are scheduled beginning at 9 a.m.; therefore, it is imperative that you arrive promptly at 9 a.m. and be prepared to be at the meeting for several hours until your case is heard.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Hearing has been sent by U.S. Mail to the above address(es) this 10th day of July, 2014.


Board Executive Director
BOARD OF PHARMACY
Florida Department of Health
4052 Bald Cypress Way, Bin #
Tallahassee, FL 32399 -

Florida Department of Health

Division of Medical Quality Assurance
4052 Bald Cypress Way, Bin C10 • Tallahassee, FL 32399-3260
PHONE: (850) 245-4444 • FAX: (850) 245-4791

www.FloridasHealth.com

TWITTER:HealthyFLA
FACEBOOK:FLDepartmentofHealth
YOUTUBE: fldoh



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**STATE OF FLORIDA
BOARD OF PHARMACY**

DEPARTMENT OF HEALTH,
PETITIONER,

VS.

CASE NO. 201306483

SAMANTHA SHAVON GRAHAM,
RESPONDENT.

NOTICE

TO: SAMANTHA SHAVON GRAHAM
3333 MONUMENT DRIVE, UNIT 513
JACKSONVILLE, FL 32225

PLEASE TAKE NOTICE that a disciplinary hearing will be heard before the BOARD OF PHARMACY on Wednesday, August 13, 2014, commencing at 9 a.m. Although the Respondent is not required to be present, it is in their best interest to attend. This hearing will be held at DoubleTree by Hilton, 100 Fairway Drive, Deerfield Beach, FL 33441, 1(800) 624-3606..

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MEMORANDUM

TO: Patrick W. Kennedy, M.A., Executive Director, Board of Pharmacy
FROM: Matthew Witters, Assistant General Counsel (M)
RE: **Determination of Waiver**
SUBJECT: DOH v. Samantha Shavon Graham, R.P.T.
 DOH Case Number 2013-06483
DATE: May 15, 2014 AB

Enclosed you will find materials in the above-referenced case to be placed on the agenda for final agency action for the **August 13, 2014**, meeting of the board. The following information is provided in this regard.

Subject: Samantha Shavon Graham
Subject's Address of Record: 3500 University Blvd Apt 2905
 Jacksonville, FL 32211
Enforcement Address: 3500 University Blvd Apt 2905
 Jacksonville, FL 32211
Subject's Additional Address: 3333 Monument Drive, Unit 513
 Jacksonville, FL 32225
Subject's License No: 16712 **Rank:** RPT
Licensure File No: 20357
Initial Licensure Date: 12/8/2009
Board Certification: No
Required to Appear: No
Current IPN/PRN Contract: No
Allegation(s): Ct 1: 465.016(1)(3), FS (2012)
 893.13(7)(a)9, FS (2012)
 Ct 2: 456.072(1)(c), FS (2012)
 Ct 3: 456.072(1)(x), FS (2012)
Prior Discipline: None
Probable Cause Panel: July 30, 2013; Weizer & Meshad
Subject's Attorney: Pro Se
Complainant/Address: DOH/ISU-Jacksonville
Materials Submitted: Memorandum to the Board
 Motion For Determination of Waiver
 Exhibit A - Administrative Complaint
 Exhibit B - Copy of Certified Mail Receipt

Exhibit C – Affidavit of Service
Exhibit D – Board Office Affidavit
Exhibit E – Agency Clerk's Affidavit
Motion to Assess Costs with Exhibits
Exhibit A – Affidavit of Fees & Costs Expended
Exhibit 1 – Complaint Cost Summary
Exhibit 2 – Itemized Cost by Complaint
Supplemental Investigative Report dated 8/15/2013
Probable Cause Memorandum
Final Investigative Report with Exhibits 1-8

Disciplinary Guidelines:

Count I: No Guideline

Count II: From a \$3,000 fine and One Year Probation to Revocation.

Count III: From a \$1,000 fine up to Revocation

PRELIMINARY CASE REMARKS: WAIVER

Respondent was employed as an RPT at Walgreens Pharm. Respondent admitted to stealing hydrocodone from Walgreens. On or about May 7, 2013, in the Circuit Court for the Fourth Judicial Circuit, in and for Duval County, Florida, Respondent entered a plea of guilty to one (1) count of theft of any amount of a controlled substance, a second degree felony in violation of Section 812.014(2)(c)13, Florida Statutes.

Respondent failed to report the guilty plea to the Board of the Department within thirty (30) days of the date in which the Respondent entered the plea.

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

**DEPARTMENT OF HEALTH,
Petitioner,**

v.

CASE NO. 2013-06483

**SAMANTHA SHAVON GRAHAM, R.P.T.,
Respondent.**

**MOTION FOR DETERMINATION OF WAIVER AND FOR
FINAL ORDER BY HEARING NOT INVOLVING DISPUTED
ISSUES OF MATERIAL FACT**

Petitioner, Department of Health, by and through counsel, moves the Board of Pharmacy to find that Respondent has waived his/her right to elect a method of disposition of the pending Administrative Complaint, to determine that no material facts are in dispute, to conduct a hearing not involving disputed issues of material fact, and to enter a Final Order. As grounds therefore, Petitioner states:

1. An Administrative Complaint was filed against Respondent on July 31, 2013. A copy of said Administrative Complaint is attached hereto as Petitioner's Exhibit A.
2. Copies of the Administrative Complaint, Explanation of Rights form, and Election of Rights forms were sent to Respondent, via certified US mail delivery, on August 6, 2013 (7196 9008 9111 9325 8867). A signed

green receipt card was not returned. A copy of the certified mail receipt and returned envelope is attached as Petitioner's Exhibit B.

3. Thereafter, the Department requested personal service on Respondent, which was completed on October 1, 2013. The affidavit of personal service is attached as Petitioner's Exhibit C.

4. Respondent has not filed with either the Department of Health or the Board of Pharmacy, an Election of Rights form or other responsive pleading in this case within the twenty-one (21) day period to dispute the allegations contained in the Administrative Complaint. Copies of affidavits supporting the same are attached hereto as Petitioner's Exhibits E and F.

5. Rule 28-106.111(2), Florida Administrative Code, provides in pertinent part that:

. . . persons seeking a hearing on an agency decision which does or may determine their substantial interests shall file a petition for hearing with the agency within 21 days of receipt of written notice of the decision.

6. Rule 28.106.111(4), Florida Administrative Code, provides in pertinent part that:

. . . any person who received written notice of an agency decision and who fails to file a written request for a hearing within 21 days waives the right to request a hearing on such matters.

7. Respondent has been advised, by a copy of this motion sent to ~~his/her address of record, that a copy of the investigative file in this case~~ shall be furnished to the Board to establish a prima facie case regarding the violations as set forth in the Administrative Complaint.

8. The Department has determined that there are no material facts in dispute and has concluded that Respondent has waived his/her right to elect the method of resolution.

9. The Department requests that this Motion and a hearing be placed on the agenda for the next regularly scheduled meeting of the Board of Pharmacy.

WHEREFORE, Petitioner respectfully requests that the Board find that Respondent has waived his/her right to elect a method of resolution of this matter, find that there are no material facts in dispute, hold a hearing not involving material issues of disputed fact based on the information contained in the investigative file, find that Respondent violated Chapters 456 and 465, Florida Statutes, as alleged in the Administrative Complaint, impose discipline in accordance with the disciplinary guidelines, and enter a Final Order.

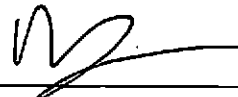
Respectfully submitted,



Matthew Witters
Assistant General Counsel
Florida Bar No. 91245
Department of Health
Prosecution Services Unit
4052 Bald Cypress Way Bin C-65
Tallahassee, Florida 32399-3265
Telephone: (850) 245-4444
Facsimile: (850) 245-4681
Email: matthew.witters@flhealth.gov

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing
Motion for Determination of Waiver and for Final Order by Hearing Not
Involving Disputed Issues of Material Fact has been furnished via U.S. mail
this 29 day of May, 2014, to Samantha
Graham, 3500 University Blvd. Apt 2905, Jacksonville, FL 32211, and to 3333
Monument Drive, Unit 513, Jacksonville, FL 32225.



Matthew Witters
Assistant General Counsel

STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO. 2013-06483

SAMANTHA SHAVON GRAHAM, R.P.T.,

RESPONDENT.

ADMINISTRATIVE COMPLAINT

COMES NOW, Petitioner, Department of Health, by and through its undersigned counsel, and files this Administrative Complaint (Complaint) before the Board of Pharmacy against Respondent, Samantha Shavon Graham, R.P.T., and in support thereof alleges:

1. Petitioner is the state department charged with regulating the practice of pharmacy pursuant to Section 20.43, Florida Statutes; Chapter 456, Florida Statutes; and Chapter 465, Florida Statutes.
2. At all times material to this Complaint, Respondent was a registered pharmacy technician ("RPT") in the state of Florida, having been issued license RPT 16712.

EXHIBIT

A

3. Respondent's address of record is 3500 University Boulevard, Apartment 2905, Jacksonville, Florida 32211.

4. Respondent's address may be Samantha Shavon Graham, Jail Number 2013010066, 500 East Adams Street, Jacksonville, Florida 32202.

5. At all times material to this complaint, Respondent was employed as a RPT at Walgreen's Pharmacy ("WP") located in Jacksonville, Florida.

6. In or about February 2013, WP began to notice shortages in the hydrocodone counts.

7. Hydrocodone is commonly prescribed to treat pain. According to Section 893.03(2), Florida Statutes (2012), hydrocodone is a Schedule II controlled substance that has a high potential for abuse and has a currently accepted but severely restricted medical use in treatment in the United States, and abuse of hydrocodone may lead to severe psychological or physical dependence.

8. On or about April 13, 2013, WP confronted the Respondent concerning the missing hydrocodone.

9. On or about April 13, 2013, Respondent provided a written statement in which she admitted to stealing hydrocodone from WP.

10. On or about April 13, 2013, the Jacksonville Sherriff's Office ("JSO") was contacted by WP concerning the theft of hydrocodone.

11. On or about April 13, 2013, In a *post-Miranda* statement, Respondent admitted to the JSO that she stole hydrocodone from WP.

12. On or about May 7, 2013, in the Circuit Court for the Fourth Judicial Circuit, in and for Duval County, Florida, in case number 16-2013-CF-003569-AXXX-MA, Respondent entered a plea of guilty to one (1) count of theft of any amount of a controlled substance, a second degree felony in violation of Section 812.014(2)(c)13, Florida Statutes.

13. Theft of any amount of a controlled substance, a second degree felony in violation of Section 812.014(2)(c)13, Florida Statutes is a crime that directly relates to the practice of pharmacy.

14. Respondent failed to report the guilty plea to the Board of the Department within thirty (30) days of the date in which the Respondent entered the plea.

COUNT I

15. Petitioner realleges and incorporates paragraphs one (1) through fourteen (14) as if fully set forth herein.

16. Section 465.016(1)(e), Florida Statutes (2012), provides that a registered pharmacy technician can be disciplined, including suspension, for violating a provision of Chapter 893, Florida Statutes.

17. Section 893.13(7)(a)9, Florida Statutes (2012) provides that a person may not acquire or obtain, or attempt to acquire or obtain, possession of a controlled substance by misrepresentation, fraud, forgery, deception, or subterfuge.

18. As set forth above, Respondent engaged in the unlawful possession of controlled substances by admittedly stealing hydrocodone, a schedule II controlled substance from WP.

19. Based on the foregoing, Respondent has violated Section 465.016(1)(3), Florida Statutes (2012), through a violation of Section 893.13(7)(a)9, Florida Statutes (2012), by acquiring or obtaining, or attempting to obtain possession of a controlled substance by misrepresentation, fraud, forgery, deception, or subterfuge.

COUNT II

20. Petitioner realleges and incorporates paragraphs one (1) through fourteen (14) as if fully set forth herein.

21. Section 456.072(1)(c), Florida Statutes (2012), provides that being convicted or found guilty of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the practice of, or the ability to practice, a licensee's profession is grounds for disciplinary action.

22. Respondent entered a plea of guilty to one (1) count of theft of any amount of a controlled substance, a second degree felony in violation of Section 812.014(2)(c)13, Florida Statutes, a crime that relates to the practice of pharmacy, which is the licensee's profession.

23. Based on the foregoing, Respondent violated Section 456.072(1)(c), Florida Statutes (2012), by being convicted or found guilty of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the practice of, or the ability to practice, a licensee's profession.

COUNT III

24. Petitioner realleges and incorporates paragraphs one (1) through fourteen (14) as if fully set forth herein.

25. Section 456.072(1)(x), Florida Statutes (2012), provides that failing to report to the board, or the department if there is no board, in

writing within thirty (30) days after the licensee has been convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction is grounds for disciplinary action.

26. Respondent failed to report the plea of guilty one (1) count of theft of any amount of a controlled substance, a second degree felony in violation of Section 812.014(2)(c)13, Florida Statutes, to the Board of Pharmacy in writing within thirty (30) days of the date Respondent entered the plea.

27. Based on the foregoing, Respondent violated Section 456.072(1)(x) Florida Statutes (2012), which provides that failing to report to the board, or the department if there is no board, in writing within thirty (30) days after the licensee has been convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction constitutes grounds for discipline.

WHEREFORE, the Petitioner respectfully requests that the Board of Pharmacy enter an order imposing one or more of the following penalties: permanent revocation or suspension of Respondent's license, restriction of practice, imposition of an administrative fine, issuance of a reprimand, placement of the Respondent on probation, corrective action, refund of fees billed or collected, remedial education and/or any other relief that the Board deems appropriate.

SIGNED this 30 day of July, 2013.

John H. Armstrong, MD, FACS
State Surgeon General and
Secretary of Health



Matthew G. Witters
Assistant General Counsel
Fla. Bar No. 0091245
Florida Department of Health
Office of the General Counsel
4052 Bald Cypress Way, Bin #C65
Tallahassee, FL 32399-3265
Telephone: (850) 245-4444
Facsimile: (850) 245-4683
Email: matthew_witters@doh.state.fl.us

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK *Angel Sanders*
DATE JUL 31 2013

PCP: July 30, 2013
PCP Members: Weizer and Meshad

Department of Health v. Samantha Shavon Graham, R.P.T.
Case No. 2013-06483
AC - 893, CR, NR

7

: 00011

NOTICE OF RIGHTS

Respondent has the right to request a hearing to be conducted in accordance with Section 120.569 and 120.57, Florida Statutes, to be represented by counsel or other qualified representative, to present evidence and argument, to call and cross-examine witnesses and to have subpoena and subpoena duces tecum issued on his or her behalf if a hearing is requested.

NOTICE REGARDING ASSESSMENT OF COSTS

Respondent is placed on notice that Petitioner has incurred costs related to the investigation and prosecution of this matter. Pursuant to Section 456.072(4), Florida Statutes, the Board shall assess costs related to the investigation and prosecution of a disciplinary matter, which may include attorney hours and costs, on the Respondent in addition to any other discipline imposed.

7196 9008 9111 9325 8867

TO: 3 Graham RPT

SENDER: Christine Lillich

REFERENCE: Stupack

PS Form 3800, January 2005

| | | |
|------------------------------|----------------------|--|
| RETURN RECEIPT SERVICE | Postage | |
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| | Return Receipt Fee | |
| | Restricted Delivery | |
| | Total Postage & Fees | |

Samantha Graham
3500 University Blvd
Apt. 2905
Jacksonville FL 32211

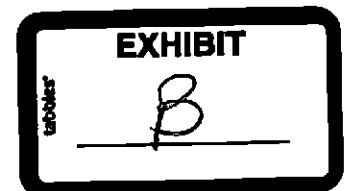
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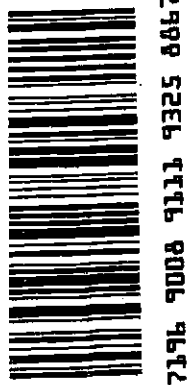
8-6-13



PRACTITIONER REGULATION
LEGAL

2013 SEP 23 PM 12:45

W. J. [unclear]
R. [unclear]

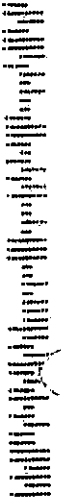


7196 9008 9111 9325 8867

*Mr. Graham
1000 Bldg
Tallahassee, FL*

UNCLAIMED

*APR
JACKSON*



Florida Department of Health
Office of the General Counsel
Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, Florida 32399-1701
PHONE: 850/245-4444



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AFFIDAVIT OF SERVICE OR DILIGENT SEARCH

FLORIDA DEPARTMENT OF HEALTH

Petitioner

vs

Case No. RPT 2013-06483

SAMANTHA SHAVON GRAHAM, RPT

Respondent

COMES NOW, the affiant, who first being duly sworn, deposes and states:

1) Affiant is an Investigator/Inspector employed by the DEPARTMENT OF HEALTH, State of Florida.

2) That on 9/24/13, 9/25/13, 9/26/13, & 10/01/13, Affiant made a diligent effort to locate Respondent, to serve X Administrative Complaint and related papers; _____ Order compelling examination(s); Subpoena(s); _____ Final order; _____ Notice to cease and desist; _____ ESO/ERO and related papers.

3) Check applicable answer below:

X Affiant made personal service on Samantha Graham, at 3333 Monument Drive, Unit 513 Jacksonville, FL 32225, on 10/01/13.

_____ Affiant was unable to make service after searching for Respondent at: (a) all addresses for Respondent shown in the DOH investigation of the case; (b) all official addresses for Respondent shown in his licensing records on the computer terminal or Board office; (c) Local telephone company for the last area Respondent was known to frequent; (d) Division of Drivers Licenses; and (e) Utilities (electric, cable, etc.); any others: _____

Affiant

State Of Florida
County Of Duval

Before me, personally appeared Todd P. McCormick whose identity is known to me by personal knowledge (type of identification) and who, acknowledges that his/her signature appears above.

Sworn to or affirmed by Affiant before me this 1st day of October 2013.

Notary Public-State of Florida

Paul D. Kloko

Type or Print Name

Florida Department of Health
Division of Medical Quality Assurance • Investigative Services Unit
1912 Hamilton Street, Unit 104 • Jacksonville, FL 32210
PHONE: 904-381-8022 • FAX: 904-381-8050
INV FORM 321



My Commission Expires

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EXHIBIT

C

EXHIBIT # J2-2 PAC

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Rick Scott
Governor

John H. Armstrong, MD, FACS
State Surgeon General & Secretary

Vision: To be the Healthiest State in the Nation

Affidavit of Non-Receipt

I, Patrick Kennedy, hereby certify in my official capacity as custodian for the Board's licensure files that the Board of Pharmacy as of May 15, 2014, has no evidence of an Election of Rights form or other responsive pleading requesting a hearing prior to any agency action regarding **Samantha Shavon Graham, RPT; 2013-06483**, which would affect the Subject's substantial interests or rights.

Patrick Kennedy
Custodian of Records
Florida Board of Pharmacy

Before me, personally appeared Patrick Kennedy, whose identity is known to me personally and who, under, oath, acknowledges that his/her signature appears above.

Sworn to and subscribed before me this 15th day of May, 2014.

Lorraine Gail Curry
Notary Public
My commission expires:



Florida Department of Health
Office of the General Counsel - Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65 • Tallahassee, FL 32399-1701
PHONE: 850/245-4444 • FAX 850/245-4683

www.FloridasHealth.com
TWITTER: HealthyFLA
FACEBOOK: FLDepartmentofHealth
YOUTUBE: FLA



Mission:

To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.



Rick Scott
Governor

John H. Armstrong, MD, FACS
State Surgeon General & Secretary

Vision: To be the Healthiest State in the Nation

AFFIDAVIT

I, Engel Saudek, Deputy Clerk for the Department Clerk's Office, hereby certify in my official capacity as custodian for the Department Clerk's records, that the Department Clerk's Office has not received an Election of Rights form or other responsive pleading, which requests a hearing prior to any Department action regarding Samantha Shavon Graham, RPT; 2013-06483, which would affect the Respondent's substantial interests or rights.

Engel Saudek

Custodian of Record
Department Clerk's Office

Before me, personally appeared Engel Saudek, whose identity is known to me personally and who, under oath, acknowledges that his/her signature appears above.

Sworn to and subscribed before me this 15th day of May, 2014.

Lawanda Bell

Notary Public

My Commission Expires:



STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,
Petitioner,

v.

CASE NO. 2013-06483

SAMANTHA SHAVON GRAHAM, R.P.T.,
Respondent.

MOTION TO ASSESS COSTS IN ACCORDANCE
WITH SECTION 456.072(4)

COMES NOW the Department of Health, by and through undersigned counsel, and moves the Board of Pharmacy for the entry of a Final Order assessing costs against the Respondent for the investigation and prosecution of this case in accordance with Section 456.072(4), Florida Statutes. As grounds therefore, the Petitioner states the following:

1. At its next regularly scheduled meeting, the Board of Pharmacy will take up for consideration the above-styled disciplinary action and will enter a Final Order therein.

2. Section 456.072(4), Florida Statutes, states as follows:

In addition to any other discipline imposed through final order, or citation, entered on or

after July 1, 2001, pursuant to this section or discipline imposed through final order, or citation, entered on or after July 1, 2001, for a violation of any practice act, the board, or the department when there is not board, shall assess costs related to the investigation and prosecution of the case. Such costs related to the investigation and prosecution include, but are not limited to, salaries and benefits of personnel, costs related to the time spent by the attorney and other personnel working on the case, and any other expenses incurred by the department for the case. The board, or the department when there is no board, shall determine the amount of costs to be assessed after its consideration of an affidavit of itemized costs and any written objections thereto. .

3. The investigation and prosecution of this case has resulted in costs in the total amount of \$5,326.23, based on the following itemized statement of costs:

| | ***** Cost to Date ***** | |
|-------------------|--------------------------|------------|
| | Hours | Costs |
| Complaint: | 1.50 | \$82.35 |
| Investigation: | 27.00 | \$1,727.43 |
| Legal: | 3.90 | \$414.78 |
| Compliance: | 0.05 | \$1.67 |
| Sub Total: | 32.45 | \$2,226.23 |
| Expenses to Date: | | \$3,100.00 |
| Prior | | \$0.00 |

| | | |
|-------------------------|--|------------|
| Amount: | | |
| Total Costs to Date: | | \$5,326.23 |


Therefore, the Petitioner seeks an assessment of costs against the Respondent in the amount of \$4,911.45 as evidenced in the attached affidavit. (Exhibit A).

4. Should the Respondent file written objections to the assessment of costs, within ten (10) days of the date of this motion, specifying the grounds for the objections and the specific elements of the costs to which the objections are made, the Petitioner requests that the Board determine the amount of costs to be assessed based upon its consideration of the affidavit attached as Exhibit A and any timely-filed written objections.

5. Petitioner requests that the Board grant this motion and assess costs in the amount of \$4,911.45 as supported by competent, substantial evidence. This assessment of costs is in addition to any other discipline imposed by the Board and is in accordance with Section 456.072(4), Florida Statutes.

WHEREFORE, the Department of Health requests that the Board of Pharmacy enter a Final Order assessing costs against the Respondent in the amount of \$4,911.45.

DATED this 29 day of May, 2014.



Matthew Witters
Assistant General Counsel
Fla. Bar No. 91245
Florida Department of Health
Office of the General Counsel
4052 Bald Cypress Way, Bin #C65
Tallahassee, FL 32399-3265
Telephone: (850) 245-4444
Facsimile: (850) 245-4683
Email: matthew.witters@flhealth.gov

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Motion to Assess Costs has been provided by U.S. Mail this 29 day of May, 2014, to Samantha Graham, 3500 University Blvd., Apt 2905, Jacksonville, FL 32211, and to 3333 Monument Drive, Unit 513, Jacksonville, FL 32225.



Matthew Witters
Assistant General Counsel

AFFIDAVIT OF FEES AND COSTS EXPENDED

STATE OF FLORIDA
COUNTY OF LEON:

BEFORE ME, the undersigned authority, personally appeared **SHANE WALTERS** who was sworn and states as follows:

- 1) My name is Shane Walters.
- 2) I am over the age of 18, competent to testify, and make this affidavit upon my own personal knowledge and after review of the records at the Florida Department of Health (DOH).
- 3) I am the Operations and Management Consultant Manager (OMCM) for the Consumer Services and Compliance Management Unit for DOH. The Consumer Services Unit is where all complaints against Florida health care licensees (e.g., medical doctors, dentists, nurses, respiratory therapists) are officially filed. I have been in my current job position for more than one year. My business address is 4052 Bald Cypress Way, Bin C-75 Tallahassee, Florida 32399-3275.
- 4) As OMCM of the Consumer Services and Compliance Management Unit, my job duties include reviewing data in the Time Tracking System and verifying that the amounts correspond. The Time Tracking System is a computer program which records and tracks DOH's costs regarding the investigation and prosecution of cases against Florida health care licensees.
- 5) As of today, DOH's total costs for investigating and prosecuting DOH case number(s) **2013-06483** (Department of Health v **SAMANTHA SHAVON GRAHAM**) are **FIVE THOUSAND THREE HUNDRED TWENTY-SIX DOLLARS AND TWENTY-THREE CENTS (\$5,326.23)**.
- 6) The costs for DOH case number(s) **2013-06483** (Department of Health v **SAMANTHA SHAVON GRAHAM**) are summarized in Exhibit 1 (Cost Summary Report), which is attached to this document.
- 7) The itemized costs and expenses for DOH case number(s) **2013-06483** (Department of Health v **SAMANTHA SHAVON GRAHAM**) are detailed in Exhibit 2 (Itemized Cost Report and Itemized Expense Report and receipts), which is attached to this document.
- 8) The itemized costs as reflected in Exhibit 2 are determined by the following method: DOH employees who work on cases daily are to keep track of their time in six-minute increments (e.g., investigators



and lawyers). A designated DOH employee in the Consumer Services Unit, Legal Department, and in each area office, inputs the time worked and expenses spent into the Time Tracking System. Time and expenses are charged against a state health care Board (e.g., Florida Board of Medicine, Florida Board of Dentistry, Florida Board of Osteopathic Medicine), and/or a case. If no Board or case can be charged, then the time and expenses are charged as administrative time. The hourly rate of each employee is calculated by formulas established by the Department. (See the Itemized Cost Report)

- 9) Shane Walters, first being duly sworn, states that she has read the foregoing Affidavit and its attachments and the statements contained therein are true and correct to the best of her knowledge and belief.

FURTHER AFFIANT SAYETH NOT.

Shane Walters
Shane Walters, Affiant

State of Florida
County of Leon

Sworn to and subscribed before me this 15th day of May, 2014,
by Shane Walters, who is personally known to me.

Bernadette Lawanda Hayes
Notary Signature

Bernadette Lawanda Hayes
Name of Notary Printed

Stamp Commissioned Name of Notary Public:

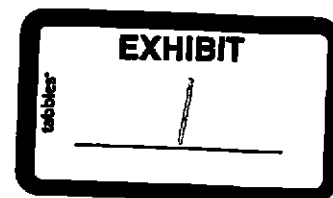


Complaint Cost Summary

Complaint Number: 201306483

Subject's Name: GRAHAM, SAMANTHA SHAVON

| ***** Cost to Date ***** | | |
|-----------------------------|--------------|-------------------|
| | Hours | Costs |
| Complaint: | 1.50 | \$82.35 |
| Investigation: | 27.00 | \$1,727.43 |
| Legal: | 3.90 | \$414.78 |
| Compliance: | 0.05 | \$1.67 |
| | ***** | ***** |
| Sub Total: | 32.45 | \$2,226.23 |
| Expenses to Date: | | \$3,100.00 |
| Prior Amount: | | \$0.00 |
| Total Costs to Date: | | \$5,326.23 |



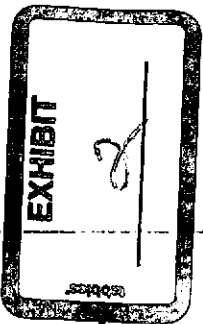
**Time Tracking System
Itemized Cost by Complaint**

Complaint 201306483

Report Date 05/15/2014

Page 1 of 3

| Staff Code | Activity Hours | Staff Rate | Cost | Activity Date | Activity Code | Activity Description |
|------------------------------------|----------------|------------|----------------|---------------|---------------|------------------------------|
| COMPLIANCE MANAGEMENT UNIT | | | | | | |
| HC27 | 0.05 | \$33.33 | \$1.67 | 06/11/2013 | 137 | PRIORITY DOWNGRADES/UPGRADES |
| Sub Total | 0.05 | | \$1.67 | | | |
| CONSUMER SERVICES UNIT | | | | | | |
| HA132 | 1.00 | \$54.90 | \$54.90 | 04/23/2013 | 25 | REVIEW CASE FILE |
| HA132 | 0.50 | \$54.90 | \$27.45 | 04/24/2013 | 25 | REVIEW CASE FILE |
| Sub Total | 1.50 | | \$82.35 | | | |
| INVESTIGATIVE SERVICES UNIT | | | | | | |
| J191 | 1.20 | \$63.98 | \$76.78 | 04/26/2013 | 58 | TRAVEL TIME |
| J191 | 2.80 | \$63.98 | \$179.14 | 04/26/2013 | 4 | ROUTINE INVESTIGATIVE WORK |
| J191 | 0.90 | \$63.98 | \$57.58 | 04/26/2013 | 76 | REPORT PREPARATION |
| J191 | 0.30 | \$63.98 | \$19.19 | 04/29/2013 | 4 | ROUTINE INVESTIGATIVE WORK |
| J191 | 1.60 | \$63.98 | \$102.37 | 04/29/2013 | 4 | ROUTINE INVESTIGATIVE WORK |
| J191 | 0.90 | \$63.98 | \$57.58 | 04/29/2013 | 76 | REPORT PREPARATION |
| J191 | 0.30 | \$63.98 | \$19.19 | 04/30/2013 | 4 | ROUTINE INVESTIGATIVE WORK |
| J191 | 0.50 | \$63.98 | \$31.99 | 05/01/2013 | 4 | ROUTINE INVESTIGATIVE WORK |
| J191 | 0.90 | \$63.98 | \$57.58 | 05/02/2013 | 4 | ROUTINE INVESTIGATIVE WORK |
| J191 | 0.30 | \$63.98 | \$19.19 | 05/03/2013 | 4 | ROUTINE INVESTIGATIVE WORK |
| J191 | 0.30 | \$63.98 | \$19.19 | 05/06/2013 | 4 | ROUTINE INVESTIGATIVE WORK |
| J191 | 0.20 | \$63.98 | \$12.80 | 05/06/2013 | 76 | REPORT PREPARATION |
| J191 | 0.30 | \$63.98 | \$19.19 | 05/13/2013 | 4 | ROUTINE INVESTIGATIVE WORK |
| J191 | 0.20 | \$63.98 | \$12.80 | 05/13/2013 | 76 | REPORT PREPARATION |
| J191 | 0.30 | \$63.98 | \$19.19 | 05/14/2013 | 76 | REPORT PREPARATION |
| J191 | 0.10 | \$63.98 | \$6.40 | 05/17/2013 | 4 | ROUTINE INVESTIGATIVE WORK |
| J191 | 0.50 | \$63.98 | \$31.99 | 05/24/2013 | 4 | ROUTINE INVESTIGATIVE WORK |



**Time Tracking System
Itemized Cost by Complaint**

Complaint 201306483

Report Date 05/15/2014

| Staff Code | Activity Hours | Staff Rate | Cost | Activity Date | Activity Code | Activity Description |
|------------|----------------|------------|----------|---------------|---------------|--|
| J191 | 0.20 | \$63.98 | \$12.80 | 05/24/2013 | 4 | ROUTINE INVESTIGATIVE WORK |
| J188 | 0.50 | \$63.98 | \$31.99 | 06/03/2013 | 6 | SUPPLEMENTAL INVESTIGATION |
| J191 | 0.30 | \$63.98 | \$19.19 | 06/05/2013 | 76 | REPORT PREPARATION |
| J191 | 0.90 | \$63.98 | \$57.58 | 06/05/2013 | 6 | SUPPLEMENTAL INVESTIGATION |
| J191 | 0.40 | \$63.98 | \$25.59 | 06/07/2013 | 5 | ROUTINE INSPECTION |
| J191 | 0.50 | \$63.98 | \$31.99 | 06/12/2013 | 6 | SUPPLEMENTAL INVESTIGATION |
| J191 | 0.40 | \$63.98 | \$25.59 | 06/13/2013 | 4 | ROUTINE INVESTIGATIVE WORK |
| J191 | 0.50 | \$63.98 | \$31.99 | 06/18/2013 | 4 | ROUTINE INVESTIGATIVE WORK |
| J191 | 0.70 | \$63.98 | \$44.79 | 06/20/2013 | 6 | SUPPLEMENTAL INVESTIGATION |
| J191 | 0.30 | \$63.98 | \$19.19 | 06/24/2013 | 6 | SUPPLEMENTAL INVESTIGATION |
| J191 | 0.30 | \$63.98 | \$19.19 | 06/25/2013 | 6 | SUPPLEMENTAL INVESTIGATION |
| J191 | 0.20 | \$63.98 | \$12.80 | 06/27/2013 | 6 | SUPPLEMENTAL INVESTIGATION |
| J191 | 0.20 | \$63.98 | \$12.80 | 06/28/2013 | 6 | SUPPLEMENTAL INVESTIGATION |
| J191 | 1.00 | \$63.98 | \$63.98 | 07/01/2013 | 6 | SUPPLEMENTAL INVESTIGATION |
| J191 | 0.30 | \$63.98 | \$19.19 | 07/01/2013 | 76 | REPORT PREPARATION |
| J191 | 0.30 | \$63.98 | \$19.19 | 07/02/2013 | 4 | ROUTINE INVESTIGATIVE WORK |
| J191 | 0.40 | \$63.98 | \$25.59 | 07/03/2013 | 6 | SUPPLEMENTAL INVESTIGATION |
| J191 | 0.40 | \$63.98 | \$25.59 | 07/08/2013 | 6 | SUPPLEMENTAL INVESTIGATION |
| J191 | 0.40 | \$63.98 | \$25.59 | 07/09/2013 | 4 | ROUTINE INVESTIGATIVE WORK |
| J191 | 0.50 | \$63.98 | \$31.99 | 07/12/2013 | 4 | ROUTINE INVESTIGATIVE WORK |
| J191 | 0.40 | \$63.98 | \$25.59 | 07/29/2013 | 6 | SUPPLEMENTAL INVESTIGATION |
| J191 | 0.80 | \$63.98 | \$51.18 | 08/05/2013 | 76 | REPORT PREPARATION |
| J191 | 0.40 | \$63.98 | \$25.59 | 08/05/2013 | 4 | ROUTINE INVESTIGATIVE WORK |
| J191 | 0.20 | \$63.98 | \$12.80 | 09/24/2013 | 4 | ROUTINE INVESTIGATIVE WORK |
| J191 | 0.20 | \$63.98 | \$12.80 | 09/24/2013 | 76 | REPORT PREPARATION |
| J191 | 1.20 | \$63.98 | \$76.78 | 09/25/2013 | 100 | SERVICE OF ADMINISTRATIVE COMPLAINTS, SUBPOENAS, NOTICE TO CEASE |
| J191 | 0.10 | \$63.98 | \$6.40 | 09/25/2013 | 4 | ROUTINE INVESTIGATIVE WORK |
| J191 | 0.10 | \$63.98 | \$6.40 | 09/26/2013 | 4 | ROUTINE INVESTIGATIVE WORK |
| J191 | 0.40 | \$63.98 | \$25.59 | 09/30/2013 | 4 | ROUTINE INVESTIGATIVE WORK |
| J191 | 1.90 | \$63.98 | \$121.56 | 10/01/2013 | 100 | SERVICE OF ADMINISTRATIVE COMPLAINTS, SUBPOENAS, NOTICE TO CEASE |
| J191 | 0.30 | \$63.98 | \$19.19 | 10/01/2013 | 4 | ROUTINE INVESTIGATIVE WORK |
| J191 | 0.70 | \$63.98 | \$44.79 | 10/01/2013 | 76 | REPORT PREPARATION |

**Time Tracking System
Itemized Cost by Complaint**

Complaint 201306483

Report Date 05/15/2014

| Staff Code | Activity Hours | Staff Rate | Cost | Activity Date | Activity Code | Activity Description |
|------------|----------------|------------|------|---------------|---------------|----------------------|
|------------|----------------|------------|------|---------------|---------------|----------------------|

| | | | | | | |
|------------------|-------|--|------------|--|--|--|
| Sub Total | 27.00 | | \$1,727.43 | | | |
|------------------|-------|--|------------|--|--|--|

PROSECUTION SERVICES UNIT

| | | | | | | |
|------------------|-------------|----------|-----------------|------------|----|---|
| HLL101A | 0.60 | \$106.35 | \$63.81 | 06/10/2013 | 25 | REVIEW CASE FILE |
| HLL101A | 0.60 | \$106.35 | \$63.81 | 06/10/2013 | 26 | PREPARE OR REVISE MEMORANDUM |
| HLL90B | 0.60 | \$106.35 | \$63.81 | 06/18/2013 | 25 | REVIEW CASE FILE |
| HLL90B | 0.80 | \$106.35 | \$85.08 | 06/18/2013 | 28 | PREPARE OR REVISE ADMINISTRATIVE COMPLAINT |
| HLL90B | 0.30 | \$106.35 | \$31.91 | 06/21/2013 | 89 | PROBABLE CAUSE PREPARATION |
| HLL90B | 0.10 | \$106.35 | \$10.64 | 07/30/2013 | 63 | PRESENTATION OF CASES TO PROBABLE CAUSE PANEL |
| HLL90B | 0.20 | \$106.35 | \$21.27 | 07/30/2013 | 90 | POST PROBABLE CAUSE PROCESSING |
| HLL90B | 0.40 | \$106.35 | \$42.54 | 07/31/2013 | 79 | STIPULATION |
| HLL90B | 0.30 | \$106.35 | \$31.91 | 08/06/2013 | 90 | POST PROBABLE CAUSE PROCESSING |
| Sub Total | 3.90 | | \$414.78 | | | |

| | | | | | | |
|-------------------|--|--|-------------------|--|--|--|
| Total Cost | | | \$2,226.23 | | | |
|-------------------|--|--|-------------------|--|--|--|



***** CONFIDENTIAL *****
Time Tracking System
Itemized Expense by Complaint
 Complaint 201306483

Report Date: 05/15/2014

Page 1 of 1

| Staff Code | Expense Date | Expense Amount | Expense Code | Expense Code Description |
|----------------------------------|----------------|----------------|--------------|--------------------------|
| PROSECUTION SERVICES UNIT | | | | |
| HLL90B | 06/18/2013 | \$3,100.00 | 131747 | PHYSICIAN SERVICES (OPS) |
| | SubTotal | \$3,100.00 | | |
| | Total Expenses | \$3,100.00 | | |

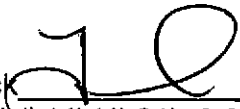



STATE OF FLORIDA
DEPARTMENT OF HEALTH

Received
 Investigative Services

INVESTIGATIVE REPORT

AUG 06 2013

| | | | | | |
|---|------------------|---|--|-----------------------------|--------|
| Office: Jacksonville | | Date of Case: 4/23/13 | | Case Number: RPT 2013-06483 | |
| Subject: SAMANTHA SHAVON GRAHAM, RPT 3500 University Boulevard, Apartment 2905 Jacksonville, Fl 32211 H (904) 900-9164 | | | Source: DOH/MQA Tallahassee HQ DEPARTMENT OF HEALTH INVESTIGATIVE SERVICES UNIT - JACKSONVILLE | | |
| Prefix: RPT | License #: 16712 | Profession: Registered Pharmacy Technician | Board: Pharmacy | Report Date: 8/05/13 | |
| Period of Investigation: 6/03/13 – 8/05/13 | | | Type of Report: SUPPLEMENTAL - 1 | | |
| <p>Alleged Violation: F.S. 465.016(1)(d)(e)(i)(m)(r) "The following acts constitute grounds..." "Being unfit or incompetent to practice..." "Violating chapter 499..." "Compounding, dispensing, or distributing a legend drug..." "Being unable to practice pharmacy with reasonable skill..." "Violating any provision of this chapter..." F.S. 456.072(1)(z)(dd) "The following acts shall constitute grounds..." "Being unable to practice with reasonable skill..." "Violating any provision of this chapter..." F.S. 893.13(1)(a)(6)(a)(7)(a) "Except as authorized by this chapter and chapter 499..." "It is unlawful for any person to be in actual or constructive possession..." "A person may not..."</p> | | | | | |
| <p>Synopsis: This supplemental investigation is predicated upon receipt of a Hydrocodone APAP 10/500mg tablets Item Movement Report received from Walgreens via email on 6/03/13, (S-1), In addition a copy of RICHARD MCGOWAN'S, (Walgreens Loss Prevention Officer) Case Report was received via email on 6/28/13, (S-2) and a copy of additional paperwork and reports were received from Walgreens on 7/01/13, (S-3).</p> | | | | | |
| <p>Exhibit S-1 is a copy of a Hydrocodone APAP 10/500mg tablets Item Movement Report, received from Walgreens via email on 6/03/13. Through review of this report via telephone with RICHARD MCGOWAN, Loss Prevention Officer this Investigator noted item movement of Hydrocodone –APAP 10-500mg tablets from week ten through week twenty two of the year 2013.</p> | | | | | |
| <p>INVESTIGATOR'S NOTE:</p> <p>It has been alleged by MCGOWAN that negative adjustments of Hydrocodone APAP 10/500 went as far back as 11/12 or 12/12. Due to the fact that the Item Movement Report , (S-1) reveals only weeks ten through twenty two in 2013, it does not encompass the full duration in which GRAHAM has been alleged to have been involved in the theft of the narcotics. On 6/13/13, this Investigator contacted KIM CORLEY, from Walgreens Headquarters and requested a copy of a "52 Week Item Movement" report. CORLEY referred this Investigator to ANNIE MENTKOWSKI, Walgreens Special Redaction Team, who indicated via email on 6/19/13, that she had confirmed with MCGOWAN that the "52 Week Item Movement" report is no longer available in their system, and therefore was unable to provide this Investigator with the data that was requested.</p> | | | | | |
| <p>...CONTINUED NEXT PAGE...</p> | | | | | |
| Related Case: None | | | | | |
| Investigator/Date: Todd P. McCormick  Investigation Specialist II (JI-91) 8/05/13 | | | Approved By/Date: Wendy Foy  Investigator Supervisor (JI-75) | | |
| Distribution: HQ/ISU | | | | | Page 1 |

SYNOPSIS CONTINUED

Exhibit S-2 is a copy of RICHARD MCGOWAN'S, (Walgreens Loss Prevention Officer) Case Inquiry Report, (Case Number 1255098) received via email from Walgreens on 6/28/13. Through review of MCGOWAN'S report this Investigator noted on 5/07/13 GRAHAM was discharged and arrested for stealing two thousand tablets of Hydrocodone 10/500mg. The case was predicated upon "DLPM" review of "LPxRx" reports and with the help of the "RXM" narrowing the suspects to GRAHAM. GRAHAM admitted to stealing Hydrocodone over the past few months. GRAHAM was taking the drugs to sell for cash. A 52-week history on the Hydrocodone 10/500mg was reviewed and provided confirmation of suspicious activity. The 52-week report showed a total negative adjustments of 2,838 Hydrocodone 10/500mg tablets. Shift counts identified GRAHAM as a suspect due to a loss of 265 Hydrocodone 10/500mg tablets during her shift on 4/09/13. Based on this information, GRAHAM was interviewed. GRAHAM provided a written statement in which she admitted to the theft of controlled substances since 11/12. GRAHAM indicated she had stolen two thousand tablets of Hydrocodone 10/500mg to sell for cash. GRAHAM indicated that she would place the pills into her smock pocket, and on one occasion, she took a full bottle of five hundred tablets by placing the full bottle into her smock. GRAHAM caused a loss to Walgreens which totaled \$1,117.55.

Exhibit S-3 is a copy of administrative paperwork received via email from Walgreens on 7/01/13. Through review of the administrative paperwork this Investigator noted:

- A copy of GRAHAM'S written statement dated 4/13/13 in which she indicated that she had spoken with loss prevention about stealing drugs to sell for cash. GRAHAM admitted to using the stolen Hydrocodone 10/500mg to pay bills. GRAHAM admitted to have taken two thousand tablets.
- A copy of an "Agreement To Repay" form in which GRAHAM voluntarily agreed to pay \$1,117.55 to Walgreens.
- A copy of a 52 Week Hydrocodone 10/500mg tablet Activity Report from the dates of 4/03/12 through 3/26/13.
- A copy of Hydrocodone 10/500mg Actual Count forms from the dates of 1/23/13 through 4/13/13.

INVESTIGATOR'S NOTE:

During the course of this supplemental investigation this Investigator has attempted to obtain a copy of GRAHAM'S corresponding work schedule during the time of the alleged diversion, along with a 52 Week Hydrocodone 10/500mg tablet Activity Report, which would include up to the date in which GRAHAM was arrested, 4/13/13. Any information received subsequent to the completion of this report will be forwarded in the form of an additional supplemental report.

Exhibits:

- S-1. Copy of a Hydrocodone APAP 10/500 tablets Item Movement Report received from Walgreens via email on 6/03/13, (pgs. 3-9)
- S-2. Copy of RICHARD MCGOWAN'S, (Walgreens Loss Prevention Officer) Case Inquiry Report, (Case Number 1255098) received via email from Walgreens on 6/28/13, (pgs.10-13)
- S-3. Copy of administrative paperwork received via email from Walgreens on 7/01/13, (pgs. 14-21)

CONFIDENTIAL AND EXEMPT MATERIALS

**One or more pages have been removed
from this document for security reasons**

**Scroll down to see the available pages or
advance to the next document if all
pages have been removed.**

SOME OR ALL PAGES IN THIS DOCUMENT ARE PATIENT RECORDS
AND/OR DOCUMENTS THAT IDENTIFY THE PATIENT BY NAME AND ARE
EXEMPT FROM PUBLIC RECORDS LAWS.

456.057 - Ownership and control of patient records; report or copies of records to be
furnished.—

10)(a)All patient records obtained by the department and any other documents
maintained by the department which identify the patient by name are confidential and exempt
from s. 119.07(1) and shall be used solely for the purpose of the department and the appropriate
regulatory board in its investigation, prosecution, and appeal of disciplinary proceedings. The
records shall not be available to the public as part of the record of investigation for and
prosecution in disciplinary proceedings made available to the public by the department or the
appropriate board.

CONFIDENTIAL AND EXEMPT MATERIALS

**One or more pages have been removed
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**Scroll down to see the available pages or
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456.057 - Ownership and control of patient records; report or copies of records to be
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MEMORANDUM OF PROBABLE CAUSE DETERMINATION

TO: Department of Health, Prosecution Services Unit
FROM: Chair, Probable Cause Panel, Florida Board of Pharmacy
RE: Samantha Shavon Graham, R.P.T. (MGW)
Case Number: 2013-06483
MEMBERS: Michele Weizer, PharmD and Gavin Meshad

DATE OF PCP: *July* ~~May~~ 30, 2013 **AGENDA ITEM:** A-14

This matter came before the Probable Cause Panel on the above date. Having reviewed the complete investigative file, recommendations of the Department, and any information submitted by the Subject, and being otherwise fully advised in the premises, the panel finds that:

Probable cause exists and a formal complaint shall be filed for violation of statutes and rules, including but not limited to:

Section 465.016(1)(4), Florida Statutes (2012), through a violation of 893.13(7)(a)9, Florida Statutes;

Section 456.072(1)(c), Florida Statutes (2012),

- Probable Cause was **not** found in this case
- In lieu of probable cause, issue **letter of guidance**
- Case requires **expert review**
- Case needs **further investigation**
 - a)
 - b)
- Upon **reconsideration**, dismiss
- other**

Michele Weizer PharmD, BCPS 7/30/13
Chair, Probable Cause Panel Date
Board of Pharmacy

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Rick Scott
Governor

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John H. Armstrong, MD, FACS

Surgeon General & Sec

Vision: To be the Healthiest State in the Nation

STATE OF FLORIDA
BOARD OF PHARMACY

DEPARTMENT OF HEALTH,
PETITIONER,

VS.

CASE NO. 201114810

BRIAN T MCGAULEY,
RESPONDENT.

NOTICE

TO: BRIAN T MCGAULEY
990 SW NICHOLS TERRACE
PORT ST LUCIE, FL 34953

PLEASE TAKE NOTICE that a disciplinary hearing will be heard before the BOARD OF PHARMACY on Wednesday, August 13, 2014, commencing at 9 a.m. Although the Respondent is not required to be present, it is in their best interest to attend. This hearing will be held at DoubleTree by Hilton, 100 Fairway Drive, Deerfield Beach, FL 33441, 1(800) 624-3606.

The purpose of the hearing is to consider a motion for: Determination of Waiver

Note: Cases shown on the agenda as "timed" items may be heard in a different order or may be heard earlier if all parties are present. Cases are scheduled beginning at 9 a.m.; therefore, it is imperative that you arrive promptly at 9 a.m. and be prepared to be at the meeting for several hours until your case is heard.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Hearing has been sent by U.S. Mail to the above address(es) this 10th day of July, 2014.

Board Executive Director
BOARD OF PHARMACY
Florida Department of Health
4052 Bald Cypress Way, Bin #
Tallahassee, FL 32399 -

Florida Department of Health

Division of Medical Quality Assurance
4052 Bald Cypress Way, Bin C10 • Tallahassee, FL 32399-3260
PHONE: (850) 245-4444 • FAX : (850) 245-4791

www.FloridasHealth.com

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CASE NO. 201114810

BRIAN T MCGAULEY,
RESPONDENT.

NOTICE

TO: BRIAN T MCGAULEY
DC #K85161
7765 S. C.R. 231
LAKE BUTLER, FL 34953

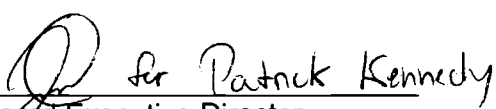
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MEMORANDUM

TO: Patrick W. Kennedy, M.A., Executive Director, Board of Pharmacy
FROM: Matthew Witters, Assistant General Counsel (M)
RE: **Determination of Waiver**
SUBJECT: DOH v. Brian T McGauley, R.Ph.
 DOH Case Number 2011-14810
DATE: May 28, 2014 AB

Enclosed you will find materials in the above-referenced case to be placed on the agenda for final agency action for the **August 13, 2014**, meeting of the board. The following information is provided in this regard.

Subject: Brian T McGauley
Subject's Address of Record: 990 SW Nichols Terrace
 Port St Lucie, FL 34953
Enforcement Address: 990 SW Nichols Terrace
 Port St Lucie, FL 34953
Subject's Additional Address: Reception and Medical Center – DC #K85161
 7765 S. C.R. 231
 Lake Butler, Florida 32054
Subject's License No: 23480 **Rank:** PS
Licensure File No: 12591
Initial Licensure Date: 11/13/1987
Board Certification: No
Required to Appear: No
Current IPN/PRN Contract: No
Allegation(s): 456.072(1)(c), FS (2013)
Prior Discipline: 4050, DOH-03-1048-S; 4021, DOH-02-0620-S; 4085
Probable Cause Panel: January 9, 2014; Glass & Mikhael
Subject's Attorney: Pro Se
Complainant/Address: DOH/ISU-West Palm Beach
 1720 East Tiffany Drive Suite 202-A
 West Palm Beach, FL 33407
Materials Submitted: Memorandum to the Board
 Motion For Determination of Waiver
 Exhibit A - Administrative Complaint
 Exhibit B - Copy of Certified Mail Receipt
 Exhibit C – Board Affidavit

Florida Department of Health

Office of the General Counsel • Prosecution Services Unit
 4052 Bald Cypress Way, Bin C-65 • Tallahassee, FL 32399-1701
 Express mail address: 2585 Merchants Row – Suite 105
 PHONE: 850/245-4444 • FAX 850/245-4683

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Exhibit D – Clerk Affidavit
Motion to Assess Costs with Attachments
Exhibit A – Affidavit of Fees and Costs Expended
Exhibit 1 – Complaint Cost Summary
Exhibit 2 – Itemized Cost by Complaint
Probable Cause Panel Memorandum
Final Investigative Report with Exhibits 1-3

GUIDELINES:

From a \$3,000 fine up and one year of probation to Revocation.

PRELIMINARY CASE REMARKS

This is a one count administrative complaint which alleges that the Respondent entered a pleas of nolo contendere to crimes which relate to the practice or the ability to practice pharmacy.

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

**DEPARTMENT OF HEALTH,
Petitioner,**

v.

CASE NO. 2011-14810

**BRIAN T. MCGAULEY, R.Ph.,
Respondent.**

**MOTION FOR DETERMINATION OF WAIVER AND FOR
FINAL ORDER BY HEARING NOT INVOLVING DISPUTED
ISSUES OF MATERIAL FACT**

Petitioner, Department of Health, by and through counsel, moves the Board of Pharmacy to find that Respondent has waived his/her right to elect a method of disposition of the pending Administrative Complaint, to determine that no material facts are in dispute, to conduct a hearing not involving disputed issues of material fact, and to enter a Final Order. As grounds therefore, Petitioner states:

1. An Administrative Complaint was filed against Respondent on January 10, 2014. A copy of said Administrative Complaint is attached hereto as Petitioner's Exhibit A.
2. Copies of the Administrative Complaint, Explanation of Rights form, and Election of Rights forms were sent to Respondent, via certified US mail delivery, on January 15, 2014 (7196 9008 9111 1386 8725). A signed

green receipt card was returned. A copy of the certified mail receipt is attached as Petitioner's Exhibit B.

3. Respondent has not filed with either the Department of Health or the Board of Pharmacy, an Election of Rights form or other responsive pleading in this case within the twenty-one (21) day period to dispute the allegations contained in the Administrative Complaint. Copies of affidavits supporting the same are attached hereto as Petitioner's Exhibits C and D.

4. Rule 28-106.111(2), Florida Administrative Code, provides in pertinent part that:

. . . persons seeking a hearing on an agency decision which does or may determine their substantial interests shall file a petition for hearing with the agency within 21 days of receipt of written notice of the decision.

5. Rule 28.106.111(4), Florida Administrative Code, provides in pertinent part that:

. . . any person who received written notice of an agency decision and who fails to file a written request for a hearing within 21 days waives the right to request a hearing on such matters.

6. Respondent has been advised, by a copy of this motion sent to his/her address of record, that a copy of the investigative file in this case

shall be furnished to the Board to establish a prima facie case regarding the violations as set forth in the Administrative Complaint.

7. The Department has determined that there are no material facts in dispute and has concluded that Respondent has waived his/her right to elect the method of resolution.

8. The Department requests that this Motion and a hearing be placed on the agenda for the next regularly scheduled meeting of the Board of Pharmacy.

WHEREFORE, Petitioner respectfully requests that the Board find that Respondent has waived his/her right to elect a method of resolution of this matter, find that there are no material facts in dispute, hold a hearing not involving material issues of disputed fact based on the information contained in the investigative file, find that Respondent violated Chapters 456 and 465, Florida Statutes, as alleged in the Administrative Complaint, impose discipline in accordance with the disciplinary guidelines, and enter a Final Order.


Respectfully submitted,



Matthew Witters
Assistant General Counsel
Florida Bar No. 91245
Department of Health
Prosecution Services Unit
4052 Bald Cypress Way Bin C-65
Tallahassee, Florida 32399-3265
Telephone: (850) 245-4444
Facsimile: (850) 245-4683
Email: matthew.witters@flhealth.gov

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Motion for Determination of Waiver and for Final Order by Hearing Not Involving Disputed Issues of Material Fact has been furnished via U.S. mail this 3 day of June, 2014, to Brian T. McGauley, 990 SW Nichols Terrace, Port St. Lucie, FL 34953; and to Reception and Medical Center – DC#K85161, 7765 S. C.R. 231, Lake Butler, Florida 32054.



Matthew Witters
Assistant General Counsel

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

PETITIONER,

v.

**CASE NO. 2011-14825
2011-14810**

BRIAN T. MCGAULEY, R.Ph.,

RESPONDENT.

ADMINISTRATIVE COMPLAINT

Petitioner Department of Health, by and through its undersigned counsel, files this Administrative Complaint before the Board of Pharmacy against Respondent, Brian T. McGauley, R.Ph., and in support thereof alleges:

1. Petitioner is the state department charged with regulating the practice of pharmacy pursuant to Section 20.43, Florida Statutes; Chapter 456, Florida Statutes; and Chapter 465, Florida Statutes.
2. At all times material to this Order, Respondent was a licensed registered pharmacist (RPh) operating within the State of Florida, pursuant to Chapter 465, Florida Statutes, holding permit number PS 23480.

EXHIBIT

tabbles

A

3. Respondent's address of record is 990 S.W. Nichols Terrace, Port Saint Lucie, Florida 34953.

4. Respondent's address may be Liberty Correctional Institution, Attention Brian T. McGauley, #K85161, 11064 N.W. Dempsey Barron Road, Bristol, Florida 32321.

5. On or about August 6, 2013, in the Circuit Court for the Nineteenth Judicial Circuit, in and for St. Lucie County, Florida, in case number 562011CF002543AXXXXX, Respondent entered pleas of nolo contendere to ten counts of possession of child pornography, a felony under Section 827.071(5), Florida Statutes, and ten counts of disseminating information for child pornography, a felony in violation of Section 847.0135(2), Florida Statutes.

6. Possession of child pornography and disseminating information for child pornography are crimes related to the practice of, or the ability to practice Pharmacy.

7. Section 456.072(1)(c), Florida Statutes (2013) provides that being convicted or found guilty of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the practice of, or the ability to practice, a licensee's profession.

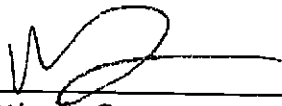
8. Respondent entered pleas of nolo contendere to ten counts of possession of child pornography and ten counts of disseminating information relating for child pornography, crimes related to the practice, or the ability to practice pharmacy, which is the Respondent's profession.

9. Based on the foregoing, Respondent violated Section 456.072(1)(c), Florida Statutes (2013), by being convicted or found guilty of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the practice of, or the ability to practice, a licensee's profession.

WHEREFORE, the Petitioner respectfully requests that the Board of Nursing enter an order imposing one or more of the following penalties: permanent revocation or suspension of Respondent's license, restriction of practice, imposition of an administrative fine, issuance of a reprimand, placement of the Respondent on probation, corrective action, refund of fees billed or collected, remedial education and/or any other relief that the Board deems appropriate.

SIGNED this 9 day of January, 2014.

John H. Armstrong, MD, FACS
State Surgeon General and
Secretary of Health



Matthew G. Witters
Assistant General Counsel
Fla. Bar No. 0091245
Florida Department of Health
Office of the General Counsel
4052 Bald Cypress Way, Bin #C65
Tallahassee, FL 32399-3265
Telephone: (850) 245-4444
Facsimile: (850) 245-4683
Email: matthew.witters@flhealth.gov

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK *Angel Sanders*
DATE **JAN 10 2014**

PCP: January 9, 2014
PCP Members: Glass and Mikhael

Department of Health v. Brian T. McGauley, R.Ph.
Case Number 2011-14825, 2011-14810
AC - CR

NOTICE OF RIGHTS

Respondent has the right to request a hearing to be conducted in accordance with Section 120.569 and 120.57, Florida Statutes, to be represented by counsel or other qualified representative, to present evidence and argument, to call and cross-examine witnesses and to have subpoena and subpoena duces tecum issued on his or her behalf if a hearing is requested.

NOTICE REGARDING ASSESSMENT OF COSTS

Respondent is placed on notice that Petitioner has incurred costs related to the investigation and prosecution of this matter. Pursuant to Section 456.072(4), Florida Statutes, the Board shall assess costs related to the investigation and prosecution of a disciplinary matter, which may include attorney hours and costs, on the Respondent in addition to any other discipline imposed.

7196 9008 9111 1386 8725

TO:

B MCGAULEY

SENDER: CHRISTINE LILLICH
STIP PACK

REFERENCE:
2011-14810, 2011-14825

PS Form 3800, January 2005

| | |
|------------------------------|----------------------|
| RETURN RECEIPT SERVICE | Postage |
| | Certified Fee |
| | Return Receipt Fee |
| | Restricted Delivery |
| | Total Postage & Fees |

BRIAN T MCGAULEY
DC#K85161 LIBERTY CORRECTIONAL
11064 NW DEMPSEY BARRON RD
BRISTOL FL 32321

USPS®
Receipt for
Certified Mail™

No Insurance Coverage Provided
Do Not Use for International Mail

POSTMARK OR DATE

1-15-14

2. Article Number



7196 9008 9111 1386 8718

3. Service Type **CERTIFIED MAIL™**

4. Restricted Delivery? (Extra Fee) Yes

1. Article Addressed to:

BRIAN T MCGAULEY
DC#K85161 LIBERTY CORRECTIONAL
11064 NW DEMPSEY BARRON RD
BRISTOL FL 32321
WITTERS/STIP PACK
1CGAULEY/11-14810, 11-14825;CR

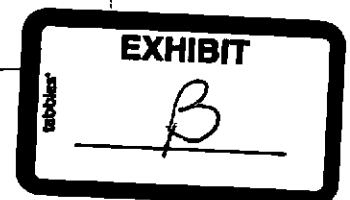
COMPLETE THIS SECTION ON DELIVERY

| | |
|--|--|
| A. Received by (Please Print Clearly) <i>Beverly King</i> | B. Date of Delivery <i>1-17</i> |
| C. Signature <i>Beverly King</i> | <input type="checkbox"/> Agent <input type="checkbox"/> Addressee |
| D. Is delivery address different from item 1? If YES, enter delivery address below: | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |

2014 JAN 29 AM 9:27
RECEIVED BY REGULATOR
LEGAL

PS Form 3811, January 2005

Domestic Return Receipt



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Rick Scott
Governor

John H. Armstrong, MD, FACS
State Surgeon General & Secretary

Vision: To be the Healthiest State in the Nation

Affidavit of Non-Receipt

I, Patrick Kennedy, hereby certify in my official capacity as custodian for the Board's licensure files that the Board of Pharmacy as of May 28th, 2014, has no evidence of an Election of Rights form or other responsive pleading requesting a hearing prior to any agency action regarding **Brian T. McGauley, R.Ph; 2011-14810**, which would affect the Subject's substantial interests or rights.

Custodian of Records
Florida Board of Pharmacy

Before me, personally appeared Patrick Kennedy, whose identity is known to me personally and who, under, oath, acknowledges that his/her signature appears above.

Sworn to and subscribed before me this 28th day of May, 2014.

Notary Public
My commission expires:



Florida Department of Health
Office of the General Counsel - Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65 - Tallahassee, FL 32399-1701
PHONE: 850/245-4444 - FAX 850/245-4683

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Vision: To be the Healthiest State in the Nation

AFFIDAVIT

I, Angel Sanders, Deputy Clerk for the Department Clerk's Office, hereby certify in my official capacity as custodian for the Department Clerk's records, that the Department Clerk's Office has not received an Election of Rights form or other responsive pleading, which requests a hearing prior to any Department action regarding **Brian T. McGauley, R.Ph; 2011-14810**, which would affect the Respondent's substantial interests or rights.

Angel Sanders
Custodian of Record
Department Clerk's Office

Before me, personally appeared Angel Sanders, whose identity is known to me personally and who, under oath, acknowledges that his/her signature appears above.

Sworn to and subscribed before me this 28th day of May, 2014.

Tiffany Wiggins
Notary Public

My Commission Expires:



STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,
Petitioner,

v.

CASE NO. 2011-14810

BRIAN T. MCGAULEY, R.PH.,
Respondent.

MOTION TO ASSESS COSTS IN ACCORDANCE
WITH SECTION 456.072(4)

COMES NOW the Department of Health, by and through undersigned counsel, and moves the Board of Pharmacy for the entry of a Final Order assessing costs against the Respondent for the investigation and prosecution of this case in accordance with Section 456.072(4), Florida Statutes. As grounds therefore, the Petitioner states the following:

1. At its next regularly scheduled meeting, the Board of Pharmacy will take up for consideration the above-styled disciplinary action and will enter a Final Order therein.

2. Section 456.072(4), Florida Statutes, states as follows:

In addition to any other discipline imposed through final order, or citation, entered on or

after July 1, 2001, pursuant to this section or discipline imposed through final order, or citation, entered on or after July 1, 2001, for a violation of any practice act, the board, or the department when there is not board, shall assess costs related to the investigation and prosecution of the case. Such costs related to the investigation and prosecution include, but are not limited to, salaries and benefits of personnel, costs related to the time spent by the attorney and other personnel working on the case, and any other expenses incurred by the department for the case. The board, or the department when there is no board, shall determine the amount of costs to be assessed after its consideration of an affidavit of itemized costs and any written objections thereto.

3. The investigation and prosecution of this case has resulted in costs in the total amount of \$1,549.21, based on the following itemized statement of costs:

| ***** Cost to Date ***** | | |
|--------------------------|-------|------------|
| | Hours | Costs |
| Complaint: | 0.90 | \$51.86 |
| Investigation: | 13.60 | \$913.03 |
| Legal: | 5.40 | \$574.32 |
| Compliance: | 0.30 | \$10.00 |
| Sub Total: | 20.20 | \$1,549.21 |
| Expenses to Date: | | \$0.00 |
| Prior | | \$0.00 |

| | | |
|----------------------|--|------------|
| Amount: | | |
| Total Costs to Date: | | \$1,549.21 |

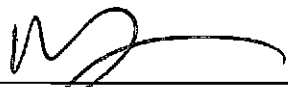
Therefore, the Petitioner seeks an assessment of costs against the Respondent in the amount of \$974.89 as evidenced in the attached affidavit. (Exhibit A).

4. Should the Respondent file written objections to the assessment of costs, within ten (10) days of the date of this motion, specifying the grounds for the objections and the specific elements of the costs to which the objections are made, the Petitioner requests that the Board determine the amount of costs to be assessed based upon its consideration of the affidavit attached as Exhibit A and any timely-filed written objections.

5. Petitioner requests that the Board grant this motion and assess costs in the amount of \$974.89 as supported by competent, substantial evidence. This assessment of costs is in addition to any other discipline imposed by the Board and is in accordance with Section 456.072(4), Florida Statutes.

WHEREFORE, the Department of Health requests that the Board of Pharmacy enter a Final Order assessing costs against the Respondent in the amount of \$974.89.

DATED this 3 day of June, 2014.



Matthew Witters
Assistant General Counsel
Fla. Bar No. 91245
Florida Department of Health
Office of the General Counsel
4052 Bald Cypress Way, Bin #C65
Tallahassee, FL 32399-3265
Telephone: (850) 245-4444
Facsimile: (850) 245-4683
Email: matthew.witters@flhealth.gov

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Motion to Assess Costs has been provided by U.S. Mail this 3 day of June, 2014, to Brian McGauley, 990 SW Nichols Terrace, Port St Lucie, FL 34953; and to Reception and Medical Center – DC#K85161, 7765 S. C.R. 231, Lake Butler, Florida 32054.



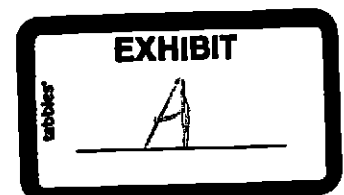
Matthew Witters
Assistant General Counsel

AFFIDAVIT OF FEES AND COSTS EXPENDED

STATE OF FLORIDA
COUNTY OF LEON:

BEFORE ME, the undersigned authority, personally appeared **SHANE WALTERS** who was sworn and states as follows:

- 1) My name is Shane Walters.
- 2) I am over the age of 18, competent to testify, and make this affidavit upon my own personal knowledge and after review of the records at the Florida Department of Health (DOH).
- 3) I am the Operations and Management Consultant Manager (OMCM) for the Consumer Services and Compliance Management Unit for DOH. The Consumer Services Unit is where all complaints against Florida health care licensees (e.g., medical doctors, dentists, nurses, respiratory therapists) are officially filed. I have been in my current job position for more than one year. My business address is 4052 Bald Cypress Way, Bin C-75 Tallahassee, Florida 32399-3275.
- 4) As OMCM of the Consumer Services and Compliance Management Unit, my job duties include reviewing data in the Time Tracking System and verifying that the amounts correspond. The Time Tracking System is a computer program which records and tracks DOH's costs regarding the investigation and prosecution of cases against Florida health care licensees.
- 5) As of today, DOH's total costs for investigating and prosecuting DOH case number(s) **2011-14810** (Department of Health v **BRIAN T. MAGAULEY**) are **ONE THOUSAND FIVE HUNDRED FORTY-NINE DOLLARS AND TWENTY-ONE CENTS (\$1,549.21)**.
- 6) The costs for DOH case number(s) **2011-14810** (Department of Health v **BRIAN T. MAGAULEY**) are summarized in Exhibit 1 (Cost Summary Report), which is attached to this document.
- 7) The itemized costs and expenses for DOH case number(s) **2011-14810** (Department of Health v **BRIAN T. MAGAULEY**) are detailed in Exhibit 2 (Itemized Cost Report and Itemized Expense Report and receipts), which is attached to this document.
- 8) The itemized costs as reflected in Exhibit 2 are determined by the following method: DOH employees who work on cases daily are to keep track of their time in six-minute increments (e.g., investigators



and lawyers). A designated DOH employee in the Consumer Services Unit, Legal Department, and in each area office, inputs the time worked and expenses spent into the Time Tracking System. Time and expenses are charged against a state health care Board (e.g., Florida Board of Medicine, Florida Board of Dentistry, Florida Board of Osteopathic Medicine), and/or a case. If no Board or case can be charged, then the time and expenses are charged as administrative time. The hourly rate of each employee is calculated by formulas established by the Department. (See the Itemized Cost Report)

- 9) Shane Walters, first being duly sworn, states that she has read the foregoing Affidavit and its attachments and the statements contained therein are true and correct to the best of her knowledge and belief.

FURTHER AFFIANT SAYETH NOT.

Shane Walters

Shane Walters, Affiant

State of Florida
County of Leon

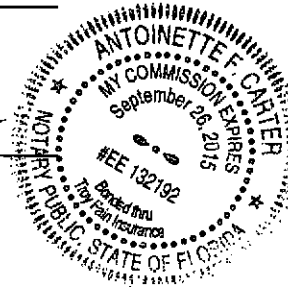
Sworn to and subscribed before me this 28 day of May, 2014,
by Shane Walters, who is personally known to me.

Antoinette F. Carter

Notary Signature

Antoinette F. Carter
Name of Notary Printed

Stamp Commissioned Name of Notary Public:



Complaint Cost Summary

Complaint Number: 201114810

Subject's Name: MCGAULEY, BRIAN T

| | ***** Cost to Date ***** | |
|-----------------------------|--------------------------|-------------------|
| | Hours | Costs |
| Complaint: | 0.90 | \$51.86 |
| Investigation: | 13.60 | \$913.03 |
| Legal: | 5.40 | \$574.32 |
| Compliance: | 0.30 | \$10.00 |
| | ***** | ***** |
| Sub Total: | 20.20 | \$1,549.21 |
| Expenses to Date: | | \$0.00 |
| Prior Amount: | | \$0.00 |
| Total Costs to Date: | | \$1,549.21 |

EXHIBIT

tabbler

**Time Tracking System
Itemized Cost by Complaint**

Complaint 2011114810

Report Date 05/28/2014

| Staff Code | Activity Hours | Staff Rate | Cost | Activity Date | Activity Code | Activity Description |
|------------|----------------|------------|------|---------------|---------------|----------------------|
|------------|----------------|------------|------|---------------|---------------|----------------------|

COMPLIANCE MANAGEMENT UNIT

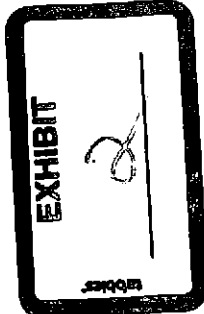
| | | | | | | |
|------------------|-------------|---------|----------------|------------|-----|-------------------------------|
| HA17 | 0.10 | \$57.62 | \$5.76 | 12/05/2011 | 1 | ROUTINE ADMINISTRATIVE DUTIES |
| HC13 | 0.10 | \$33.33 | \$3.33 | 06/13/2013 | 123 | AUDIT FILE |
| HC27 | 0.10 | \$33.33 | \$3.33 | 11/25/2013 | 35 | TELEPHONE CALLS |
| HC27 | 0.05 | \$33.33 | \$1.67 | 11/25/2013 | 129 | UPDATING COMPLIANCE RECORDS |
| HC27 | 0.05 | \$33.33 | \$1.67 | 11/25/2013 | 129 | UPDATING COMPLIANCE RECORDS |
| Sub Total | 0.40 | | \$15.76 | | | |

CONSUMER SERVICES UNIT

| | | | | | | |
|------------------|-------------|---------|----------------|------------|----|--|
| HA107 | 0.80 | \$57.62 | \$46.10 | 09/14/2011 | 78 | INITIAL REVIEW AND ANALYSIS OF COMPLAINT |
| Sub Total | 0.80 | | \$46.10 | | | |

INVESTIGATIVE SERVICES UNIT

| | | | | | | |
|------|------|---------|----------|------------|----|----------------------------|
| WI36 | 1.70 | \$67.81 | \$115.28 | 09/15/2011 | 4 | ROUTINE INVESTIGATIVE WORK |
| WI89 | 1.00 | \$67.81 | \$67.81 | 09/15/2011 | 4 | ROUTINE INVESTIGATIVE WORK |
| WI89 | 1.00 | \$67.81 | \$67.81 | 09/15/2011 | 76 | REPORT PREPARATION |
| WI36 | 3.60 | \$67.81 | \$244.12 | 09/16/2011 | 4 | ROUTINE INVESTIGATIVE WORK |
| WI36 | 0.70 | \$67.81 | \$47.47 | 09/16/2011 | 58 | TRAVEL TIME |
| WI89 | 0.50 | \$67.81 | \$33.91 | 09/16/2011 | 4 | ROUTINE INVESTIGATIVE WORK |
| WI89 | 2.00 | \$67.81 | \$135.62 | 09/16/2011 | 76 | REPORT PREPARATION |
| WI89 | 0.30 | \$67.81 | \$20.34 | 10/11/2011 | 6 | SUPPLEMENTAL INVESTIGATION |
| WI89 | 0.20 | \$67.81 | \$13.56 | 10/12/2011 | 76 | REPORT PREPARATION |
| WI89 | 0.20 | \$67.81 | \$13.56 | 10/12/2011 | 6 | SUPPLEMENTAL INVESTIGATION |
| WI89 | 0.50 | \$63.98 | \$31.99 | 05/13/2013 | 6 | SUPPLEMENTAL INVESTIGATION |
| WI89 | 0.50 | \$63.98 | \$31.99 | 05/14/2013 | 6 | SUPPLEMENTAL INVESTIGATION |
| WI89 | 0.10 | \$63.98 | \$6.40 | 05/16/2013 | 6 | SUPPLEMENTAL INVESTIGATION |
| WI89 | 0.40 | \$63.98 | \$25.59 | 06/05/2013 | 6 | SUPPLEMENTAL INVESTIGATION |



**Time Tracking System
Itemized Cost by Complaint**

Complaint 201114810

Report Date 05/28/2014

| Staff Code | Activity Hours | Staff Rate | Cost | Activity Date | Activity Code | Activity Description |
|------------------|----------------|------------|-----------------|---------------|---------------|----------------------|
| WI89 | 0.60 | \$63.98 | \$38.39 | 06/05/2013 | 76 | REPORT PREPARATION |
| WI89 | 0.30 | \$63.98 | \$19.19 | 06/06/2013 | 76 | REPORT PREPARATION |
| Sub Total | 13.60 | | \$913.03 | | | |

PROSECUTION SERVICES UNIT

| | | | | | | |
|------------------|-------------|----------|-----------------|------------|----|---|
| HLL82B | 0.30 | \$111.56 | \$33.47 | 09/19/2011 | 25 | REVIEW CASE FILE |
| HLL82B | 0.10 | \$111.56 | \$11.16 | 09/26/2011 | 25 | REVIEW CASE FILE |
| HLL82B | 0.50 | \$111.56 | \$55.78 | 09/27/2011 | 60 | MISCELLANEOUS |
| HLL5A | 1.20 | \$111.56 | \$133.87 | 09/29/2011 | 27 | REVIEW MEMORANDUM |
| HLL82B | 0.10 | \$111.56 | \$11.16 | 09/30/2011 | 60 | MISCELLANEOUS |
| HLL5A | 0.20 | \$111.56 | \$22.31 | 10/03/2011 | 27 | REVIEW MEMORANDUM |
| HLL82B | 0.10 | \$102.41 | \$10.24 | 12/01/2011 | 26 | PREPARE OR REVISE MEMORANDUM |
| HLL5A | 0.20 | \$102.41 | \$20.48 | 12/02/2011 | 27 | REVIEW MEMORANDUM |
| HLL86A | 0.80 | \$102.41 | \$81.93 | 12/09/2011 | 25 | REVIEW CASE FILE |
| HLL86A | 0.40 | \$102.41 | \$40.96 | 12/09/2011 | 35 | TELEPHONE CALLS |
| HLL90B | 0.40 | \$101.95 | \$40.78 | 11/25/2013 | 25 | REVIEW CASE FILE |
| HLL90B | 0.20 | \$101.95 | \$20.39 | 11/25/2013 | 28 | PREPARE OR REVISE ADMINISTRATIVE COMPLAINT |
| HLL90B | 0.10 | \$101.95 | \$10.20 | 11/25/2013 | 89 | PROBABLE CAUSE PREPARATION |
| HLL90B | 0.10 | \$101.95 | \$10.20 | 11/25/2013 | 89 | PROBABLE CAUSE PREPARATION |
| HLL90B | 0.20 | \$101.95 | \$20.39 | 01/02/2014 | 79 | STIPULATION |
| HLL90B | 0.10 | \$101.95 | \$10.20 | 01/03/2014 | 89 | PROBABLE CAUSE PREPARATION |
| HLL90B | 0.10 | \$101.95 | \$10.20 | 01/09/2014 | 63 | PRESENTATION OF CASES TO PROBABLE CAUSE PANEL |
| HLL90B | 0.10 | \$101.95 | \$10.20 | 01/09/2014 | 90 | POST PROBABLE CAUSE PROCESSING |
| HLL90B | 0.10 | \$101.95 | \$10.20 | 01/13/2014 | 40 | PREPARATION OF OR REVISION OF A PLEADING |
| HLL90B | 0.10 | \$101.95 | \$10.20 | 01/15/2014 | 90 | POST PROBABLE CAUSE PROCESSING |
| Sub Total | 5.40 | | \$574.32 | | | |

**Time Tracking System
Itemized Cost by Complaint**

Complaint 201114810

Report Date 05/28/2014

Page 3 of 3

| Staff Code | Activity Hours | Staff Rate | Cost | Activity Date | Activity Code | Activity Description |
|------------|----------------|------------|------|---------------|---------------|----------------------|
|------------|----------------|------------|------|---------------|---------------|----------------------|

Total Cost

\$1,549.21

**Time Tracking System
Itemized Expense by Complaint
Complaint**

Report Date: 05/28/2014

Page 1 of 1

| Staff Code | Expense Date | Expense Amount | Expense Code | Expense Code Description |
|------------|--------------|----------------|--------------|--------------------------|
|------------|--------------|----------------|--------------|--------------------------|

SubTotal

Total Expenses



STATE OF FLORIDA

DEPARTMENT OF HEALTH

INVESTIGATIVE REPORT

| | | | | | |
|--|---------------------|---------------------------|--|----------------------------|--|
| Office: West Palm Beach | | Date of Case: 9/14/11 | | Case Number: PS 2011-14810 | |
| Subject: BRIAN T. MCGAULEY, R.Ph. 5315 SE Lapis Ct. Stuart, FL 34997-6510 H (772) 220-4557 | | | Source: DOH/ISU/WPB 1720 E. Tiffany Dr., Suite 202A West Palm Beach, FL 33407 (561) 840-0191 | | |
| Prefix: PS | License #: 23480 | Profession: Pharmacist | Board: Pharmacy | Report Date: 6/6/2013 | |
| Period of Investigation: 5/13/13 – 6/6/13 | | | Type of Report: SUPPLEMENTAL-2 | | |
| Alleged Violation: F.S. 465.016(1)(d)3(m)(3); 456.072(1)(z)(dd) and 456.063(2)(b)-Being unfit or incompetent to practice pharmacy by reason of any abnormal physical or mental condition which threatens the safety of persons to whom she or he might sell or dispense prescriptions, drugs, or medical supplies or for whom she or he might manufacture, prepare, or package, or supervise the manufacturing, preparation, or packaging of, prescriptions, drugs, or medical supplies; Unable practice pharmacy with reasonable skill and safety by reason of illness, or as a result of any mental or physical condition; Violating any provision or rule; issue an order to compel a licensee to submit to a mental or physical examination; Committed any act in any other state or any territory or possession of the United States which if committed in this state would constitute sexual misconduct... | | | | | |
| Synopsis: This SUPPLEMENTAL report is predicated upon a request form (EX# S2-1) from PSU Attorney JOHN J. TRUITT requesting all court documents, including plea, be obtained regarding St. Lucie County court case 562011CF002543. | | | | | |
| On 5/21/13 requested court documents were received, which included the arrest affidavit of MCGAULEY indicating on 8/4/11 the St. Lucie County Sheriff's Office (SLCSO) Internet Crimes against Children Task Force executed a search warrant resulting in MCGAULEY's arrest for a warrant from Texas for online solicitation of a minor under 14 years old. After Miranda, during the arrest MCGAULEY made statements and admissions to sending/receiving nude photos to/from a 13 year old girl. Over 20 photos of child pornography were also located on MCGAULEY's cell phone at that time. | | | | | |
| The provided court documents include Information filed by the State Attorney listing the 10 counts of child pornography, and 10 counts of disseminating information for child pornography that MCGAULEY was charged with on 8/17/11. | | | | | |
| The provided court documents include the Felony Plea Form reflecting MCGAULEY pleading "No Contest" to the above-indicated 20 charges on 3/8/13. | | | | | |
| EXHIBITS | | | | | |
| S2-1 PSU request form, dated 5/13/13.....p.2 | | | | | |
| S2-2 Court documents, from St. Lucie County Circuit Court.....p.3-16 | | | | | |
| Related Cases: N/A | | | | | |
| Investigator/Date: <i>Amy Senior</i> 4/4/13 AMY SENIOR, INVESTIGATOR, WI-89 | | | Approved By/Date: <i>[Signature]</i> 6/6/13 CHRISTOPHER FERGUSON, INV. SUPERVISOR, WI-100 | | |
| Distribution: HQ/ISU | | JUN 07 2013 | | Page 1 | |

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456.057 - Ownership and control of patient records; report or copies of records to be
furnished.—

10)(a)All patient records obtained by the department and any other documents
maintained by the department which identify the patient by name are confidential and exempt
from s. 119.07(1) and shall be used solely for the purpose of the department and the appropriate
regulatory board in its investigation, prosecution, and appeal of disciplinary proceedings. The
records shall not be available to the public as part of the record of investigation for and
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appropriate board.

MEMORANDUM OF PROBABLE CAUSE DETERMINATION

TO: Department of Health, Prosecution Services Unit
FROM: Chair, Probable Cause Panel, Florida Board of Pharmacy
RE: Brian T. McGauley, R.Ph. (MGW)
Case Number: 2011-14810
MEMBERS: Debra Glass and Mark Mikhael

DATE OF PCP: January 9, 2014 **AGENDA ITEM:** A-06

.....
This matter came before the Probable Cause Panel on the above date. Having reviewed the complete investigative file, recommendations of the Department, and any information submitted by the Subject, and being otherwise fully advised in the premises, the panel finds that:

Probable cause exists and a formal complaint shall be filed for violation of statutes and rules, including but not limited to:

Section 456.072(1)(c), Florida Statutes (2013)

- Probable Cause was **not** found in this case
- In lieu of probable cause, issue **letter of guidance**
- Case requires **expert review**
- Case needs **further investigation**
 - a)
 - b)
- Upon **reconsideration**, dismiss
- other:**

Jenny Collins for Debra Glass 20 Jan 2014
Chair, Probable Cause Panel Date
Board of Pharmacy

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appropriate board.

HEALTH

Rick Scott
Governor

Mission:

To protect, promote & improve the health of all people in Florida through integrated

state, county & community efforts.

John H. Armstrong, MD, FACS

Surgeon General & Sec

Vision: To be the Healthiest State in the Nation

STATE OF FLORIDA BOARD OF PHARMACY

DEPARTMENT OF HEALTH,
PETITIONER,

VS.

CASE NO. 201114825

BRIAN T MCGAULEY,
RESPONDENT.

NOTICE

TO: BRIAN T MCGAULEY
990 SW NICHOLS TERRACE
PORT ST LUCIE, FL 34953

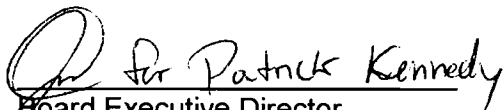
PLEASE TAKE NOTICE that a disciplinary hearing will be heard before the BOARD OF PHARMACY on Wednesday, August 13, 2014, commencing at 9 a.m. Although the Respondent is not required to be present, it is in their best interest to attend. This hearing will be held at DoubleTree by Hilton, 100 Fairway Drive, Deerfield Beach, FL 33441, 1(800) 624-3606.

The purpose of the hearing is to consider a motion for: Determination of Waiver

Note: Cases shown on the agenda as "timed" items may be heard in a different order or may be heard earlier if all parties are present. Cases are scheduled beginning at 9 a.m.; therefore, it is imperative that you arrive promptly at 9 a.m. and be prepared to be at the meeting for several hours until your case is heard.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Hearing has been sent by U.S. Mail to the above address(es) this 10th day of July, 2014.



Board Executive Director
BOARD OF PHARMACY
Florida Department of Health
4052 Bald Cypress Way, Bin #
Tallahassee, FL 32399 -

Florida Department of Health

Division of Medical Quality Assurance
4052 Bald Cypress Way, Bin C10 • Tallahassee, FL 32399-3260
PHONE: (850) 245-4444 • FAX: (850) 245-4791

www.FloridasHealth.com

TWITTER: HealthyFLA
FACEBOOK: FLDepartmentofHealth
YOUTUBE: fldoh



Rick Scott
Governor

Mission:

To protect, promote & improve the health of all people in Florida through integrated

state, county & community efforts.

John H. Armstrong, MD, FACS

Surgeon General & Sec

Vision: To be the **Healthiest State** in the Nation

**STATE OF FLORIDA
BOARD OF PHARMACY**

DEPARTMENT OF HEALTH,
PETITIONER,

VS.

CASE NO. 201114825

BRIAN T MCGAULEY,
RESPONDENT.

NOTICE

TO: BRIAN T MCGAULEY
DC #K85161
7765 S. C.R. 231
LAKE BUTLER, FL 34953

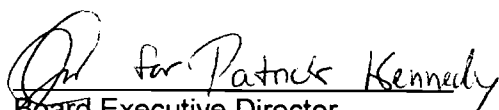
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The purpose of the hearing is to consider a motion for: Determination of Waiver

Note: Cases shown on the agenda as "timed" items may be heard in a different order or may be heard earlier if all parties are present. Cases are scheduled beginning at 9 a.m.; therefore, it is imperative that you arrive promptly at 9 a.m. and be prepared to be at the meeting for several hours until your case is heard.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Hearing has been sent by U.S. Mail to the above address(es) this 10th day of July, 2014.


Board Executive Director

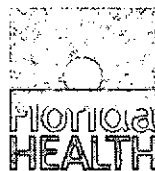
BOARD OF PHARMACY
Florida Department of Health
4052 Bald Cypress Way, Bin #

Florida Department of Health
Division of Medical Quality Assurance
4052 Bald Cypress Way, Bin C10 • Tallahassee, FL 32399-3260
PHONE: (850) 245-4444 • FAX: (850) 245-4791

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Vision: To be the Healthiest State in the Nation

MEMORANDUM

TO: Patrick W. Kennedy, M.A., Executive Director, Board of Pharmacy
FROM: Matthew Witters, Assistant General Counsel (M)
RE: **Determination of Waiver**
SUBJECT: DOH v. Brian T McGauley, R.Ph.
 DOH Case Number 2011-14825
DATE: May 28, 2014 AB

Enclosed you will find materials in the above-referenced case to be placed on the agenda for final agency action for the **August 13, 2014**, meeting of the board. The following information is provided in this regard.

| | |
|-------------------------------------|--|
| Subject: | Brian T McGauley |
| Subject's Address of Record: | 990 SW Nichols Terrace Port St Lucie, FL 34953 |
| Enforcement Address: | 990 SW Nichols Terrace Port St Lucie, FL 34953 |
| Subject's License No: | 23480 |
| Licensure File No: | 12591 |
| Initial Licensure Date: | 11/13/1987 |
| Board Certification: | No |
| Required to Appear: | No |
| Current IPN/PRN Contract: | No |
| Allegation(s): | 456.072(1)(c), FS (2013) |
| Prior Discipline: | 4050, DOH-03-1048-S; 4021, DOH-02-0620-S; 4085 |
| Probable Cause Panel: | January 9, 2014; Glass & Mikhael |
| Subject's Attorney: | Pro Se |
| Complainant/Address: | DOH/ISU/West Palm Beach |
| Materials Submitted: | Memorandum to the Board Motion For Determination of Waiver Exhibit A - Administrative Complaint Exhibit B - Copy of certified mail receipt Exhibit C - Board Affidavit Exhibit D - Clerk Affidavit Motion to Assess Costs with Attachments Exhibit A - Affidavit of Fees and Costs Expended Exhibit 1 - Complaint Cost Summary Exhibit 2 - Itemized Cost by Complaint |

Florida Department of Health

Office of the General Counsel • Prosecution Services Unit
 4052 Bald Cypress Way, Bin C-65 • Tallahassee, FL 32399-1701
 Express mail address: 2585 Merchants Row - Suite 105
 PHONE: 850/245-4444 • FAX 850/245-4883

www.FloridasHealth.com

TWITTER: HealthyFLA

FACEBOOK: FLDepartmentofHealth

YOUTUBE: fldoh

Probable Cause Panel Memorandum
Final Investigative Report with Exhibits 1-2

GUIDELINES:

From a \$3,000 fine up and one year of probation to Revocation.

PRELIMINARY CASE REMARKS

This is a one count administrative complaint which alleges that the Respondent entered a pleas of nolo contendere to crimes which relate to the practice or the ability to practice pharmacy.

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

**DEPARTMENT OF HEALTH,
Petitioner,**

v.

CASE NO. 2011-14825

**BRIAN T. MCGAULEY, R.Ph.,
Respondent.**

**MOTION FOR DETERMINATION OF WAIVER AND FOR
FINAL ORDER BY HEARING NOT INVOLVING DISPUTED
ISSUES OF MATERIAL FACT**

Petitioner, Department of Health, by and through counsel, moves the Board of Pharmacy to find that Respondent has waived his right to elect a method of disposition of the pending Administrative Complaint, to determine that no material facts are in dispute, to conduct a hearing not involving disputed issues of material fact, and to enter a Final Order. As grounds therefore, Petitioner states:

1. An Administrative Complaint was filed against Respondent on January 10, 2014. A copy of said Administrative Complaint is attached hereto as Petitioner's Exhibit A.
2. Copies of the Administrative Complaint, Explanation of Rights form, and Election of Rights forms were sent to Respondent, via certified US mail delivery, on January 14, 2014, (7196 9008 9111 1386 8718). A signed

green receipt card was returned. A copy of the certified mail receipt .
(Petitioner's Exhibit B.)

3. Respondent has not filed with either the Department of Health or the Board of Pharmacy, an Election of Rights form or other responsive pleading in this case within the twenty-one day period to dispute the allegations contained in the Administrative Complaint. Copies of affidavits supporting same are attached hereto as Petitioner's Exhibits C C and D.

4. Rule 28-106.111(2), Florida Administrative Code, provides in pertinent part that:

. . . persons seeking a hearing on an agency decision which does or may determine their substantial interests shall file a petition for hearing with the agency within 21 days of receipt of written notice of the decision.

5. Rule 28.106.111(4), Florida Administrative Code, provides in pertinent part that:

. . . any person who received written notice of an agency decision and who fails to file a written request for a hearing within 21 days waives the right to request a hearing on such matters.

6. Respondent has been advised, by a copy of this motion sent to his address of record, that a copy of the investigative file in this case shall be

furnished to the Board to establish a prima facie case regarding the violations as set forth in the Administrative Complaint.

7. The Department has determined that there are no material facts in dispute and has concluded that Respondent has waived his right to elect the method of resolution.

8. The Department requests that this Motion and a hearing be placed on the agenda for the next regularly scheduled meeting of the Board of Pharmacy.

WHEREFORE, Petitioner respectfully requests that the Board find that Respondent has waived his/her right to elect a method of resolution of this matter, find that there are no material facts in dispute, hold a hearing not involving material issues of disputed fact based on the information contained in the investigative file, find that Respondent violated Chapters 456 and 465, Florida Statutes, as alleged in the Administrative Complaint, impose discipline in accordance with the disciplinary guidelines, and enter a Final Order.

Respectfully submitted,



Matthew Witters
Assistant General Counsel
Florida Bar No. 91245
Department of Health
Prosecution Services Unit
4052 Bald Cypress Way Bin C-65
Tallahassee, Florida 32399-3265
Telephone: (850) 245-4444
Facsimile: (850) 245-4681
Email: matthew.witters@flhealth.gov

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Motion for Determination of Waiver and for Final Order Following Hearing has been furnished via U.S. mail this 3 day of June, 2014, to Brian McGauley, 990 SW Nichols Terrace, Port St Lucie, FL 34953, and to Reception and Medical Center – DC#K85161, 7765 S. C.R. 231, Lake Butler, Florida 32054.



Matthew Witters
Assistant General Counsel

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

PETITIONER,

v.

**CASE NO. 2011-14825
2011-14810**

BRIAN T. MCGAULEY, R.Ph.,

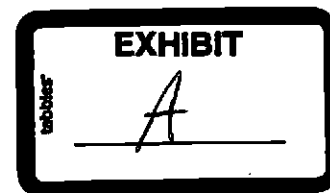
RESPONDENT.

ADMINISTRATIVE COMPLAINT

Petitioner Department of Health, by and through its undersigned counsel, files this Administrative Complaint before the Board of Pharmacy against Respondent, Brian T. McGauley, R.Ph., and in support thereof alleges:

1. Petitioner is the state department charged with regulating the practice of pharmacy pursuant to Section 20.43, Florida Statutes; Chapter 456, Florida Statutes; and Chapter 465, Florida Statutes.

2. At all times material to this Order, Respondent was a licensed registered pharmacist (RPh) operating within the State of Florida, pursuant to Chapter 465, Florida Statutes, holding permit number PS 23480.



3. Respondent's address of record is 990 S.W. Nichols Terrace, Port Saint Lucie, Florida 34953.

4. Respondent's address may be Liberty Correctional Institution, Attention Brian T. McGauley, #K85161, 11064 N.W. Dempsey Barron Road, Bristol, Florida 32321.

5. On or about August 6, 2013, in the Circuit Court for the Nineteenth Judicial Circuit, in and for St. Lucie County, Florida, in case number 562011CF002543AXXXXX, Respondent entered pleas of nolo contendere to ten counts of possession of child pornography, a felony under Section 827.071(5), Florida Statutes, and ten counts of disseminating information for child pornography, a felony in violation of Section 847.0135(2), Florida Statutes.

6. Possession of child pornography and disseminating information for child pornography are crimes related to the practice of, or the ability to practice Pharmacy.

7. Section 456.072(1)(c), Florida Statutes (2013) provides that being convicted or found guilty of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the practice of, or the ability to practice, a licensee's profession.

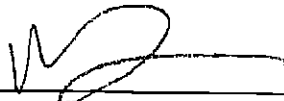
8. Respondent entered pleas of nolo contendere to ten counts of possession of child pornography and ten counts of disseminating information relating for child pornography, crimes related to the practice, or the ability to practice pharmacy, which is the Respondent's profession.

9. Based on the foregoing, Respondent violated Section 456.072(1)(c), Florida Statutes (2013), by being convicted or found guilty of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the practice of, or the ability to practice, a licensee's profession.

WHEREFORE, the Petitioner respectfully requests that the Board of Nursing enter an order imposing one or more of the following penalties: permanent revocation or suspension of Respondent's license, restriction of practice, imposition of an administrative fine, issuance of a reprimand, placement of the Respondent on probation, corrective action, refund of fees billed or collected, remedial education and/or any other relief that the Board deems appropriate.

SIGNED this 9 day of January, 2014.

John H. Armstrong, MD, FACS
State Surgeon General and
Secretary of Health



Matthew G. Witters
Assistant General Counsel
Fla. Bar No. 0091245
Florida Department of Health
Office of the General Counsel
4052 Bald Cypress Way, Bin #C65
Tallahassee, FL 32399-3265
Telephone: (850) 245-4444
Facsimile: (850) 245-4683
Email: matthew.witters@flhealth.gov

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK *Angel Sanders*
DATE JAN 10 2014

PCP: January 9, 2014
PCP Members: Glass and Mikhael

Department of Health v. Brian T. McGauley, R.Ph.
Case Number 2011-14825, 2011-14810
AC - CR

NOTICE OF RIGHTS

Respondent has the right to request a hearing to be conducted in accordance with Section 120.569 and 120.57, Florida Statutes, to be represented by counsel or other qualified representative, to present evidence and argument, to call and cross-examine witnesses and to have subpoena and subpoena duces tecum issued on his or her behalf if a hearing is requested.

NOTICE REGARDING ASSESSMENT OF COSTS

Respondent is placed on notice that Petitioner has incurred costs related to the investigation and prosecution of this matter. Pursuant to Section 456.072(4), Florida Statutes, the Board shall assess costs related to the investigation and prosecution of a disciplinary matter, which may include attorney hours and costs, on the Respondent in addition to any other discipline imposed.

7196 9008 9111 1386 8718

TO:

B MCGAULEY

SENDER: CHRISTINE LILlich
STIP PACK

REFERENCE:
2011-14810, 2011-14825

PS Form 3800, January 2005

| | |
|------------------------------|----------------------|
| RETURN RECEIPT SERVICE | Postage |
| | Certified Fee |
| | Return Receipt Fee |
| | Restricted Delivery |
| | Total Postage & Fees |

BRIAN T MCGAULEY
990 SW NICHOLS TER
PORT ST LUCIE FL 34953

USPS®
Receipt for
Certified Mail™

No Insurance Coverage Provided
Do Not Use for International Mail

POSTMARK C

1/14/2014

2. Article Number



7196 9008 9111 1386 8718

COMPLETE THIS SECTION ON DELIVERY

| | |
|--|---|
| A. Received by (Please Print Clearly) <i>Beverly Hayes</i> | B. Date of Delivery <i>1-14</i> |
| C. Signature <i>Beverly Hayes</i> | <input type="checkbox"/> A <input type="checkbox"/> At <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| D. Is delivery address different from item 1? If YES, enter delivery address below: | |

3. Service Type **CERTIFIED MAIL™**

4. Restricted Delivery? (Extra Fee) Yes

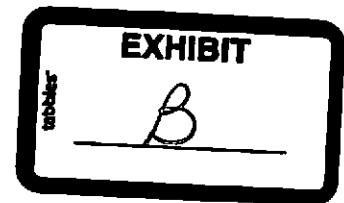
1. Article Addressed to:

BRIAN T MCGAULEY
DC#K85161 LIBERTY CORRECTIONAL
11064 NW DEMPSEY BARRON RD
BRISTOL FL 32321
WITTERS/STIP PACK
1CGAULEY/11-14810, 11-14825:CR

2014 JAN 29 AM 9:27
REGISTRATION
LEGAL

PS Form 3811, January 2005

Domestic Return Receipt



Mission:

To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.



Rick Scott
Governor

John H. Armstrong, MD, FACS
State Surgeon General & Secretary

Vision: To be the Healthiest State in the Nation

Affidavit of Non-Receipt

I, Patrick Kennedy, hereby certify in my official capacity as custodian for the Board's licensure files that the Board of Pharmacy as of May 28th, 2014, has no evidence of an Election of Rights form or other responsive pleading requesting a hearing prior to any agency action regarding Brian T. McGauley, P.S.; 2011-14825, which would affect the Subject's substantial interests or rights.

Patrick Kennedy
Custodian of Records
Florida Board of Pharmacy

Before me, personally appeared Patrick Kennedy, whose identity is known to me personally and who, under, oath, acknowledges that his/her signature appears above.

Sworn to and subscribed before me this 28th day of May, 2014.



Lorraine Gail Curry
Notary Public
My commission expires:

Florida Department of Health
Office of the General Counsel • Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65 • Tallahassee, FL 32399-1701
PHONE: 850/245-4444 • FAX 850/245-4683

www.FloridasHealth.com
TWITTER: HealthyFLA
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State Surgeon General & Secretary

Vision: To be the Healthiest State in the Nation

AFFIDAVIT

I, Angel Sanders, Deputy Clerk for the Department Clerk's Office, hereby certify in my official capacity as custodian for the Department Clerk's records, that the Department Clerk's Office has not received an Election of Rights form or other responsive pleading, which requests a hearing prior to any Department action regarding Brian T. McGauley, P.S.; 2011-14825, which would affect the Respondent's substantial interests or rights.

Angel Sanders
Custodian of Record
Department Clerk's Office

Before me, personally appeared Angel Sanders, whose identity is known to me personally and who, under oath, acknowledges that his/her signature appears above.

Sworn to and subscribed before me this 28th day of May, 2014.

Lawanda Bell
Notary Public

My Commission Expires:



STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,
Petitioner,

v.

CASE NO. 2011-14825

BRIAN T. MCGAULEY, R.Ph.,
Respondent.

MOTION TO ASSESS COSTS IN ACCORDANCE
WITH SECTION 456.072(4)

COMES NOW the Department of Health, by and through undersigned counsel, and moves the Board of Pharmacy for the entry of a Final Order assessing costs against the Respondent for the investigation and prosecution of this case in accordance with Section 456.072(4), Florida Statutes. As grounds therefore, the Petitioner states the following:

1. At its next regularly scheduled meeting, the Board of Pharmacy will take up for consideration the above-styled disciplinary action and will enter a Final Order therein.

2. Section 456.072(4), Florida Statutes, states as follows:

In addition to any other discipline imposed through final order, or citation, entered on or

after July 1, 2001, pursuant to this section or discipline imposed through final order, or citation, entered on or after July 1, 2001, for a violation of any practice act, the board, or the department when there is not board, shall assess costs related to the investigation and prosecution of the case. Such costs related to the investigation and prosecution include, but are not limited to, salaries and benefits of personnel, costs related to the time spent by the attorney and other personnel working on the case, and any other expenses incurred by the department for the case. The board, or the department when there is no board, shall determine the amount of costs to be assessed after its consideration of an affidavit of itemized costs and any written objections thereto. .

3. The investigation and prosecution of this case has resulted in costs in the total amount of \$553.08, based on the following itemized statement of costs:

| | ***** Cost to Date ***** | |
|-------------------|--------------------------|----------|
| | Hours | Costs |
| Complaint: | 1.60 | \$89.92 |
| Investigation: | 5.40 | \$300.01 |
| Legal: | 1.60 | \$163.15 |
| Compliance: | 0.00 | \$0.00 |
| Sub Total: | 8.60 | \$553.08 |
| Expenses to Date: | | \$0.00 |
| Prior | | \$0.00 |

| | | |
|----------------------|--|----------|
| Amount: | | |
| Total Costs to Date: | | \$553.08 |

Therefore, the Petitioner seeks an assessment of costs against the Respondent in the amount of \$389.93 as evidenced in the attached affidavit. (Exhibit A).

4. Should the Respondent file written objections to the assessment of costs, within ten (10) days of the date of this motion, specifying the grounds for the objections and the specific elements of the costs to which the objections are made, the Petitioner requests that the Board determine the amount of costs to be assessed based upon its consideration of the affidavit attached as Exhibit A and any timely-filed written objections.

5. Petitioner requests that the Board grant this motion and assess costs in the amount of \$389.93 as supported by competent, substantial evidence. This assessment of costs is in addition to any other discipline imposed by the Board and is in accordance with Section 456.072(4), Florida Statutes.

WHEREFORE, the Department of Health requests that the Board of Pharmacy enter a Final Order assessing costs against the Respondent in the amount of \$389.93.

DATED this 3 day of June, 2014.



Matthew Witters
Assistant General Counsel
Fla. Bar No. 91245
Florida Department of Health
Office of the General Counsel
4052 Bald Cypress Way, Bin #C65
Tallahassee, FL 32399-3265
Telephone: (850) 245-4444
Facsimile: (850) 245-4683
Email: matthew.witters@flhealth.gov

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Motion to Assess Costs has been provided by U.S. Mail this 3 day of June, 2014, to Brian McGauley, 990 SW Nichols Terrace, Port St Lucie, FL 34953 and to Reception and Medical Center – DC#K85161, 7765 S. C.R. 231, Lake Butler, Florida 32054.



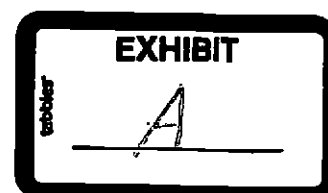
Matthew Witters
Assistant General Counsel

AFFIDAVIT OF FEES AND COSTS EXPENDED

STATE OF FLORIDA
COUNTY OF LEON:

BEFORE ME, the undersigned authority, personally appeared **SHANE WALTERS** who was sworn and states as follows:

- 1) My name is Shane Walters.
- 2) I am over the age of 18, competent to testify, and make this affidavit upon my own personal knowledge and after review of the records at the Florida Department of Health (DOH).
- 3) I am the Operations and Management Consultant Manager (OMCM) for the Consumer Services and Compliance Management Unit for DOH. The Consumer Services Unit is where all complaints against Florida health care licensees (e.g., medical doctors, dentists, nurses, respiratory therapists) are officially filed. I have been in my current job position for more than one year. My business address is 4052 Bald Cypress Way, Bin C-75 Tallahassee, Florida 32399-3275.
- 4) As OMCM of the Consumer Services and Compliance Management Unit, my job duties include reviewing data in the Time Tracking System and verifying that the amounts correspond. The Time Tracking System is a computer program which records and tracks DOH's costs regarding the investigation and prosecution of cases against Florida health care licensees.
- 5) As of today, DOH's total costs for investigating and prosecuting DOH case number(s) **2011-14825** (Department of Health v **BRIAN T. MCGAULEY**) are **FIVE HUNDRED FIFTY-THREE DOLLARS AND EIGHT CENTS (\$553.08)**.
- 6) The costs for DOH case number(s) **2011-14825** (Department of Health v **BRIAN T. MCGAULEY**) are summarized in Exhibit 1 (Cost Summary Report), which is attached to this document.
- 7) The itemized costs and expenses for DOH case number(s) **2011-14825** (Department of Health v **BRIAN T. MCGAULEY**) are detailed in Exhibit 2 (Itemized Cost Report and Itemized Expense Report and receipts), which is attached to this document.
- 8) The itemized costs as reflected in Exhibit 2 are determined by the following method: DOH employees who work on cases daily are to keep track of their time in six-minute increments (e.g., investigators



and lawyers). A designated DOH employee in the Consumer Services Unit, Legal Department, and in each area office, inputs the time worked and expenses spent into the Time Tracking System. Time and expenses are charged against a state health care Board (e.g., Florida Board of Medicine, Florida Board of Dentistry, Florida Board of Osteopathic Medicine), and/or a case. If no Board or case can be charged, then the time and expenses are charged as administrative time. The hourly rate of each employee is calculated by formulas established by the Department. (See the Itemized Cost Report)

- 9) Shane Walters, first being duly sworn, states that she has read the foregoing Affidavit and its attachments and the statements contained therein are true and correct to the best of her knowledge and belief.

FURTHER AFFIANT SAYETH NOT.

Shane Walters

Shane Walters, Affiant

State of Florida
County of Leon

Sworn to and subscribed before me this 28 day of May, 2014,
by Shane Walters, who is personally known to me.

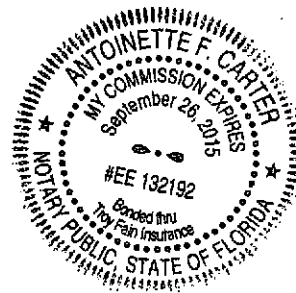
Antoinette F. Carter

Notary Signature

Antoinette F. Carter

Name of Notary Printed

Stamp Commissioned Name of Notary Public:

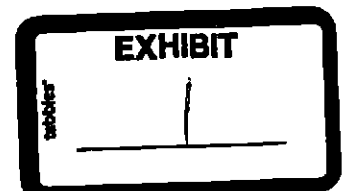


Complaint Cost Summary

Complaint Number: 201114825

Subject's Name: MCGAULEY, BRIAN T

| | ***** Cost to Date ***** | |
|-----------------------------|--------------------------|-----------------|
| | Hours | Costs |
| Complaint: | 1.60 | \$89.92 |
| Investigation: | 5.40 | \$300.01 |
| Legal: | 1.60 | \$163.15 |
| Compliance: | 0.00 | \$0.00 |
| | ***** | ***** |
| Sub Total: | 8.60 | \$553.08 |
| Expenses to Date: | | \$0.00 |
| Prior Amount: | | \$0.00 |
| Total Costs to Date: | | \$553.08 |



**Time Tracking System
Itemized Cost by Complaint**

Complaint 201114825

Report Date 05/28/2014

Staff Code Activity Hours Staff Rate Cost Activity Date Activity Code Activity Description

CONSUMER SERVICES UNIT

| | | | | | | |
|------------------|-------------|---------|-----------------|------------|----|--|
| HA107 | 0.80 | \$57.62 | \$46.10 | 09/14/2011 | 78 | INITIAL REVIEW AND ANALYSIS OF COMPLAINT |
| HA115 | 0.10 | \$57.62 | \$5.76 | 04/05/2012 | 7 | PRELIMINARY INVESTIGATION |
| HA115 | 0.20 | \$57.62 | \$11.52 | 05/14/2012 | 7 | PRELIMINARY INVESTIGATION |
| HA115 | 0.40 | \$57.62 | \$23.05 | 06/14/2012 | 7 | PRELIMINARY INVESTIGATION |
| HA115 | 0.20 | \$57.62 | \$11.52 | 07/23/2012 | 7 | PRELIMINARY INVESTIGATION |
| HA115 | 0.10 | \$57.62 | \$5.76 | 08/20/2012 | 7 | PRELIMINARY INVESTIGATION |
| HA115 | 0.30 | \$57.62 | \$17.29 | 09/14/2012 | 7 | PRELIMINARY INVESTIGATION |
| HA115 | 0.10 | \$57.62 | \$5.76 | 10/16/2012 | 7 | PRELIMINARY INVESTIGATION |
| HA115 | 0.30 | \$54.90 | \$16.47 | 11/15/2012 | 7 | PRELIMINARY INVESTIGATION |
| HA115 | 0.30 | \$54.90 | \$16.47 | 12/20/2012 | 7 | PRELIMINARY INVESTIGATION |
| HA115 | 0.10 | \$54.90 | \$5.49 | 01/23/2013 | 7 | PRELIMINARY INVESTIGATION |
| HA115 | 0.20 | \$54.90 | \$10.98 | 02/21/2013 | 7 | PRELIMINARY INVESTIGATION |
| HA115 | 0.10 | \$54.90 | \$5.49 | 03/21/2013 | 7 | PRELIMINARY INVESTIGATION |
| HA115 | 0.20 | \$54.90 | \$10.98 | 04/25/2013 | 7 | PRELIMINARY INVESTIGATION |
| HA115 | 0.10 | \$54.90 | \$5.49 | 05/23/2013 | 7 | PRELIMINARY INVESTIGATION |
| HA115 | 0.20 | \$54.90 | \$10.98 | 06/20/2013 | 7 | PRELIMINARY INVESTIGATION |
| HA115 | 0.30 | \$54.90 | \$16.47 | 07/23/2013 | 7 | PRELIMINARY INVESTIGATION |
| HA115 | 0.30 | \$54.90 | \$16.47 | 08/23/2013 | 7 | PRELIMINARY INVESTIGATION |
| HA115 | 0.30 | \$54.90 | \$16.47 | 09/06/2013 | 35 | TELEPHONE CALLS |
| HA115 | 0.60 | \$54.90 | \$32.94 | 09/06/2013 | 77 | PREPARATION OF DESK INVESTIGATION SYNOPSIS |
| HA115 | 0.30 | \$54.90 | \$16.47 | 09/25/2013 | 77 | PREPARATION OF DESK INVESTIGATION SYNOPSIS |
| HA115 | 0.10 | \$54.90 | \$5.49 | 09/25/2013 | 25 | REVIEW CASE FILE |
| HA115 | 1.00 | \$54.65 | \$54.65 | 11/15/2013 | 76 | REPORT PREPARATION |
| HA115 | 0.40 | \$54.65 | \$21.86 | 11/25/2013 | 35 | TELEPHONE CALLS |
| Sub Total | 7.00 | | \$389.93 | | | |

PROSECUTION SERVICES UNIT

| | | | | | | |
|--------|------|----------|---------|------------|----|------------------|
| HLL90B | 0.40 | \$101.95 | \$40.78 | 11/21/2013 | 25 | REVIEW CASE FILE |
|--------|------|----------|---------|------------|----|------------------|

EXHIBIT

2

**Time Tracking System
Itemized Cost by Complaint**

Complaint 201114825

Report Date 05/28/2014

| Staff Code | Activity Hours | Staff Rate | Cost | Activity Date | Activity Code | Activity Description |
|------------------|----------------|------------|-----------------|---------------|---------------|---|
| HLL90B | 0.60 | \$101.95 | \$61.17 | 11/21/2013 | 28 | PREPARE OR REVISE ADMINISTRATIVE COMPLAINT |
| HLL90B | 0.10 | \$101.95 | \$10.20 | 01/02/2014 | 79 | STIPULATION |
| HLL90B | 0.10 | \$101.95 | \$10.20 | 01/03/2014 | 89 | PROBABLE CAUSE PREPARATION |
| HLL90B | 0.10 | \$101.95 | \$10.20 | 01/09/2014 | 63 | PRESENTATION OF CASES TO PROBABLE CAUSE PANEL |
| HLL90B | 0.10 | \$101.95 | \$10.20 | 01/09/2014 | 90 | POST PROBABLE CAUSE PROCESSING |
| HLL90B | 0.10 | \$101.95 | \$10.20 | 01/13/2014 | 40 | PREPARATION OF OR REVISION OF A PLEADING |
| HLL90B | 0.10 | \$101.95 | \$10.20 | 01/15/2014 | 90 | POST PROBABLE CAUSE PROCESSING |
| Sub Total | 1.60 | | \$163.15 | | | |

| | |
|-------------------|-----------------|
| Total Cost | \$553.08 |
|-------------------|-----------------|

***** CONFIDENTIAL *****
Time Tracking System
Itemized Expense by Complaint
Complaint

Report Date: 05/28/2014

Page 1 of 1

| Staff Code | Expense Date | Expense Amount | Expense Code | Expense Code Description |
|------------|--------------|----------------|--------------|--------------------------|
|------------|--------------|----------------|--------------|--------------------------|

SubTotal
Total Expenses

MEMORANDUM OF PROBABLE CAUSE DETERMINATION

TO: Department of Health, Prosecution Services Unit
FROM: Chair, Probable Cause Panel, Florida Board of Pharmacy
RE: Brian T. McGauley, R.Ph. (MGW)
Case Number: 2011-14825
MEMBERS: Debra Glass and Mark Mikhael

.....
DATE OF PCP: January 9, 2014 **AGENDA ITEM:** A-5

This matter came before the Probable Cause Panel on the above date. Having reviewed the complete investigative file, recommendations of the Department, and any information submitted by the Subject, and being otherwise fully advised in the premises, the panel finds that:

Probable cause exists and a formal complaint shall be filed for violation of statutes and rules, including but not limited to:

Section 456.072(1)(c), Florida Statutes (2013)

Probable Cause was **not** found in this case

In lieu of probable cause, issue **letter of guidance**

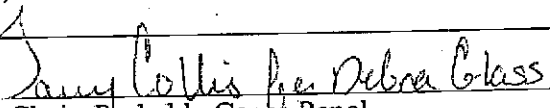
Case requires **expert review**

Case needs **further investigation**

- a)
- b)
- c)

Upon **reconsideration**, dismiss

other _____


Chair, Probable Cause Panel 20 Jan 2014
Date
Board of Pharmacy

CONFIDENTIAL AND EXEMPT MATERIALS

**One or more pages have been removed
from this document for security reasons**

**Scroll down to see the available pages or
advance to the next document if all
pages have been removed.**

SOME OR ALL PAGES IN THIS DOCUMENT ARE PATIENT RECORDS
AND/OR DOCUMENTS THAT IDENTIFY THE PATIENT BY NAME AND ARE
EXEMPT FROM PUBLIC RECORDS LAWS.

456.057 - Ownership and control of patient records; report or copies of records to be
furnished.—

10)(a)All patient records obtained by the department and any other documents
maintained by the department which identify the patient by name are confidential and exempt
from s. 119.07(1) and shall be used solely for the purpose of the department and the appropriate
regulatory board in its investigation, prosecution, and appeal of disciplinary proceedings. The
records shall not be available to the public as part of the record of investigation for and
prosecution in disciplinary proceedings made available to the public by the department or the
appropriate board.

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Rick Scott
Governor

Mission:

To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.

John H. Armstrong, MD, FACS

Surgeon General & Sec

Vision: To be the Healthiest State in the Nation

**STATE OF FLORIDA
BOARD OF PHARMACY**

DEPARTMENT OF HEALTH,
PETITIONER,

VS.

CASE NO. 201217872

JESSICA RENEE SANLAND,
RESPONDENT.

NOTICE

TO: JESSICA RENEE SANLAND
415 EAST GALVEZ LN #304
PONTE VEDRA, FL 32081


PLEASE TAKE NOTICE that a disciplinary hearing will be heard before the BOARD OF PHARMACY on Wednesday, August 13, 2014, commencing at 9 a.m. Although the Respondent is not required to be present, it is in their best interest to attend. This hearing will be held at DoubleTree by Hilton, 100 Fairway Drive, Deerfield Beach, FL 33441, 1(800) 624-3606..

The purpose of the hearing is to consider a motion for: Determination of Waiver

Note: Cases shown on the agenda as "timed" items may be heard in a different order or may be heard earlier if all parties are present. Cases are scheduled beginning at 9 a.m.; therefore, it is imperative that you arrive promptly at 9 a.m. and be prepared to be at the meeting for several hours until your case is heard.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Hearing has been sent by U.S. Mail to the above address(es) this 10th day of July, 2014.


Board Executive Director
BOARD OF PHARMACY
Florida Department of Health
4052 Bald Cypress Way, Bin #
Tallahassee, FL 32399 -

Florida Department of Health
Division of Medical Quality Assurance
4052 Bald Cypress Way, Bin C10 • Tallahassee, FL 32399-3260
PHONE: (850) 245-4444 • FAX : (850) 245-4791

www.FloridasHealth.com
TWITTER:HealthyFLA
FACEBOOK:FLDepartmentofHealth
YOUTUBE: fldoh



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Tallahassee, FL 32399 -

STATE OF FLORIDA
BOARD OF PHARMACY

DEPARTMENT OF HEALTH,
PETITIONER,

VS.

CASE NO. 201217872

JESSICA RENEE SANLAND,
RESPONDENT.

NOTICE

TO: JESSICA RENEE SANLAND
2830 NE 16TH DRIVE
GAINESVILLE, FL 32605

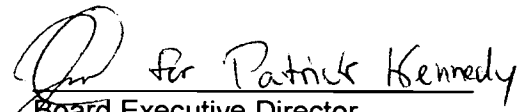
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BOARD OF PHARMACY
Florida Department of Health
4052 Bald Cypress Way, Bin #

Florida Department of Health
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4052 Bald Cypress Way, Bin C10 • Tallahassee, FL 32399-3260
PHONE: (850) 245-4444 • FAX : (850) 245-4791

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John H. Armstrong, MD, FACS
State Surgeon General & Secretary

Vision: To be the Healthiest State in the Nation

MEMORANDUM

TO: Patrick W. Kennedy, M.A., Executive Director, Board of Pharmacy
FROM: Judson Searcy, Assistant General Counsel *JS*
RE: **Determination of Waiver**
SUBJECT: DOH v. Jessica Renee Sanland, R.P.T.
 DOH Case Number 2012-17872
DATE: June 4, 2014 *AB*

Enclosed you will find materials in the above-referenced case to be placed on the agenda for final agency action for the **August 12-13, 2014** meeting of the board. The following information is provided in this regard.

| | | |
|--------------------------------------|---|------------------|
| Subject: | Jessica Renee Sanland | |
| Subject's Address of Record: | 415 East Galvez Ln #304 Ponte Vedra, FL 32081 | |
| Enforcement Address: | 415 East Galvez Ln #304 Ponte Vedra, FL 32081 | |
| Subject's Additional Address: | 2830 NE 16 th Drive Gainesville, FL 32605 | |
| Subject's License No: | 11956 | Rank: RPT |
| Licensure File No: | 17496 | |
| Initial Licensure Date: | 11/25/2009 | |
| Board Certification: | No | |
| Required to Appear: | No | |
| Current IPN/PRN Contract: | No | |
| Allegation(s): | 456.072(1)(x), FS (2012) | |
| Prior Discipline: | None | |
| Probable Cause Panel: | September 26, 2013; Mullins & Risch | |
| Subject's Attorney: | Pro Se | |
| Complainant/Address: | DOH/ISU-Alachua | |
| Materials Submitted: | Memorandum to the Board Motion for Final Order Exhibit A – Administrative Complaint Exhibit B – Certified Mail Receipt Exhibit C – Affidavit of Diligent Service Exhibit D – Board Affidavit | |

Florida Department of Health

Office of the General Counsel • Prosecution Services Unit
 4052 Bald Cypress Way, Bin C-65 • Tallahassee, FL 32399-1701
 Express mail address: 2585 Merchants Row – Suite 105
 PHONE: 850/245-4444 • FAX 850/245-4683

www.FloridasHealth.com

TWITTER: HealthyFLA
 FACEBOOK: FLDepartmentofHealth
 YOUTUBE: fldoh

Exhibit E – Clerk’s Affidavit
Motion to Assess Costs
Exhibit A – Affidavit of Fees and Costs Expended
Exhibit 1 – Complaint Cost Summary
Exhibit 2 – Itemized Cost by Complaint
Probable Cause Panel Memorandum
Final Investigative Report with Exhibits 1-2

DISCIPLINARY GUIDELINES:

456.072(1)(x): \$1,000 fine to Revocation

PRELIMINARY CASE REMARKS: SECTION 120.57(2) HEARING (INFORMAL)

This is a one count AC alleging a violation of Section 456.072(1)(x), Florida Statutes (2012), failing to report entering pleas of nolo contendere to two counts of Neglect of a Child on or about April 1, 2013.

The Department personally served Respondent on March 25, 2014. Respondent failed to return the EOR within 21 days.

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

**DEPARTMENT OF HEALTH,
Petitioner,**

v.

CASE NO. 2012-17872

**JESSICA RENEE SANDLAND, R.P.T.,
Respondent.**

**MOTION FOR DETERMINATION OF WAIVER AND FOR
FINAL ORDER BY HEARING NOT INVOLVING DISPUTED
ISSUES OF MATERIAL FACT**

Petitioner, Department of Health, by and through counsel, moves the Board of Pharmacy to find that Respondent has waived his/her right to elect a method of disposition of the pending Administrative Complaint, to determine that no material facts are in dispute, to conduct a hearing not involving disputed issues of material fact, and to enter a Final Order. As grounds therefore, Petitioner states:

1. An Administrative Complaint was filed against Respondent on September 26, 2013. A copy of said Administrative Complaint is attached hereto as Petitioner's Exhibit A.
2. Copies of the Administrative Complaint, Explanation of Rights form, and Election of Rights forms were sent to Respondent, via certified US mail delivery, on September 27, 2013, (7196 9008 9111 1387 1800). A

signed green receipt card was not returned. A copy of the certified mail receipt is attached as Petitioner's Exhibit B.

3. Thereafter, the Department requested personal service on Respondent, which was completed on November 5, 2013. The affidavit of personal service is attached as Petitioner's Exhibit C.

4. Respondent has not filed with either the Department of Health or the Board of Pharmacy, an Election of Rights form or other responsive pleading in this case within the twenty-one (21) day period to dispute the allegations contained in the Administrative Complaint. Copies of affidavits supporting the same are attached hereto as Petitioner's Exhibits D and E.

5. Rule 28-106.111(2), Florida Administrative Code, provides in pertinent part that:

. . . persons seeking a hearing on an agency decision which does or may determine their substantial interests shall file a petition for hearing with the agency within 21 days of receipt of written notice of the decision.

6. Rule 28.106.111(4), Florida Administrative Code, provides in pertinent part that:

. . . any person who received written notice of an agency decision and who fails to file a written request for a hearing within 21 days waives the right to request a hearing on such matters.


7. Respondent has been advised, by a copy of this motion sent to his/her address of record, that a copy of the investigative file in this case shall be furnished to the Board to establish a prima facie case regarding the violations as set forth in the Administrative Complaint.

8. The Department has determined that there are no material facts in dispute and has concluded that Respondent has waived his/her right to elect the method of resolution.

9. The Department requests that this Motion and a hearing be placed on the agenda for the next regularly scheduled meeting of the Board of Pharmacy.

WHEREFORE, Petitioner respectfully requests that the Board find that Respondent has waived his/her right to elect a method of resolution of this matter, find that there are no material facts in dispute, hold a hearing not involving material issues of disputed fact based on the information contained in the investigative file, find that Respondent violated Chapters 456 and 465, Florida Statutes, as alleged in the Administrative Complaint, impose discipline in accordance with the disciplinary guidelines, and enter a Final Order.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Judson Searcy", is written over a horizontal line. The signature is fluid and cursive.

Judson Searcy
Assistant General Counsel
Florida Bar No. 98772
Department of Health
Prosecution Services Unit
4052 Bald Cypress Way Bin C-65
Tallahassee, Florida 32399-3265
Telephone: (850) 245-4444
Facsimile: (850) 245-4681
Email: judson.searcy@flhealth.gov

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Motion for Determination of Waiver and for Final Order by Hearing Not Involving Disputed Issues of Material Fact has been furnished via U.S. mail this 4th day of June, 2014, to Jessica Sandland, 415 East Galvez Lane #304, Ponte Vedra, FL 32081, and 2830 NE 16th Drive, Gainesville, FL 32605.



Judson Searcy
Assistant General Counsel

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO. 2012-17872

JESSICA RENEE SANLAND, RPT,

RESPONDENT.

ADMINISTRATIVE COMPLAINT

COMES NOW, Petitioner, Department of Health (Department), by and through its undersigned counsel, and files this Administrative Complaint before the Board of Pharmacy against Respondent, Jessica Renee Sanland, R.P.T., and in support thereof alleges:

1. Petitioner is the state agency charged with regulating the practice of pharmacy pursuant to Section 20.43, Florida Statutes; Chapter 456, Florida Statutes; and Chapter 465, Florida Statutes.

2. At all times material to this Complaint, Respondent was a registered pharmacy technician within the state of Florida, having been issued license number RPT 11956.

EXHIBIT

A

3. Respondent's address of record is 415 East Galvez Lane #304, Ponte Vedra, Florida 32081.

4. It is believed that Respondent may also be found at 1500 NW 16th Avenue, 212, Gainesville, Florida 32605.

5. On or about April 1, 2013, in the Circuit Court of the Eighth Judicial Circuit in and for Alachua County, Florida, in case number 01-2012-CF-004661-A, Respondent entered pleas of nolo contendere to two counts of Neglect of a Child.

6. Respondent failed to report entering pleas of nolo contendere to the Board of Pharmacy in writing within thirty (30) days after the date Respondent entered the pleas, on or about April 1, 2013.

7. Section 456.072(1)(x), Florida Statutes (2012), provides that failing to report to the board, or the department if there is no board, in writing within thirty (30) days after the licensee has been convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction constitutes grounds for disciplinary action.

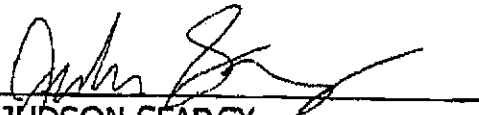
8. Respondent failed to report to the Board in writing within thirty (30) days after entering pleas of nolo contendere to two counts of Neglect of a Child on or about April 1, 2013.

9. Based on the foregoing, Respondent violated Section 456.072(1)(x) Florida Statutes (2012), by failing to report to the board, or the department if there is no board, in writing within thirty (30) days after the licensee has been convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction.

WHEREFORE, Petitioner respectfully requests that the Board of Pharmacy enter an order imposing one or more of the following penalties: permanent revocation or suspension of Respondent's license, restriction of practice, imposition of an administrative fine, issuance of a reprimand, placement of Respondent on probation, corrective action, refund of fees billed or collected, remedial education and/or any other relief that the Board deems appropriate.

SIGNED this 26th **day of** September, **2013.**

JOHN H. ARMSTRONG, MD, FACS
State Surgeon General and Secretary of Health



JUDSON SEARCY
Assistant General Counsel
Fla. Bar No. 98772
Florida Department of Health
Office of the General Counsel
4052 Bald Cypress Way, Bin #C65
Tallahassee, FL 32399-3265
Telephone: (850) 245-4444 ex. 8100
Facsimile: (850) 245-4683
Email: judson_searcy@doh.state.fl.us

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK *Angel Sanders*
DATE SEP 26 2013

PCP: 09/26/2013

PCP Members: Mullins & Risch

DOH v. Jessica Renee Sanland, RPT
Case No. 2012-17872

4

NOTICE OF RIGHTS

Respondent has the right to request a hearing to be conducted in accordance with Section 120.569 and 120.57, Florida Statutes, to be represented by counsel or other qualified representative, to present evidence and argument, to call and cross-examine witnesses and to have subpoena and subpoena duces tecum issued on his or her behalf if a hearing is requested.

NOTICE REGARDING ASSESSMENT OF COSTS

Respondent is placed on notice that Petitioner has incurred costs related to the investigation and prosecution of this matter. Pursuant to Section 456.072(4), Florida Statutes, the Board shall assess costs related to the investigation and prosecution of a disciplinary matter, which may include attorney hours and costs, on the Respondent in addition to any other discipline imposed.



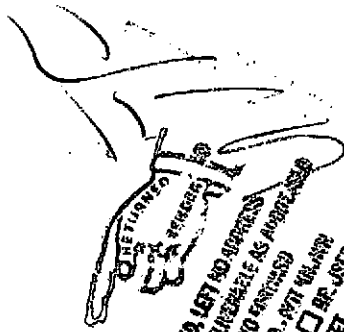
7196 9008 9111 1387 1800

ces Unit
s Way, Bin #C65
da 32399-3265



- MOVED, LEFT NO ADDRESS
- NOT DELIVERABLE AS ADDRESSED
- INTERCEPTED - NOT RETURNED
- NO LABEL - NOT RETURNED
- TO SURE STREET - NOT RETURNED
- TO SURE STREET - NUMBER
- INSUFFICIENT ADDRESS
- NO MAIL RECEIPTABLE
- BOX CLOSED (NO ORDER)

Jessica Sanland
415 East Galvez Lane #304
Ponte Vedra, FL 32081



- MOVED, LEFT NO ADDRESS
- NOT DELIVERABLE AS ADDRESSED
- INTERCEPTED - NOT RETURNED
- NO LABEL - NOT RETURNED
- TO SURE STREET - NOT RETURNED
- TO SURE STREET - NUMBER
- INSUFFICIENT ADDRESS
- NO MAIL RECEIPTABLE
- BOX CLOSED (NO ORDER)

PRACTITIONER REGULATION
LEGAL

2013 OCT 16 PM 12:25

NIXIE 320813133-1N 10/08/13

RETURN TO SENDER
UNABLE TO FORWARD
UNABLE TO FORWARD
RETURN TO SENDER



7196 9006 9111 1387 1800

TO:

Jessica R Sanland, R.Ph.
2012-17872
JS/ab/Stip Pk
Sent 9/27/2013

Jessica Sanland
415 East Galvez Lane #304
Ponte Vedra, FL 32081

| | | |
|--------------------|----------------------|--|
| RECEIPT SERVICE | Certified Fee | |
| | Return Receipt Fee | |
| | Restricted Delivery | |
| | Total Postage & Fees | |

USPS®
Receipt for
Certified Mail™

No Insurance Coverage Provided
Do Not Use for International Mail

POSTMARK OR DATE

Mission:

To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.



Rick Scott
Governor

John H. Armstrong, MD, FACS
State Surgeon General & Secretary

Vision: To be the Healthiest State in the Nation

AFFIDAVIT OF SERVICE OR DILIGENT SEARCH

FLORIDA DEPARTMENT OF HEALTH

Petitioner

vs

Case No. 2012-17872

Jessica Sanland, RPT

Respondent

COMES NOW, the affiant, who first being duly sworn, deposes and states:

1) Affiant is an Investigator/Inspector employed by the DEPARTMENT OF HEALTH, State of Florida.

2) That on (date) 11/05/2013, Affiant made a diligent effort to locate Respondent, to serve:

- Administrative Complaint and related papers
- Subpoena(s);
- Notice to cease and desist;
- Order compelling examination(s);
- Final order;
- ESO/ERO and related papers.

3) Check applicable answer below:

Affiant made personal service on Respondent, or on some person at Respondent's usual place of abode over the age of 15 residing there, on (date) 11/05/2013. Service made to Lynn Queen at 2830 NE 16th Drive, Gainesville, FL 32605

Affiant was unable to make service after searching for Respondent at: (a) all addresses for Respondent shown in the DOH investigation of the case; (b) all official addresses for Respondent shown in his licensing records on the computer terminal or Board office; (c) Local telephone company for the last area Respondent was known to frequent; (d) Division of Drivers Licenses; and (e) Utilities (electric, cable, etc.); any others: _____

[Handwritten Signature]

Affiant

State Of Florida

County Of Alachua

Before me, personally appeared Michael Knezevich whose identity is known to me by personal knowledge (type of identification) and who, acknowledges that his/her signature appears above.

Sworn to or affirmed by Affiant before me this 10th day of Nov. 2013.

[Handwritten Signature: Pamela Sharkey]

Notary Public-State of Florida

My Commission Expires



Pamela Sharkey

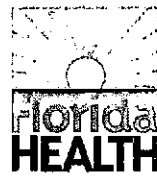
Type or Print Name

EXHIBIT # S-3



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Governor

John H. Armstrong, MD, FACS
State Surgeon General & Secretary

Vision: To be the Healthiest State in the Nation

AFFIDAVIT OF SERVICE OR DILIGENT SEARCH

Florida Department of Health

Petitioner

v.

Case No.: RPT 2012-17872

Jessica Renee Sanland, RPT

Respondent

COMES NOW, the affiant, who first being duly sworn, deposes and states:

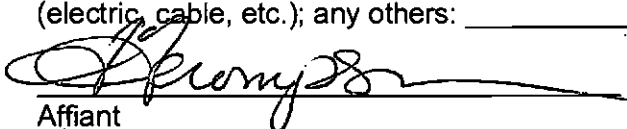
1) Affiant is an Investigator/Inspector employed by the DEPARTMENT OF HEALTH, State of Florida.

2) That on 03/25/2014, Affiant made a diligent effort to locate Respondent, to serve **XXX** Administrative Complaint and related papers; _____ Order compelling examination(s); _____ Subpoena(s); _____ Final order; _____ Notice to cease and desist; _____ ESO/ERO and related papers; _____ Citation and related papers.

3) Check applicable answer below:

XXX Affiant made personal service on Respondent at Respondent's Probation/ Community Control Office on 03/25/2014 at 11:19 AM.

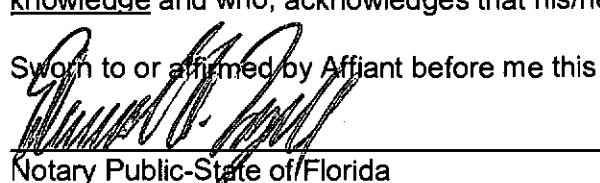
_____ Affiant was unable to make service after searching for Respondent at: (a) all addresses for Respondent shown in the DOH investigation of the case; (b) all official addresses for Respondent shown in his licensing records on the computer terminal or Board office; (c) Local telephone company for the last area Respondent was known to frequent; (d) Division of Drivers Licenses; and (e) Utilities (electric, cable, etc.); any others: _____


Affiant

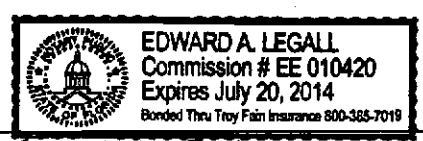
State of Florida
County of Alachua

Before me, personally appeared Tanya Thompson whose identity is known to me by personal knowledge and who, acknowledges that his/her signature appears above.

Sworn to or affirmed by Affiant before me this 26th day of MARCH 2014.


Notary Public-State of Florida

EDWARD A. LEGALL
Type or Print Name



My Commission Expires

Mission:

To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.



Vision: To be the Healthiest State in the Nation

Rick Scott
Governor

John H. Armstrong, MD, FACS
State Surgeon General & Secretary

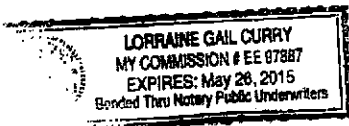
Affidavit of Non-Receipt

I, Patrick Kennedy, hereby certify in my official capacity as custodian for the Board's licensure files that the Board of Pharmacy as of April 21, 2014, has no evidence of an Election of Rights form or other responsive pleading requesting a hearing prior to any agency action regarding Jessica Renee Sandland, RPT; 2012-17872, which would affect the Subject's substantial interests or rights.

Patrick Kennedy
Custodian of Records
Florida Board of Pharmacy

Before me, personally appeared Patrick Kennedy, whose identity is known to me personally and who, under, oath, acknowledges that his/her signature appears above.

Sworn to and subscribed before me this 21st day of April, 2014.

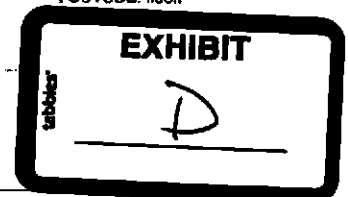


Lorraine Gail Curry
Notary Public
My commission expires:



Florida Department of Health
Office of the General Counsel • Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65 • Tallahassee, FL 32399-1701
PHONE: 850/245-4444 • FAX 850/245-4683

www.FloridasHealth.com
TWITTER: HealthyFLA
FACEBOOK: FLDepartmentofHealth
YOUTUBE: fidoh



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Rick Scott
Governor

John H. Armstrong, MD, FACS
State Surgeon General & Secretary

AFFIDAVIT

I, Angel Sanders, Deputy Clerk for the Department Clerk's Office, hereby certify in my official capacity as custodian for the Department Clerk's records, that the Department Clerk's Office has not received an Election of Rights form or other responsive pleading, which requests a hearing prior to any Department action regarding Jessica Renee Sandland, RPT; 2012-17872, which would affect the Respondent's substantial interests or rights.

Angel Sanders

Custodian of Record
Department Clerk's Office

Before me, personally appeared Angel Sanders, whose identity is known to me personally and who, under oath, acknowledges that his/her signature appears above.

Sworn to and subscribed before me this 21st day of April, 2014.

Lawanda Bell

Notary Public

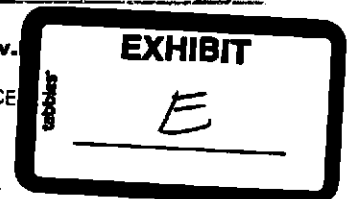
My Commission Expires:



Florida Department of Health
Office of the General Counsel - Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65 • Tallahassee, FL 32399-1701
PHONE: 850/245-4444 • FAX 850/245-4683

www.

FACE



STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,
Petitioner,

v.

CASE NO. 2012-17872

JESSICA RENEE SANDLAND, R.P.T.,
Respondent.

MOTION TO ASSESS COSTS IN ACCORDANCE
WITH SECTION 456.072(4)

COMES NOW the Department of Health, by and through undersigned counsel, and moves the Board of Pharmacy for the entry of a Final Order assessing costs against the Respondent for the investigation and prosecution of this case in accordance with Section 456.072(4), Florida Statutes. As grounds therefore, the Petitioner states the following:

1. At its next regularly scheduled meeting, the Board of Pharmacy will take up for consideration the above-styled disciplinary action and will enter a Final Order therein.

2. Section 456.072(4), Florida Statutes, states as follows:

In addition to any other discipline imposed through final order, or citation, entered on or

after July 1, 2001, pursuant to this section or discipline imposed through final order, or citation, entered on or after July 1, 2001, for a violation of any practice act, the board, or the department when there is not board, shall assess costs related to the investigation and prosecution of the case. Such costs related to the investigation and prosecution include, but are not limited to, salaries and benefits of personnel, costs related to the time spent by the attorney and other personnel working on the case, and any other expenses incurred by the department for the case. The board, or the department when there is no board, shall determine the amount of costs to be assessed after its consideration of an affidavit of itemized costs and any written objections thereto. .

3. The investigation and prosecution of this case has resulted in costs in the total amount of \$1,427.57, based on the following itemized statement of costs:

| ***** Cost to Date ***** | | |
|--------------------------|-------|------------|
| | Hours | Costs |
| Complaint: | 0.80 | \$43.92 |
| Investigation: | 19.40 | \$1,140.78 |
| Legal: | 2.30 | \$242.87 |
| Compliance: | 0.00 | \$0.00 |
| Sub Total: | 22.50 | \$1,427.57 |
| Expenses to Date: | | \$0.00 |
| Prior | | \$0.00 |

| | | |
|----------------------|--|------------|
| Amount: | | |
| Total Costs to Date: | | \$1,427.57 |


Therefore, the Petitioner seeks an assessment of costs against the Respondent in the amount of \$1,184.70 as evidenced in the attached affidavit. (Exhibit A).

4. Should the Respondent file written objections to the assessment of costs, within ten (10) days of the date of this motion, specifying the grounds for the objections and the specific elements of the costs to which the objections are made, the Petitioner requests that the Board determine the amount of costs to be assessed based upon its consideration of the affidavit attached as Exhibit A and any timely-filed written objections.

5. Petitioner requests that the Board grant this motion and assess costs in the amount of \$1,184.70 as supported by competent, substantial evidence. This assessment of costs is in addition to any other discipline imposed by the Board and is in accordance with Section 456.072(4), Florida Statutes.

WHEREFORE, the Department of Health requests that the Board of Pharmacy enter a Final Order assessing costs against the Respondent in the amount of \$1,184.70.

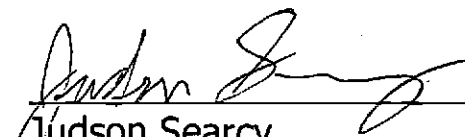
DATED this 4th day of June, 2014.



Judson Searcy
Assistant General Counsel
Fla. Bar No. 98772
Florida Department of Health
Office of the General Counsel
4052 Bald Cypress Way, Bin #C65
Tallahassee, FL 32399-3265
Telephone: (850) 245-4444
Facsimile: (850) 245-4683
Email: Judson.searcy@flhealth.gov

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Motion to Assess Costs has been provided by U.S. Mail this 4th day of June, 2014, to Jessica Sandland, 415 East Galvez Lane #304, Ponte Vedra, FL 32081, and to 2830 NE 16th Drive, Gainesville, FL 32605.



Judson Searcy
Assistant General Counsel

AFFIDAVIT OF FEES AND COSTS EXPENDED

STATE OF FLORIDA
COUNTY OF LEON:

BEFORE ME, the undersigned authority, personally appeared **SHANE WALTERS** who was sworn and states as follows:

- 1) My name is Shane Walters.
- 2) I am over the age of 18, competent to testify, and make this affidavit upon my own personal knowledge and after review of the records at the Florida Department of Health (DOH).
- 3) I am the Operations and Management Consultant Manager (OMCM) for the Consumer Services and Compliance Management Unit for DOH. The Consumer Services Unit is where all complaints against Florida health care licensees (e.g., medical doctors, dentists, nurses, respiratory therapists) are officially filed. I have been in my current job position for more than one year. My business address is 4052 Bald Cypress Way, Bin C-75 Tallahassee, Florida 32399-3275.
- 4) As OMCM of the Consumer Services and Compliance Management Unit, my job duties include reviewing data in the Time Tracking System and verifying that the amounts correspond. The Time Tracking System is a computer program which records and tracks DOH's costs regarding the investigation and prosecution of cases against Florida health care licensees.
- 5) As of today, DOH's total costs for investigating and prosecuting DOH case number(s) **2012-17872** (Department of Health v **JESSICA RENEE SANDLAND**) are **ONE THOUSAND FOUR HUNDRED TWENTY-SEVEN DOLLARS AND FIFTY-SEVEN CENTS (\$1,427.57)**.
- 6) The costs for DOH case number(s) **2012-17872** (Department of Health v **JESSICA RENEE SANDLAND**) are summarized in Exhibit 1 (Cost Summary Report), which is attached to this document.
- 7) The itemized costs and expenses for DOH case number(s) **2012-17872** (Department of Health v **JESSICA RENEE SANDLAND**) are detailed in Exhibit 2 (Itemized Cost Report and Itemized Expense Report and receipts), which is attached to this document.



- 8) The itemized costs as reflected in Exhibit 2 are determined by the following method: DOH employees who work on cases daily are to keep track of their time in six-minute increments (e.g., investigators and lawyers). A designated DOH employee in the Consumer Services Unit, Legal Department, and in each area office, inputs the time worked and expenses spent into the Time Tracking System. Time and expenses are charged against a state health care Board (e.g., Florida Board of Medicine, Florida Board of Dentistry, Florida Board of Osteopathic Medicine), and/or a case. If no Board or case can be charged, then the time and expenses are charged as administrative time. The hourly rate of each employee is calculated by formulas established by the Department. (See the Itemized Cost Report)
- 9) Shane Walters, first being duly sworn, states that she has read the foregoing Affidavit and its attachments and the statements contained therein are true and correct to the best of her knowledge and belief.

FURTHER AFFIANT SAYETH NOT.

Shane Walters

Shane Walters, Affiant

State of Florida
County of Leon

Sworn to and subscribed before me this 21 day of April, 2014,
by Shane Walters, who is personally known to me.

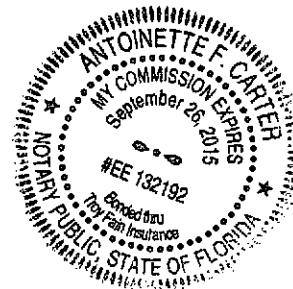
[Signature]

Notary Signature

Antoinette Carter

Name of Notary Printed

Stamp Commissioned Name of Notary Public:

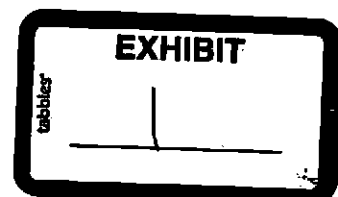


Complaint Cost Summary

Complaint Number: 201217872

Subject's Name: SANLAND, JESSICA RENEE

| | ***** Cost to Date ***** | |
|----------------------|--------------------------|------------|
| | Hours | Costs |
| Complaint: | 0.80 | \$43.92 |
| Investigation: | 19.40 | \$1,140.78 |
| Legal: | 2.30 | \$242.87 |
| Compliance: | 0.00 | \$0.00 |
| | ***** | ***** |
| Sub Total: | 22.50 | \$1,427.57 |
| Expenses to Date: | | \$0.00 |
| Prior Amount: | | \$0.00 |
| Total Costs to Date: | | \$1,427.57 |





*** CONFIDENTIAL ***

**Time Tracking System
Itemized Cost by Complaint**

Complaint 201217872

Report Date 04/21/2014

Page 1 of 2

| Staff Code | Activity Hours | Staff Rate | Cost | Activity Date | Activity Code | Activity Description |
|------------|----------------|------------|------|---------------|---------------|----------------------|
|------------|----------------|------------|------|---------------|---------------|----------------------|

CONSUMER SERVICES UNIT

| | | | | | | |
|-------|------|---------|---------|------------|-----|--|
| HA136 | 0.10 | \$54.90 | \$5.49 | 12/06/2012 | 1 | ROUTINE ADMINISTRATIVE DUTIES |
| HA136 | 0.40 | \$54.90 | \$21.96 | 12/06/2012 | 25 | REVIEW CASE FILE |
| HA136 | 0.10 | \$54.90 | \$5.49 | 12/10/2012 | 7 | PRELIMINARY INVESTIGATION |
| HA136 | 0.10 | \$54.90 | \$5.49 | 01/16/2013 | 7 | PRELIMINARY INVESTIGATION |
| HA115 | 0.10 | \$54.90 | \$5.49 | 02/14/2013 | 25 | REVIEW CASE FILE |
| HA136 | 0.10 | \$54.90 | \$5.49 | 02/14/2013 | 7 | PRELIMINARY INVESTIGATION |
| HA123 | 0.20 | \$54.90 | \$10.98 | 02/21/2013 | 144 | CSU INVESTIGATIVE WORK |
| HA115 | 0.20 | \$54.90 | \$10.98 | 03/14/2013 | 7 | PRELIMINARY INVESTIGATION |
| HA115 | 0.10 | \$54.90 | \$5.49 | 04/17/2013 | 7 | PRELIMINARY INVESTIGATION |
| HA115 | 0.30 | \$54.90 | \$16.47 | 04/17/2013 | 77 | PREPARATION OF DESK INVESTIGATION SYNOPSIS |
| HA115 | 0.20 | \$54.90 | \$10.98 | 05/17/2013 | 77 | PREPARATION OF DESK INVESTIGATION SYNOPSIS |
| HA115 | 1.00 | \$54.90 | \$54.90 | 06/27/2013 | 76 | REPORT PREPARATION |

Sub Total 2.90 \$159.21

INVESTIGATIVE SERVICES UNIT

| | | | | | | |
|------|------|---------|----------|------------|-----|--|
| JI91 | 2.20 | \$63.82 | \$140.40 | 10/25/2013 | 100 | SERVICE OF ADMINISTRATIVE COMPLAINTS, SUBPOENAS, NOTICE TO CEASE |
| JI91 | 0.80 | \$63.82 | \$51.06 | 10/25/2013 | 4 | ROUTINE INVESTIGATIVE WORK |
| JI91 | 0.70 | \$63.82 | \$44.67 | 10/25/2013 | 76 | REPORT PREPARATION |
| JI91 | 0.60 | \$63.82 | \$38.29 | 10/28/2013 | 6 | SUPPLEMENTAL INVESTIGATION |
| GI27 | 0.50 | \$46.35 | \$23.18 | 10/29/2013 | 5 | ROUTINE INSPECTION |
| JI88 | 1.00 | \$63.82 | \$63.82 | 10/29/2013 | 6 | SUPPLEMENTAL INVESTIGATION |
| JI91 | 0.10 | \$63.82 | \$6.38 | 10/29/2013 | 6 | SUPPLEMENTAL INVESTIGATION |
| GI27 | 1.00 | \$46.35 | \$46.35 | 10/30/2013 | 100 | SERVICE OF ADMINISTRATIVE COMPLAINTS, SUBPOENAS, NOTICE TO CEASE |
| GI27 | 1.00 | \$46.35 | \$46.35 | 10/31/2013 | 100 | SERVICE OF ADMINISTRATIVE COMPLAINTS, SUBPOENAS, NOTICE TO CEASE |
| GI27 | 1.50 | \$46.35 | \$69.53 | 11/05/2013 | 100 | SERVICE OF ADMINISTRATIVE COMPLAINTS, SUBPOENAS, NOTICE TO CEASE |
| GI27 | 0.50 | \$46.35 | \$23.18 | 11/06/2013 | 76 | REPORT PREPARATION |
| GI34 | 0.80 | \$63.82 | \$51.06 | 03/17/2014 | 6 | SUPPLEMENTAL INVESTIGATION |
| GI34 | 0.60 | \$63.82 | \$38.29 | 03/18/2014 | 100 | SERVICE OF ADMINISTRATIVE COMPLAINTS, SUBPOENAS, NOTICE TO CEASE |

EXHIBIT

10/25/2013



*** CONFIDENTIAL ***

**Time Tracking System
Itemized Cost by Complaint**

Complaint 201217872

Report Date 04/21/2014

Page 2 of 2

| Staff Code | Activity Hours | Staff Rate | Cost | Activity Date | Activity Code | Activity Description |
|------------------|----------------|------------|-------------------|---------------|---------------|--|
| G134 | 1.30 | \$63.82 | \$82.97 | 03/19/2014 | 100 | SERVICE OF ADMINISTRATIVE COMPLAINTS, SUBPOENAS, NOTICE TO CEASE |
| G134 | 0.50 | \$63.82 | \$31.91 | 03/19/2014 | 6 | SUPPLEMENTAL INVESTIGATION |
| G134 | 0.80 | \$63.82 | \$51.06 | 03/20/2014 | 6 | SUPPLEMENTAL INVESTIGATION |
| G134 | 1.80 | \$63.82 | \$114.88 | 03/25/2014 | 100 | SERVICE OF ADMINISTRATIVE COMPLAINTS, SUBPOENAS, NOTICE TO CEASE |
| G134 | 1.60 | \$63.82 | \$102.11 | 03/26/2014 | 6 | SUPPLEMENTAL INVESTIGATION |
| Sub Total | 17.30 | | \$1,025.49 | | | |

PROSECUTION SERVICES UNIT

| | | | | | | |
|------------------|-------------|----------|-----------------|------------|----|---|
| HLL96B | 0.30 | \$106.35 | \$31.91 | 07/09/2013 | 78 | INITIAL REVIEW AND ANALYSIS OF COMPLAINT |
| HLL96B | 0.30 | \$106.35 | \$31.91 | 08/15/2013 | 25 | REVIEW CASE FILE |
| HLL96B | 0.20 | \$106.35 | \$21.27 | 08/15/2013 | 64 | LEGAL ADVICE/DISCUSSION - BOARD OFFICE, DEPT STAFF OR ATTY GEN OFF. |
| HLL96B | 0.80 | \$106.35 | \$85.08 | 08/15/2013 | 28 | PREPARE OR REVISE ADMINISTRATIVE COMPLAINT |
| HLL96B | 0.10 | \$106.35 | \$10.64 | 09/26/2013 | 63 | PRESENTATION OF CASES TO PROBABLE CAUSE PANEL |
| HLL96B | 0.20 | \$106.35 | \$21.27 | 10/23/2013 | 60 | MISCELLANEOUS |
| HLL96B | 0.10 | \$101.95 | \$10.20 | 03/04/2014 | 25 | REVIEW CASE FILE |
| HLL96B | 0.10 | \$101.95 | \$10.20 | 03/04/2014 | 64 | LEGAL ADVICE/DISCUSSION - BOARD OFFICE, DEPT STAFF OR ATTY GEN OFF. |
| HLL96B | 0.20 | \$101.95 | \$20.39 | 03/04/2014 | 60 | MISCELLANEOUS |
| Sub Total | 2.30 | | \$242.87 | | | |

Total Cost

\$1,427.57

**Time Tracking System
Itemized Expense by Complaint
Complaint**

Report Date: 04/21/2014

Page 1 of 1

| Staff Code | Expense Date | Expense Amount | Expense Code | Expense Code Description |
|------------|--------------|----------------|--------------|--------------------------|
|------------|--------------|----------------|--------------|--------------------------|

SubTotal

Total Expenses

MEMORANDUM OF PROBABLE CAUSE DETERMINATION

TO: Department of Health, Prosecution Services Unit
FROM: Chair, Probable Cause Panel, Florida Board of Pharmacy
RE: **Jessica Renee Sanland, R.Ph.**
Case Number: 2012-17872
MEMBERS: DeAnn Mullins, B. Pharm & Lorena Risch

DATE OF PCP: **September 26, 2013** **AGENDA ITEM: A-3**

.....
This matter came before the Probable Cause Panel on the above date. Having reviewed the complete investigative file, recommendations of the Department, and any information submitted by the Subject, and being otherwise fully advised in the premises, the panel finds that:

Probable cause exists and a formal complaint shall be filed for violation of statutes and rules, including but not limited to:

Section 465.072(1)(x), Florida Statutes (2012);

Probable Cause was **not** found in this case

In lieu of probable cause, issue **letter of guidance**

Case requires **expert review**

Case needs **further investigation**

a)
b)

Upon **reconsideration**, dismiss

Amended Administrative Complaint

Lorena M. Risch
Chair, Probable Cause Panel
Board of Pharmacy

9.26.13
Date

CONFIDENTIAL AND EXEMPT MATERIALS

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from this document for security reasons**

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AND/OR DOCUMENTS THAT IDENTIFY THE PATIENT BY NAME AND ARE
EXEMPT FROM PUBLIC RECORDS LAWS.

456.057 - Ownership and control of patient records; report or copies of records to be
furnished.—

10)(a)All patient records obtained by the department and any other documents
maintained by the department which identify the patient by name are confidential and exempt
from s. 119.07(1) and shall be used solely for the purpose of the department and the appropriate
regulatory board in its investigation, prosecution, and appeal of disciplinary proceedings. The
records shall not be available to the public as part of the record of investigation for and
prosecution in disciplinary proceedings made available to the public by the department or the
appropriate board.

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Rick Scott
Governor

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John H. Armstrong, MD, FACS

Surgeon General & Sec

Vision: To be the Healthiest State in the Nation

Tallahassee, FL 32399 -

STATE OF FLORIDA
BOARD OF PHARMACY

DEPARTMENT OF HEALTH,
PETITIONER,

VS.

CASE NO. 201309381

NATHAN M. MOY,
RESPONDENT.

NOTICE

TO: NATHAN W. MOY
2823 SW 125TH AVENUE
MIRAMAR, FL 33027

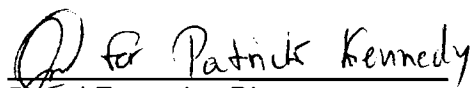
PLEASE TAKE NOTICE that a disciplinary hearing will be heard before the BOARD OF PHARMACY on Wednesday, August 13, 2014, commencing at 9 a.m. Although the Respondent is not required to be present, it is in their best interest to attend. This hearing will be held at DoubleTree by Hilton, 100 Fairway Drive, Deerfield Beach, FL 33441, 1(800) 624-3606.

The purpose of the hearing is to consider a motion for: Determination of Waiver

Note: Cases shown on the agenda as "timed" items may be heard in a different order or may be heard earlier if all parties are present. Cases are scheduled beginning at 9 a.m.; therefore, it is imperative that you arrive promptly at 9 a.m. and be prepared to be at the meeting for several hours until your case is heard.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Hearing has been sent by U.S. Mail to the above address(es) this 10th day of July, 2014.


Board Executive Director
BOARD OF PHARMACY
Florida Department of Health
4052 Bald Cypress Way, Bin #

Florida Department of Health
Division of Medical Quality Assurance
4052 Bald Cypress Way, Bin C10 • Tallahassee, FL 32399-3260
PHONE: (850) 245-4444 • FAX: (850) 245-4791

www.FloridasHealth.com
TWITTER:HealthyFLA
FACEBOOK:FLDepartmentofHealth
YOUTUBE: fldoh



Rick Scott
Governor

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Vision: To be the **Healthiest State** in the Nation

Tallahassee, FL 32399 -

STATE OF FLORIDA
BOARD OF PHARMACY

DEPARTMENT OF HEALTH,
PETITIONER,

VS.

CASE NO. 201309381

NATHAN M. MOY,
RESPONDENT.

NOTICE

TO: ULYSSES FELDER
170 NORTH UNIVERSITY DRIVE
PEMBROKE PINES, FL 33024

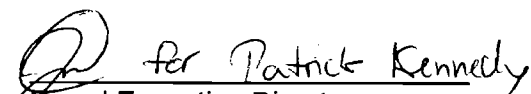
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Note: Cases shown on the agenda as "timed" items may be heard in a different order or may be heard earlier if all parties are present. Cases are scheduled beginning at 9 a.m.; therefore, it is imperative that you arrive promptly at 9 a.m. and be prepared to be at the meeting for several hours until your case is heard.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Hearing has been sent by U.S. Mail to the above address(es) this 10th day of July, 2014.


Board Executive Director
BOARD OF PHARMACY
Florida Department of Health
4052 Bald Cypress Way, Bin #

Florida Department of Health

Division of Medical Quality Assurance
4052 Bald Cypress Way, Bin C10 • Tallahassee, FL 32399-3260
PHONE: (850) 245-4444 • FAX: (850) 245-4791

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Mission:

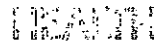
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Rick Scott

Governor

John H. Armstrong, MD, FACS

Surgeon General & Secretary



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MEMORANDUM

TO: Patrick W. Kennedy, M.A., Executive Director, Board of Pharmacy
FROM: Casie Barnette, Assistant General Counsel
RE: **Determination of Waiver**
SUBJECT: DOH v. Nathan W Moy, R.P.H.
 DOH Case Number 2013-09381
DATE: May 29, 2014



Enclosed you will find materials in the above-referenced case to be placed on the agenda for final agency action for the August 12-13, 2014 meeting of the board. The following information is provided in this regard.

Subject: Nathan W Moy, R.P.H.
Subject's Address of Record: 2823 SW 125th Ave.
 Miramar, FL 33027
 (240) 678-2331 Telephone

Enforcement Address: 2823 SW 125th Ave.
 Miramar, FL 33027

Subject's License No: 34644 **Rank:** PS
Licensure File No: 24357
Initial Licensure Date: 2/4/2000
Board Certification: No
Required to Appear: No
Current IPN/PRN Contract: Yes
Allegation(s): Count I: Section 465.016(1)(m), Florida Statutes (2012)
 Count II: Section 465.016(1)(n), Florida Statutes (2012)
 Count III: Section 465.016(1)(r), Florida Statutes (2012) by violating Section 456.072(1)(hh), Florida Statutes (2012)

Prior Discipline: 4010, 05/13/2010, DOH-10-1191-FOI
Probable Cause Panel: July 30, 2013
 Michele Weizer, PharmD
 Gavin W. Meshad

Subject's Attorney:

Ulysses Felder
170 North University Drive
Pembroke Pines, FL 33024
305-864-0136 Telephone

Complainant/Address:

Professional Resource Network
Judy Rivenbark, M. D.
Post Office Box 1020
Fernandina Beach, FL 32035

Materials Submitted:

Memorandum to the Board
Motion for Determination of Waiver and Entry of Final
Order Following Hearing
Exhibit A - Administrative Complaint
Exhibit B - Copy of Certified Mail Receipt
Exhibit C - Affidavit of Diligent Search
Exhibit D - Proof of Publication
Exhibit E - Affidavit of Non-Receipt - Board Office
Exhibit F - Affidavit of Non-Receipt - Agency
Clerk's Office
Motion to Assess Costs with Attachments
Exhibit A- Affidavit of Fees and Costs
Exhibit 1 - Complaint Cost Summary
Exhibit 2 - Itemized Cost by Complaint
Final Investigative Report with Exhibits 1-4
Emergency Suspension of License
Memorandum of Finding Probable Cause

Disciplinary Guidelines:

Section 465.016(1)(m), Florida Statutes (2012):

First Offense: \$250.00 fine, indefinite suspension with PRN review and board appearance, to revocation.

Section 465.016(1)(n), Florida Statutes (2012):

First Offense: None

Section 456.072(1)(hh), Florida Statutes (2012):

First Offense: suspension until successful completion or receipt of written confirmation of compliance with ongoing treatment and a fine of up to \$1,000, to revocation and a fine of \$10,000.

Preliminary Case Remarks: Determination of Waiver:

This case involves a three-count Administrative Complaint alleging that Respondent violated the following:

- 1) Section 465.016(1)(m), Florida Statutes (2012), by being unable to practice pharmacy with reasonable skill and safety due to his abuse of alcohol;
- 2) Section 465.016(1)(n), Florida Statutes (2012), by violating the Board's Final Order in Department of Health Case Number 2009-11174, issued on or about June 29, 2010, by failing to comply with PRN recommendations and requirements; and
- 3) Section 456.072(1)(hh), Florida Statutes (2012), through Section 465.016(1)(r), Florida Statutes (2012), by being terminated from PRN, and by failing to comply with the terms of his PRN contract.

In February 2010, Respondent was referred to PRN after his pharmacy license was suspended in 2009 as a result of his 2007 arrest for possession of diazepam with intent to sell and driving under the influence. Respondent pled nolo contendere to the aforementioned charges. Respondent executed a five-year PRN contract on March 29, 2010.

On or about May 12, 2010, the Board entered a Final Order Imposing Discipline ("Final Order") in Department of Health Case Number 09-11174, suspending Respondent's pharmacy license until he underwent a PRN-facilitated evaluation, complied with PRN's terms and conditions, and demonstrated safety to practice pharmacy. The Final Order also provided for a five-year probationary period after the period of suspension.

On or about June 29, 2010, the Board reinstated Respondent's pharmacy license, but conditioned Respondent's reinstatement upon Respondent remaining compliant with all recommendations and requirements of PRN. The Board also placed Respondent on probation for five years with termination of probation occurring only by order of the Board.

On or about February 21, 2013, Respondent's urine drug screen was positive for alcohol. PRN directed Respondent to withdraw from practice and undergo a PRN-facilitated evaluation, which occurred on March 2, 2013. The evaluator recommended that Respondent undergo individual psychotherapy and determined that he was safe to practice pharmacy as long as he remained compliant with his PRN contract.

Between March 21, 2013, and April 18, 2013, Respondent returned three drug screenings that were positive for alcohol. Even though PRN directed Respondent to voluntarily withdraw from practice due to his noncompliance, he failed to execute a Voluntary Withdrawal from Practice Agreement as directed.

On or about April 8, 2013, Respondent underwent an updated evaluation with Dr. J.A., and was diagnosed with alcohol abuse and a history of benzodiazepine dependence. Dr. J.A. opined that Respondent could only practice with reasonable skill and safety if he maintained abstinence from drugs and alcohol and complied with his PRN contract.

On or about April 30, 2013, Dr. J.A. reevaluated Respondent and recommended that Respondent engage in residential treatment substance abuse disorder and withdraw from practice until he completed treatment and demonstrated his ability to maintain compliance with PRN and abstinence from drugs and alcohol.

On or about June 12, 2013, PRN terminated Respondent's contract due his failure to withdraw from practice, and his failure to engage in residential treatment and to continue active participation in PRN.

Recommended Penalty:

- Revocation and a fine of \$10,000
- Administrative Costs not to exceed \$1,112.20

Considerations:

- Respondent has a history of previous violations of the practice act that resulted in discipline and caused the Board to formally order Respondent to enter PRN and comply with PRN's directives.
- Despite the Board's Order, Respondent was noncompliant with his PRN contract by repeatedly failing to comply with PRN's directives and by continuing to use alcohol.
- Respondent has been under an Emergency Suspension Order since July 11, 2013.
- Neither Respondent's counsel nor Respondent has responded to this matter since its initiation. The Department's numerous attempts to contact Respondent's counsel resulted in no response to the Department's investigation or Administrative Complaint.

STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,

Petitioner,

vs.

CASE NO. 2013-09381

NATHAN MOY, RPh,

Respondent.

**MOTION FOR DETERMINATION OF WAIVER AND
ENTRY OF FINAL ORDER FOLLOWING HEARING**

Petitioner, Department of Health, by and through undersigned counsel moves the Board of Pharmacy to find that Respondent has waived his right to elect a method of resolution of the pending Administrative Complaint, determine that no material facts are in dispute, conduct a hearing not involving disputed issues of material fact, and enter a Final Order thereafter. As grounds therefore, Petitioner states:

1. An Administrative Complaint was filed against Respondent on July 30, 2013. A copy of said Administrative Complaint is attached hereto as Petitioner's Exhibit A.
2. A copy of the Administrative Complaint, Explanation of Rights, and Election of Rights forms were sent to Respondent's address of record,

via certified US mail delivery, on August 9, 2013, article number 7005 2570 0001 2576 7231.

3. The attempt of service via certified US mail was successful. It was marked "Unclaimed" by the United States Postal Service is attached hereto as Petitioner's Exhibit B.

4. On October 31, 2013, a request was submitted to the Department of Health Investigator to have the Administrative Complaint, Explanation of Rights, and Election of Rights forms hand served to the Respondent.

5. The attempt of service via hand service by the Department of Health Investigator to the Respondent's attorney was successful but the attorney claimed to be out of contact with the Respondent. A copy of the Affidavit of Service or Diligent Search is attached hereto as Petitioner's Exhibit C.

6. On or about March 7, 2014, an affidavit of Proof of Publication was completed by the Broward Daily Business Review. The Notice of Action was published in the Broward Daily Business Review on February 14, February 21, February 28, and March 7, 2014. A copy of the Proof of Publication is attached as Petitioner's Exhibit D.

7. Pursuant to Rule 28-106.111, Florida Administrative Code, a person who receives written notice of agency decision and fails to file a written request for hearing within 21 days waives the right to request a hearing.

8. Respondent has not filed with the Department of Health nor the Board of Pharmacy an Election of Rights form or other responsive pleading in this case disputing the allegations of fact contained in the Administrative Complaint within the twenty-one (21) day period required by Rule 28-106.111, Florida Administrative Code. Copies of affidavits supporting same are attached hereto as Petitioner's Exhibits D and E.

9. Respondent is advised by this Motion that a copy of the investigative file in this case shall be furnished to the Board to establish a prima facie case of the violations set forth in the Administrative Complaint.

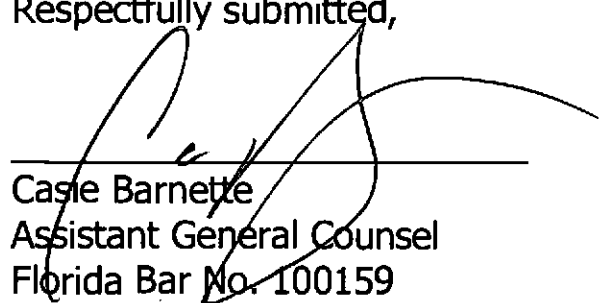
10. Petitioner has determined that there are no material facts in dispute and Respondent has waived his right to elect a method of resolution.

11. Petitioner requests that this Motion and hearing be placed on the August 2014 meeting of the Board of Pharmacy, to be held on **August 12-13, 2014** in Deerfield Beach, FL.

WHEREFORE, Petitioner respectfully requests the Board find that Respondent has waived his right to elect a method of resolution of this matter, find that there are no material facts in dispute, hold a hearing not involving material issues of disputed fact based on the information contained in the investigative file, find that Respondent violated Chapters 456 and 459, Florida Statutes, as alleged in the Administrative Complaint, and enter a Final Order.

DATED this 10th day of June, 2014.

Respectfully submitted,



Casie Barnette
Assistant General Counsel
Florida Bar No. 100159
Prosecution Services Unit
Department of Health
4052 Bald Cypress Way Bin-C-65
Tallahassee, Florida 32399-3265
Telephone (850)245-4444
Facsimile (850)245-4662 (fax)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Motion for Determination of Waiver and Entry of Final Order Following Hearing has been furnished to Nathan Moy, RPh, at 2823 SW 125th Avenue, Miramar, FL 33027 and Ulysses Felder, Esq., 170 N. University Drive, Pembroke Pines, FL 33027 by U.S. mail, on June 10th, 2014.



Casie Barnette
Assistant General Counsel

CB/as

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO. 2013-09381

NATHAN W. MOY, R.PH.

RESPONDENT.

ADMINISTRATIVE COMPLAINT

Petitioner, Department of Health, by and through undersigned counsel, files this Administrative Complaint before the Board of Pharmacy ("Board") against Respondent, Nathan W. Moy, R.Ph., and in support thereof alleges:

1. Petitioner is the state department charged with regulating the practice of pharmacy pursuant to Section 20.43, Florida Statutes (2012); Chapter 456, Florida Statutes (2012); and Chapter 465, Florida Statutes (2012).
2. At all times material to this Complaint, Respondent was licensed to practice as a pharmacist pursuant to Chapter 465, Florida Statutes (2012), having been issued license number PS 34644.

EXHIBIT

A

3. In February 2010, Respondent was referred to the Professionals Resource Network ("PRN") after his license to practice pharmacy was suspended in 2009 as a result of his 2007 arrest for possession of a controlled substance (diazepam) with intent to sell and driving under the influence ("DUI").

4. Diazepam, commonly known by the brand name Valium, is prescribed to treat anxiety. According to Section 893.03(4), Florida Statutes (2012), diazepam is a Schedule IV controlled substance that has a low potential for abuse relative to the substances in Schedule III and has a currently accepted medical use in treatment in the United States. Abuse of diazepam may lead to limited physical or psychological dependence relative to the substances in Schedule III.

5. On or about March 29, 2010, Respondent executed a five-year PRN monitoring contract.

6. On or about May 12, 2010, based on Respondent's entry of a plea of nolo contendere to criminal charges of felony possession of a controlled substance and DUI, the Board entered a Final Order Imposing Discipline ("Final Order") in Department of Health Case Number 2009-11174, against Respondent's license to practice pharmacy.

7. The Final Order suspended Respondent's pharmacy license until he petitions for reinstatement of his license and required Respondent to:
 - a. undergo an evaluation coordinated by PRN and that he comply with any terms and conditions deemed appropriate by PRN;
 - b. demonstrate that he is safe to practice as a pharmacist; and
 - c. remain on probation for a period of five years after reinstatement with terms and conditions necessary to protect the public health, safety and welfare, as determined by the Board.
8. On or about June 29, 2010, the Board entered an Order ("Order") granting Respondent's request for reinstatement of his license.
9. Pursuant to the Order, the Board's reinstatement of Respondent's license was contingent upon Respondent remaining compliant with all recommendations and requirements of PRN.
10. Pursuant to the Final Order, the Board placed Respondent on probation for a period of five years with termination of probation occurring only by order of the Board.
11. On or about February 21, 2013, Respondent submitted to a urine drug screen, which returned positive for alcohol.

12. As a result of the positive drug screen, PRN required Respondent to withdraw from practice and referred him for a PRN-facilitated evaluation.

13. On or about March 2, 2013, Dr. T.T., a PRN-approved physician, evaluated Respondent.

14. Dr. T.T. recommended that Respondent undergo individual psychotherapy and found that Respondent was safe to practice as a pharmacist if he remained compliant with his PRN contract and underwent individual psychotherapy.

15. On or about March 19, 2013, Respondent submitted to a urine drug screen, which returned positive for alcohol and caused PRN to consider the positive drug screen result to be Respondent's first incident of material noncompliance.

16. PRN again required Respondent to withdraw from practice and referred him for another evaluation.

17. On or about March 21, 2013, Respondent submitted to a urine drug screen, which returned positive for alcohol and caused PRN to consider the positive drug screen result to be Respondent's second incident of material noncompliance.

18. On or about April 18, 2013, Respondent submitted to a blood drug screen, which returned positive for alcohol and caused PRN to consider the positive drug screen result to be Respondent's third incident of material noncompliance.

19. PRN requested that Respondent voluntarily withdraw from practice, but Respondent failed to execute a Voluntary Withdrawal from Practice Agreement ("Voluntary Withdrawal").

20. On or about April 8, 2013, Dr. J.A., a PRN-approved physician, evaluated Respondent and determined that he required close scrutiny and continued PRN monitoring.

21. Dr. J.A. diagnosed Respondent with alcohol abuse and a history of benzodiazepine dependence.

22. Benzodiazepines are a class of drugs that cause sedation and can be habit forming. Typically, benzodiazepines are prescribed to treat anxiety or insomnia. Most benzodiazepines are Schedule IV controlled substances according to Section 893.03, Florida Statutes (2012).

23. In his evaluation, Dr. J.A. opined that Respondent could only practice with reasonable skill and safety if he maintained abstinence from drugs and alcohol and maintained compliance with his PRN contract.

24. On or about April 30, 2013, Dr. J.A. reevaluated Respondent and determined that Respondent was having difficulty maintaining PRN compliance and abstinence from drugs and alcohol based on Respondent's positive urine and blood drug screens in March 2013, and April 2013.

25. Dr. J.A. recommended that Respondent undergo treatment for his substance abuse issues at a residential treatment facility and that Respondent remain withdrawn from practice until Respondent completed treatment and demonstrated his ability to maintain compliance with PRN and abstinence from drugs and alcohol.

26. In his evaluation, Dr. J.A. stated that Respondent required reevaluation after completion of treatment before returning to practice.

27. On or about June 12, 2013, PRN terminated Respondent's monitoring contract as a result of Respondent's failure to comply with PRN's directives, in one or more of the following manners:

- a. by not executing the Voluntary Withdrawal from practice;
- b. by not entering residential treatment as recommended;
- and
- c. by not participating in PRN.

COUNT I

28. Petitioner realleges and incorporates paragraphs 1 through 27 as if fully set forth herein.

29. Section 465.016(1)(m), Florida Statutes (2012), allows the Board of Pharmacy to impose discipline against a licensee for being unable to practice pharmacy with reasonable skill and safety by reason of illness, use of drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition.

30. Respondent violated Section 465.016(1)(m), Florida Statutes (2012), by being unable to practice pharmacy with reasonable skill and safety to patients due to his abuse of alcohol.

COUNT II

31. Petitioner realleges and incorporates paragraphs 1 through 27 as if fully set forth herein.

32. Section 465.016(1)(n), Florida Statutes (2012), allows the Board of Pharmacy to impose discipline upon a licensee for violating a rule of the board or Department or violating an order of the board or Department previously entered in a disciplinary hearing.

33. Respondent violated Section 465.016(1)(n), Florida Statutes (2012), by violating the Board of Pharmacy's Final Order in Department of Health Case Number 2009-11174, issued on or about June 29, 2010, by failing to comply with all recommendations and requirements of PRN.

COUNT III

34. Petitioner realleges and incorporates paragraphs 1 through 27 as if fully set forth herein.

35. Section 465.016(1)(r), Florida Statutes (2012), allows the Board of Pharmacy to impose discipline upon a licensee for violating any provision of Chapter 465, Florida Statutes (2012), or Chapter 456, Florida Statutes (2012), or any rules adopted pursuant thereto.

36. Section 456.072(1)(hh), Florida Statutes (2012), subjects a licensee to discipline, including suspension, for being terminated from a treatment program for impaired practitioners, for failure to comply, without good cause, with the terms of the monitoring or treatment contract entered into by the licensee, or for not successfully completing any drug treatment or alcohol treatment program.

37. Respondent violated Section 456.072(1)(hh), Florida Statutes (2012), by being terminated from PRN, a treatment program for impaired

practitioners, and by failing to comply with the terms of his PRN monitoring contract.

38. Respondent violated Section 465.016(1)(r), Florida Statutes (2012), by violating Section 456.072(1)(hh), Florida Statutes (2012).

WHEREFORE, Petitioner respectfully requests that the Board of Pharmacy enter an order imposing one or more of the following penalties: permanent revocation or suspension of Respondent's license, restriction of practice, imposition of an administrative fine, issuance of a reprimand, placement of Respondent on probation, corrective action, refund of fees billed or collected, remedial education and/or any other relief that the Board deems appropriate.

SIGNED this 30 day of July, 2013.

John H. Armstrong, MD, FACS
State Surgeon General and
Secretary of Health



Casie Barnette
Assistant General Counsel
DOH Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, FL 32399-3265
Florida Bar # 100159
(P) 850/245-4444 x8102
(F) 850/245-4662
(E) casie_barnette@doh.state.fl.us

FILED

DEPARTMENT OF HEALTH
DEPUTY CLERK

CLERK: Angel Sanders

DATE: 7-30-13

PCP: July 30, 2013

PCP Members: Michele Weizer, PharmD and Gavin W. Meshad

DOH v. Nathan W. Moy, R.Ph.; Case No. 2013-09381

NOTICE OF RIGHTS

Respondent has the right to request a hearing to be conducted in accordance with Section 120.569 and 120.57, Florida Statutes, to be represented by counsel or other qualified representative, to present evidence and argument, to call and cross-examine witnesses and to have subpoena and subpoena duces tecum issued on his or her behalf if a hearing is requested.

NOTICE REGARDING ASSESSMENT OF COSTS

Respondent is placed on notice that Petitioner has incurred costs related to the investigation and prosecution of this matter. Pursuant to Section 456.072(4), Florida Statutes, the Board shall assess costs related to the investigation and prosecution of a disciplinary matter, which may include attorney hours and costs, on the Respondent in addition to any other discipline imposed.

7005 2570 0001 2576 7231

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EXHIBIT
B

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Available Actions

Postal Product:

Features:
Certified Mail™

| DATE & TIME | STATUS OF ITEM | LOCATION |
|--|--------------------------------------|-----------------------|
| September 13, 2013 , 11:48 am | Unclaimed | HOLLYWOOD, FL 33027 |
| Your item was returned to the sender on September 13, 2013 at 11:48 am in HOLLYWOOD, FL 33027 because it was not claimed by the addressee. | | |
| August 12, 2013 , 2:36 pm | Notice Left | HOLLYWOOD, FL 33027 |
| August 10, 2013 , 2:21 am | Depart USPS Sort Facility | OPA LOCKA, FL 33054 |
| August 9, 2013 , 3:06 pm | Processed through USPS Sort Facility | OPA LOCKA, FL 33054 |
| August 8, 2013 , 1:12 am | Depart USPS Sort Facility | TALLAHASSEE, FL 32301 |
| August 7, 2013 , 10:10 pm | Processed through USPS Sort Facility | TALLAHASSEE, FL 32301 |

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7196 9008 9111 8828 1658

Certified Article Number

7196 9008 9111 8828 1658

SENDER'S RECORD

TO:

Ulysses Felder, Esq
170 N. University Dr.
Pembroke Pines, FL 33027
AC : 13-09381 9/5/13

SENDER:

REFERENCE:

PS Form 3800, January 2005

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3. Service Type CERTIFIED MAIL™

4. Restricted Delivery? (Extra Fee) Yes

1. Article Addressed to:
Ulysses Felder, Esq.
170 N. University Drive
Pembroke Pines, FL 33027

AC Pack 2013-09381 9/5/13 C. Barnette

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) *Kelchuk* B. Date of Delivery *8-9-13*

C. Signature *[Signature]* Agent Addressee

D. Is delivery address different from item 1? Yes No
If YES, enter delivery address below.

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PRAC...
REGULATION

PS Form 3811, January 2005

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Rick Scott
Governor

John H. Armstrong, M.D., FACS
Surgeon General & Secretary

AFFIDAVIT OF SERVICE OR DILIGENT SEARCH

FLORIDA DEPARTMENT OF HEALTH/BOARD OF PHARMACY

Petitioner

vs.

Case No. PS 2013-09381

NATHAN W. MOY, R. Ph.

Respondent

COMES NOW, the affiant, who first being duly sworn, deposes and states:

1) Affiant is an Investigator/Inspector employed by the DEPARTMENT OF HEALTH, State of Florida.

2) That on November 25, 2013, Affiant made a diligent effort to locate Respondent, to serve the X Administrative Complaint and related papers; Order compelling examination(s); Subpoena(s); Final order; Notice to cease and desist; ESO/ERO and related papers.

3) Check applicable answer below:

 Affiant made personal service on Respondent at on .
X Affiant was unable to make service after searching for Respondent at: (a) all addresses for Respondent shown in the DOH investigation of the case; (b) all official addresses for Respondent shown in his licensing records on the computer terminal or Board office; (c) Local telephone company for the last area Respondent was known to frequent; (d) Division of Drivers Licenses; and (e) Utilities (electric, cable, etc.), any others:

Roger S. McCoy
Affiant: Roger S. McCoy
State Of Florida
County Of Broward

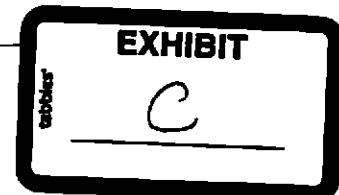
Before me, personally appeared Roger S. McCoy whose identity is known to me personally and who acknowledges that his/her signature appears above.

Sworn to or affirmed by Affiant before me this 25th day of November 2013.

Notary Public, State of Florida

Kesley Crawford
Type or Print Name

My Commission Expires



BROWARD DAILY BUSINESS REVIEW

Published Daily except Saturday, Sunday and
Legal Holidays
Ft. Lauderdale, Broward County, Florida

STATE OF FLORIDA
COUNTY OF BROWARD:

Before the undersigned authority personally appeared
S. LINTON, who on oath says that he or she is the
LEGAL CLERK, of the Broward Daily Business
Review f/k/a Broward Review, a newspaper
published at Fort Lauderdale, in Broward
County, Florida; that the attached copy of advertisement,
being a Legal Advertisement of Notice in the matter of

2013-09381
NOTICE OF ACTION IN RE: THE LICENSE TO PRATICICE PODIATRIC OF
NATHAN MOY, RPH; LICENSE NO: PS34644

In the XXXX Court,
was published in said newspaper in the issues of

02/14/2014 02/21/2014 02/28/2014 03/07/2014

Affiant further says that the said Broward Daily Business
Review is a newspaper published at Fort Lauderdale, in said
Broward County, Florida and that the said newspaper has
heretofore been continuously published in said Broward County,
Florida and has been entered as second class mail matter at the post
office in Fort Lauderdale in said Broward County, Florida, for a
period of one year next preceding the first publication of the
attached copy of advertisement; and affiant further says that he or
she has neither paid nor promised any person, firm or corporation
any discount, rebate, commission or refund for the purpose
of securing this advertisement for publication in the said
newspaper.



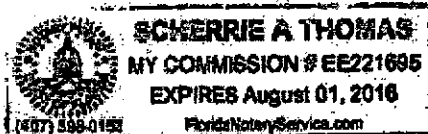
Sworn to and subscribed before me this

07 day of MARCH, A.D. 2014



(SEAL)

S. LINTON personally known to me

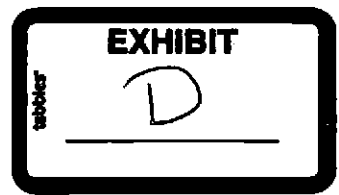


NOTICE OF ACTION
BEFORE THE BOARD OF Pharmacy
CASE NO. 2013-09381
LICENSE NO. PS34644
IN RE: The license to practice
Podiatry of
Name Nathan Moy, RPH
2823 South West 95th Ave
Miramar, Florida 33027
The Department of Health has
filed an Administrative Complaint
against you a copy of which may be
obtained by contacting Case Bar-

nette, Assistant General Counsel,
Prosecution Services Unit, 4052
Bald Cypress Way, DM #066, Tallah-
assee, Florida 32303, (850)
245-4444.

If no contact has been made by
you concerning the above by
3/28/2014, the matter of the Admin-
istrative Complaint will be present-
ed at an agenda meeting of the
Board of Pharmacy in an informal
proceeding.

In accordance with the Americans
with Disabilities Act, persons need-
ing a special accommodation to
participate in this proceeding should
contact the individual or agency
sending this notice, not later than
seven days prior to the proceeding
at the address given on the notice.
Telephone: (850) 245-4444, 1-800-
955-8777 (TDD) or 1-800-955-8770
(V), via Florida Relay Service.
2/14-21-28 3/7 14-4-1582232271B



Mission:

To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.



Vision: To be the Healthiest State in the Nation

Rick Scott
Governor

John H. Armstrong, MD, FACS
State Surgeon General & Secretary

I, Patrick Kennedy, hereby certify in my official capacity as custodian for the Board of Pharmacy licensure files that the Board of Pharmacy as of June 3, 2014, has no evidence of an Election of Rights form or other responsive pleading requesting a hearing prior to any agency action regarding **Nathan Moy, RPh, Case Number 2013-09381**, which would affect the Subject's substantial interests or rights.

Custodian of Records
Florida Board of Pharmacy

Before me, personally appeared Patrick Kennedy, whose identity is known to me by personally (type of identification) and who, under, oath, acknowledges that his/her signature appears above.
Sworn to and subscribed this 3rd day of June, 2014.

Notary Public

Florida Department of Health
Office of the General Counsel - Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65 • Tallahassee, FL 32399-3265
PHONE: 850/245-4444 • FAX 850/245-4662

www.FloridasHealth.com
TWITTER: HealthyFLA
FACEBOOK: FLDepartmentofHealth
YOUTUBE: fdoh



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Vision: To be the Healthiest State in the Nation

AFFIDAVIT

I, Angel Sanders, Deputy Clerk for the Department Clerk's Office, hereby certify in my official capacity as custodian for the Department Clerk's records, that the Department Clerk's Office has not received an Election of Rights form or other responsive pleading, which requests a hearing prior to any Department action regarding **Nathan Moy, RPh, Case Number 2013-09381** which would affect the Respondent's substantial interests or rights.

Angel Sanders
Custodian of Record
Department Clerk's Office

Before me, personally appeared Angel Sanders, whose identity is known to me by personally known (type of identification) and who, under oath, acknowledges that his/her signature appears above.

Sworn to and subscribed before me this 2nd day of June, 2014.



Lawanda Bell
Notary Public

My Commission Expires:



**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

Petitioner,

v.

CASE NO. 2013-09381

NATHAN MOY, RPh,

Respondent.

_____ /

**MOTION TO ASSESS COSTS
IN ACCORDANCE WITH SECTION 456.072(4)**

The Department of Health, by and through counsel, moves the Board of Pharmacy for entry of a Final Order assessing costs against Respondent for the investigation and prosecution of this case in accordance with Section 456.072(4), Florida Statutes (2013). As grounds therefore, the Petitioner states the following:

1. At its next regularly scheduled meeting, the Board of Pharmacy will take up for consideration the above-styled disciplinary action and will enter a Final Order.

2. Section 456.072(4), Florida Statutes (2013), states, in pertinent part, as follows:

In addition to any other discipline imposed through final order, or citation, entered on or after July 1, 2001, under this section or discipline imposed through final order, or

citation, entered on or after July 1, 2001, for a violation of any practice act, the board, or the department when there is no board, shall assess costs related to the investigation and prosecution of the case. The costs related to the investigation and prosecution include, but are not limited to, salaries and benefits of personnel, costs related to the time spent by the attorney and other personnel working on the case, and any other expenses incurred by the department for the case. The board, or the department when there is no board, shall determine the amount of costs to be assessed after its consideration of an affidavit of itemized costs and any written objections thereto....

3. As evidenced in the attached affidavit (Exhibit A), the investigation and prosecution of this case has resulted in costs in the total amount of \$2,973.34, based on the following itemized statement of costs:

| | |
|-----------------------------|-------------------|
| Complaint: | \$49.41 |
| Investigation: | \$1,061.12 |
| Legal: | \$1,861.14 |
| Compliance: | \$1.67 |
| Sub Total: | \$2,973.34 |
| Expenses To Date: | \$0.00 |
| Prior Amount: | \$0.00 |
| Total Costs To Date: | \$2,973.34 |

4. The attached affidavit reflects the Department's costs for attorney time in this case as \$1,861.14 (Exhibit A). The costs of obtaining an affidavit from any outside attorney will be greater than \$1,861.14.

Therefore, the Department is not seeking costs for attorney time in this case.

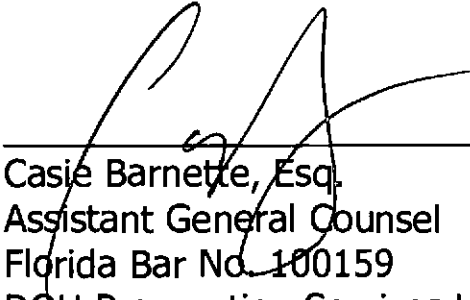
5. Should Respondent file written objections to the assessment of costs, within ten (10) days of the date of this motion, specifying the grounds for the objections and the specific elements of the costs to which objections are made, Petitioner requests that the Board determine the amount of costs to be assessed based upon its consideration of the affidavit attached as Exhibit A and any timely-filed written objections.

6. Petitioner requests that the Board grant this motion and assess costs in the amount of \$1,112.20 as supported by competent, substantial evidence. This assessment of costs is in addition to any other discipline imposed by the Board and is in accordance with Section 456.072(4), Florida Statutes (2013).

WHEREFORE, the Department of Health requests that the Board of Nursing enter a Final Order assessing costs against Respondent in the amount of \$1,112.20.

DATED this 10th day of June, 2014.

Respectfully submitted,



Casie Barnette, Esq.
Assistant General Counsel
Florida Bar No. 100159
DOH Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, FL 32399-3265
850-245-4444 PHONE
850-245-4662 FAX
E-mail: Casie.Barnette@flhealth.gov

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Motion to Assess Costs has been furnished via certified postage-paid U.S. Mail to Respondent's attorney, Ulysses Felder, Esq., at 170 North University Drive, Pembroke Pines, FL 33024, this 10th day of June, 2014.



Casie Barnette
Assistant General Counsel

CB/as

AFFIDAVIT OF FEES AND COSTS EXPENDED

STATE OF FLORIDA
COUNTY OF LEON:

BEFORE ME, the undersigned authority, personally appeared **Shane Walters**, who was sworn and states as follows:

- 1) My name is Shane Walters.
- 2) I am over the age of 18, competent to testify, and make this affidavit upon my own personal knowledge and after review of the records at the Florida Department of Health (DOH).
- 3) I am a Operations Management Consultant for the Consumer Services Unit for DOH. The Consumer Services Unit is where all complaints against Florida health care licensees (e.g., medical doctors, dentists, nurses, respiratory therapists) are officially filed. I have been in my current job position for more than one year. My business address is 4052 Bald Cypress Way, Bin C-75, Tallahassee, Florida 32399.
- 4) As a Operations Management Consultant, my job duties include reviewing data in the Time Tracking System and verifying that the amounts correspond. The Time Tracking System is a computer program which records and tracks DOH's costs regarding the investigation and prosecution of cases against Florida health care licensees.
- 5) As of today, DOH's total costs for investigating and prosecuting DOH case number **2013-09381** (Department of Health v. **Nathan Moy, RPh** are **two thousand, nine hundred, seventy-three dollars and thirty-four cents (\$2,973.34)**
- 6) The costs for DOH case number **2013-09381** (Department of Health v. **Nathan Moy, RPh.**) are summarized in Exhibit 1 (Cost Summary Report), which is attached to this document.
- 7) The itemized costs and expenses for DOH case number **2013-09381** (Department of Health v. **Nathan Moy, RPh.** are detailed in Exhibit 2 (Itemized Cost Report and Itemized Expense Report and receipts), which is attached to this document.
- 8) The itemized costs as reflected in Exhibit 2 are determined by the following method: DOH employees who work on cases daily are to keep track of their time in six-minute increments (e.g., investigators and lawyers). A designated DOH employee in the Consumer Services

Unit, Legal Department, and in each area office, inputs the time worked and expenses spent into the Time Tracking System. Time and expenses are charged against a state health care Board (e.g., Florida Board of Medicine, Florida Board of Dentistry, Florida Board of Osteopathic Medicine), and/or a case. If no Board or case can be charged, then the time and expenses are charged as administrative time. The hourly rate of each employee is calculated by formulas established by the Department. (See the Itemized Cost Report)

- 9) Shane Walters, first being duly sworn, states that he has read the foregoing Affidavit and its attachments and the statements contained therein are true and correct to the best of his knowledge and belief.

FURTHER AFFIANT SAYETH NOT.

Shane Walters
Shane Walters, Affiant

State of Florida
County of Leon

Sworn to and subscribed before me this 2nd day of June, 2014,
by Shane Walters, who is personally known to me.

Towanda B. Burnett
Notary Signature

Towanda B. Burnett
Name of Notary Printed



Stamp Commissioned Name of Notary Public:

Complaint Cost Summary

Complaint Number: 201309381

Subject's Name: MOY, NATHAN W

| | ***** Cost to Date ***** | |
|-----------------------------|--------------------------|------------|
| | Hours | Costs |
| Complaint: | 0.90 | \$49.41 |
| Investigation: | 16.60 | \$1,061.12 |
| Legal: | 17.50 | \$1,861.14 |
| Compliance: | 0.05 | \$1.67 |
| | ***** | ***** |
| Sub Total: | 35.05 | \$2,973.34 |
| Expenses to Date: | | \$0.00 |
| Prior Amount: | | \$0.00 |
| Total Costs to Date: | | \$2,973.34 |

***** CONFIDENTIAL *****
Time Tracking System
Itemized Cost by Complaint

Complaint 201309381

Report Date 06/02/2014

Page 1 of 3

| Staff Code | Activity Hours | Staff Rate | Cost | Activity Date | Activity Code | Activity Description |
|------------|----------------|------------|------|---------------|---------------|----------------------|
|------------|----------------|------------|------|---------------|---------------|----------------------|

COMPLIANCE MANAGEMENT UNIT

| | | | | | | |
|------------------|-------------|---------|---------------|------------|-----|-----------------------|
| HC27 | 0.05 | \$33.33 | \$1.67 | 07/11/2013 | 125 | LICENSE STATUS CHANGE |
| Sub Total | 0.05 | | \$1.67 | | | |

CONSUMER SERVICES UNIT

| | | | | | | |
|------------------|-------------|---------|----------------|------------|----|------------------|
| HAI32 | 0.90 | \$54.90 | \$49.41 | 06/13/2013 | 25 | REVIEW CASE FILE |
| Sub Total | 0.90 | | \$49.41 | | | |

INVESTIGATIVE SERVICES UNIT

| | | | | | | |
|-------|------|---------|----------|------------|-----|--|
| L175 | 1.00 | \$63.98 | \$63.98 | 06/14/2013 | 4 | ROUTINE INVESTIGATIVE WORK |
| L175 | 2.40 | \$63.98 | \$153.55 | 06/20/2013 | 4 | ROUTINE INVESTIGATIVE WORK |
| L175 | 2.60 | \$63.98 | \$166.35 | 06/21/2013 | 4 | ROUTINE INVESTIGATIVE WORK |
| L175 | 0.50 | \$63.98 | \$31.99 | 06/24/2013 | 4 | ROUTINE INVESTIGATIVE WORK |
| L175 | 0.20 | \$63.98 | \$12.80 | 07/02/2013 | 6 | SUPPLEMENTAL INVESTIGATION |
| L198 | 0.20 | \$63.98 | \$12.80 | 07/12/2013 | 6 | SUPPLEMENTAL INVESTIGATION |
| L198 | 0.60 | \$63.98 | \$38.39 | 07/17/2013 | 6 | SUPPLEMENTAL INVESTIGATION |
| L198 | 0.20 | \$63.98 | \$12.80 | 07/18/2013 | 6 | SUPPLEMENTAL INVESTIGATION |
| L1102 | 0.40 | \$63.98 | \$25.59 | 07/18/2013 | 100 | SERVICE OF ADMINISTRATIVE COMPLAINTS, SUBPOENAS, NOTICE TO CEASE |
| L175 | 1.00 | \$63.98 | \$63.98 | 07/19/2013 | 100 | SERVICE OF ADMINISTRATIVE COMPLAINTS, SUBPOENAS, NOTICE TO CEASE |
| L175 | 1.00 | \$63.98 | \$63.98 | 07/19/2013 | 76 | REPORT PREPARATION |
| L198 | 0.20 | \$63.98 | \$12.80 | 07/19/2013 | 6 | SUPPLEMENTAL INVESTIGATION |
| L198 | 0.30 | \$63.98 | \$19.19 | 07/19/2013 | 6 | SUPPLEMENTAL INVESTIGATION |
| L198 | 0.40 | \$63.82 | \$25.53 | 11/01/2013 | 6 | SUPPLEMENTAL INVESTIGATION |
| L198 | 0.70 | \$63.82 | \$44.67 | 11/13/2013 | 100 | SERVICE OF ADMINISTRATIVE COMPLAINTS, SUBPOENAS, NOTICE TO CEASE |
| L198 | 1.10 | \$63.82 | \$70.20 | 11/19/2013 | 6 | SUPPLEMENTAL INVESTIGATION |
| L198 | 0.40 | \$63.82 | \$25.53 | 11/20/2013 | 6 | SUPPLEMENTAL INVESTIGATION |
| L198 | 0.50 | \$63.82 | \$31.91 | 11/21/2013 | 6 | SUPPLEMENTAL INVESTIGATION |

**Time Tracking System
Itemized Cost by Complaint**

Complaint 201309381

Report Date 06/02/2014

| Staff Code | Activity Hours | Staff Rate | Cost | Activity Date | Activity Code | Activity Description |
|------------------|----------------|------------|-------------------|---------------|---------------|----------------------------|
| L198 | 0.30 | \$63.82 | \$19.15 | 11/21/2013 | 4 | ROUTINE INVESTIGATIVE WORK |
| L175 | 0.20 | \$63.82 | \$12.76 | 11/25/2013 | 6 | SUPPLEMENTAL INVESTIGATION |
| L198 | 0.40 | \$63.82 | \$25.53 | 11/25/2013 | 6 | SUPPLEMENTAL INVESTIGATION |
| L198 | 1.50 | \$63.82 | \$95.73 | 11/25/2013 | 6 | SUPPLEMENTAL INVESTIGATION |
| L175 | 0.50 | \$63.82 | \$31.91 | 12/04/2013 | 6 | SUPPLEMENTAL INVESTIGATION |
| Sub Total | 16.60 | | \$1,061.12 | | | |

PROSECUTION SERVICES UNIT

| | | | | | | |
|------------------|--------------|----------|-------------------|------------|----|---|
| HLL105B | 1.00 | \$106.35 | \$106.35 | 07/01/2013 | 78 | INITIAL REVIEW AND ANALYSIS OF COMPLAINT |
| HLL105B | 0.40 | \$106.35 | \$42.54 | 07/02/2013 | 35 | TELEPHONE CALLS |
| HLL105B | 5.00 | \$106.35 | \$531.75 | 07/02/2013 | 40 | PREPARATION OF OR REVISION OF A PLEADING |
| HLL105B | 5.00 | \$106.35 | \$531.75 | 07/03/2013 | 81 | ESO/ERO |
| HLL105B | 2.30 | \$106.35 | \$244.61 | 07/08/2013 | 40 | PREPARATION OF OR REVISION OF A PLEADING |
| HLL105B | 0.20 | \$106.35 | \$21.27 | 07/10/2013 | 40 | PREPARATION OF OR REVISION OF A PLEADING |
| HLL105B | 1.20 | \$106.35 | \$127.62 | 07/15/2013 | 28 | PREPARE OR REVISE ADMINISTRATIVE COMPLAINT |
| HLL105B | 0.50 | \$106.35 | \$53.18 | 07/16/2013 | 40 | PREPARATION OF OR REVISION OF A PLEADING |
| HLL105B | 0.40 | \$106.35 | \$42.54 | 07/17/2013 | 40 | PREPARATION OF OR REVISION OF A PLEADING |
| HLL105B | 1.00 | \$106.35 | \$106.35 | 07/29/2013 | 89 | PROBABLE CAUSE PREPARATION |
| HLL105B | 0.50 | \$106.35 | \$53.18 | 07/30/2013 | 63 | PRESENTATION OF CASES TO PROBABLE CAUSE PANEL |
| Sub Total | 17.50 | | \$1,861.14 | | | |

| | |
|-------------------|-------------------|
| Total Cost | \$2,973.34 |
|-------------------|-------------------|

*** CONFIDENTIAL ***

**Time Tracking System
Itemized Cost by Complaint**

Complaint 201309381

Report Date 06/02/2014

Page 3 of 3

| Staff Code | Activity Hours | Staff Rate | Cost | Activity Date | Activity Code | Activity Description |
|------------|----------------|------------|------|---------------|---------------|----------------------|
|------------|----------------|------------|------|---------------|---------------|----------------------|



***** CONFIDENTIAL *****
Time Tracking System
Itemized Expense by Complaint
Complaint

Report Date: 06/02/2014

Page 1 of 1

| Staff Code | Expense Date | Expense Amount | Expense Code | Expense Code Description |
|------------|--------------|----------------|--------------|--------------------------|
|------------|--------------|----------------|--------------|--------------------------|

SubTotal
Total Expenses

CONFIDENTIAL AND EXEMPT MATERIALS

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456.057 - Ownership and control of patient records; report or copies of records to be
furnished.—

10)(a)All patient records obtained by the department and any other documents
maintained by the department which identify the patient by name are confidential and exempt
from s. 119.07(1) and shall be used solely for the purpose of the department and the appropriate
regulatory board in its investigation, prosecution, and appeal of disciplinary proceedings. The
records shall not be available to the public as part of the record of investigation for and
prosecution in disciplinary proceedings made available to the public by the department or the
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regulatory board in its investigation, prosecution, and appeal of disciplinary proceedings. The
records shall not be available to the public as part of the record of investigation for and
prosecution in disciplinary proceedings made available to the public by the department or the
appropriate board.

FILED DATE - 7/11/13
Department of Health**STATE OF FLORIDA
DEPARTMENT OF HEALTH**By: *Bridget Coates*
Deputy Agency Clerk

In Re: Emergency Suspension of the License of
Nathan W. Moy, R.Ph.
License No.: PS 34644
Case Number: 2013-09381

ORDER OF EMERGENCY SUSPENSION OF LICENSE

John H. Armstrong, MD, FACS, State Surgeon General and Secretary of Health, ORDERS the emergency suspension of the license of Nathan W. Moy, R.Ph. ("Mr. Moy"), to practice as a pharmacist in the State of Florida. Mr. Moy holds license number PS 34644. His address of record is 2823 Southwest 125th Avenue, Miramar, Florida 33027. The following Findings of Fact and Conclusions of Law support the emergency suspension of Mr. Moy's license to practice as a pharmacist in the State of Florida.

FINDINGS OF FACT

1. The Department of Health ("Department") is the state agency charged with regulating pharmacists pursuant to Chapters 20, 456 and 465, Florida Statutes (2012). Section 456.073(8), Florida Statutes (2012), authorizes the State Surgeon General to summarily suspend Mr. Moy's license to practice as a pharmacist in the State of Florida, in accordance with Section 120.60(6), Florida Statutes (2012).

2. At all times material to this order, Mr. Moy was a licensed pharmacist in the State of Florida, pursuant to Chapter 465, Florida Statutes (2012).

3. In February 2010, Mr. Moy was referred to the Professionals Resource Network ("PRN") after his license to practice pharmacy was suspended in 2009 as a result of his 2007 arrest for possession of a controlled substance (diazepam) with intent to sell and driving under the influence ("DUI").

4. Diazepam, commonly known by the brand name Valium, is prescribed to treat anxiety. According to Section 893.03(4), Florida Statutes (2012), diazepam is a Schedule IV controlled substance that has a low potential for abuse relative to the substances in Schedule III and has a currently accepted medical use in treatment in the United States. Abuse of diazepam may lead to limited physical or psychological dependence relative to the substances in Schedule III.

5. On or about March 29, 2010, Mr. Moy executed a five-year PRN monitoring contract.

6. On or about May 12, 2010, based on Mr. Moy's entry of a plea of nolo contendere to criminal charges of felony possession of a controlled

substance and DUI, the Board of Pharmacy entered a Final Order Imposing Discipline ("Final Order") in Department of Health Case Number 2009-11174, against Mr. Moy's license to practice pharmacy. The Final Order suspended Mr. Moy's pharmacy license until he petitions for reinstatement of his license and required Mr. Moy to:

- a. undergo an evaluation coordinated by the Professional Resource Network ("PRN") and that he comply with any terms and conditions deemed appropriate by PRN;
- b. demonstrate that he is safe to practice as a pharmacist; and
- c. remain on probation for a period of five years after reinstatement with terms and conditions necessary to protect the public health, safety and welfare, as determined by the Board of Pharmacy.

7. On or about June 29, 2010, the Board of Pharmacy entered an Order granting Mr. Moy's request for reinstatement of his license to practice pharmacy. The Order was contingent upon Mr. Moy remaining compliant with all recommendations and requirements of PRN. Pursuant to its 2010 Final Order, the Board of Pharmacy placed Mr. Moy on probation for a period of five years with termination of the probation occurring only by order of the Board of Pharmacy.

8. On or about February 21, 2013, Mr. Moy submitted to a urine drug screen, which returned positive for alcohol. PRN required Mr. Moy to withdraw from practice and referred him for a PRN-facilitated evaluation.

9. On or about March 2, 2013, Dr. T.T., a PRN-approved physician, evaluated Mr. Moy. Mr. Moy denied ingesting any alcohol while under PRN contract. Dr. T.T. recommended that Mr. Moy undergo individual psychotherapy and found that Mr. Moy was safe to practice as a pharmacist if he remained compliant with his PRN contract and underwent individual psychotherapy.

10. On or about March 19, 2013, Mr. Moy submitted to a urine drug screen, which returned positive for alcohol. PRN again required Mr. Moy to withdraw from practice and referred him for another evaluation. PRN considered this positive drug screen result to be Mr. Moy's first incident of material noncompliance.

11. On or about March 21, 2013, Mr. Moy submitted to a urine drug screen, which returned positive for alcohol. PRN considered this positive drug screen result to be Mr. Moy's second incident of material noncompliance.

12. On or about April 18, 2013, Mr. Moy submitted to a blood drug screen, which returned positive for alcohol. PRN considered this positive drug

screen result to be Mr. Moy's third incident of material noncompliance and requested that Mr. Moy voluntarily withdraw from practice. Mr. Moy failed to execute a Voluntary Withdrawal from Practice Agreement ("Voluntary Withdrawal").

13. On or about April 8, 2013, Dr. J.A., a PRN-approved physician, evaluated Mr. Moy and determined that he required close scrutiny and continued PRN monitoring. Dr. J.A. diagnosed Mr. Moy with alcohol abuse and a history of benzodiazepine dependence. In his evaluation, Dr. J.A. opined that Mr. Moy could only practice with reasonable skill and safety if he maintained abstinence from drugs and alcohol and maintained compliance with his PRN contract.

14. Benzodiazepines are a class of drugs that cause sedation and can be habit forming. Typically, benzodiazepines are prescribed to treat anxiety or insomnia. Most benzodiazepines are Schedule IV controlled substances according to Section 893.03, Florida Statutes (2012).

15. On or about April 30, 2013, Dr. J.A. reevaluated Mr. Moy and determined that Mr. Moy was having difficulty maintaining PRN compliance and abstinence from drugs and alcohol. Although Mr. Moy denied ingesting any alcohol, Dr. J.A. opined that Mr. Moy's positive urine and blood drug

screens in March 2013, and April 2013, served as "evidence which must be presumed to show exposure to substances of abuse". Dr. J.A. recommended that Mr. Moy undergo treatment for his substance abuse issues at a residential treatment facility. Further, Dr. J.A. recommended that Mr. Moy remain withdrawn from practice until Mr. Moy completed treatment and demonstrated his ability to maintain compliance with PRN and abstinence from drugs and alcohol. Dr. J.A. stated that Mr. Moy required reevaluation after completion of treatment before returning to practice.

16. On or about June 12, 2013, PRN opined that Dr. Moy's impairment constituted an immediate serious danger to the public's health, safety and welfare. PRN terminated Dr. Moy's monitoring contract as a result of Dr. Moy's failure to comply with PRN's directives, in one or more of the following manners:

- a. by not executing the Voluntary Withdrawal from practice;
- b. by not entering residential treatment as recommended; and
- c. by not participating in PRN.

17. In the course of their practice, pharmacists have access to medications, including controlled substances, which have a high likelihood for abuse and harm. Pharmacists must dispense such drugs in a manner that is

safe and effective for the patient. Even medications that generally are not considered dangerous may kill or severely harm a patient if that patient is allergic to an ingredient or is taking another medication that may interact adversely with the prescribed medication.

18. Because a pharmacist who is impaired by the use of alcohol or illegal substances may not be capable of filling prescriptions for others in a manner that is correct and safe, Mr. Moy's continued practice as a pharmacist presents an immediate serious danger to the health, welfare, and safety of the public. Mr. Moy continually refuses to comply with the recommendations of the PRN and violated an order of the Board of Pharmacy to comply with all recommendations and requirements of PRN. Because Mr. Moy's use of alcohol adversely affects his judgment and ability to practice as a pharmacist in any manner, and he has refused to comply with the recommendations of PRN, it is impossible to craft a restriction that would adequately protect the public from the danger posed by Mr. Moy's practice of pharmacy. Therefore, complete suspension of his license is necessary.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the State Surgeon General concludes as follows:

1. The State Surgeon General has jurisdiction over this matter pursuant to Sections 20.43 and 456.073(8), Florida Statutes (2012), and Chapter 465, Florida Statutes (2012), as set forth above.

2. Section 465.016(1)(m), Florida Statutes (2012), allows the Board of Pharmacy to impose discipline against a licensee, including suspension, for being unable to practice pharmacy with reasonable skill and safety by reason of illness, use of drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition.

3. Mr. Moy violated Section 465.016(1)(m), Florida Statutes (2012), by being unable to practice pharmacy with reasonable skill and safety to patients due to his abuse of alcohol.

4. Section 465.016(1)(n), Florida Statutes (2012), allows the Board of Pharmacy to impose discipline upon a licensee, including suspension, for violating a rule of the board or Department or violating an order of the board or Department previously entered in a disciplinary hearing.

5. Mr. Moy violated Section 465.016(1)(n), Florida Statutes (2012), by violating the Board of Pharmacy's Final Order in Department of Health Case Number 2009-11174, issued on or about June 29, 2010, by failing to comply with all recommendations and requirements of PRN.

6. Section 465.016(1)(r), Florida Statutes (2012), allows the Board of Pharmacy to impose discipline against a licensee, including suspension, for violating any provision of Chapters 465 or 456, Florida Statutes (2012), or any rules adopted pursuant thereto.

7. Section 456.072(1)(hh), Florida Statutes (2012), subjects a licensee to discipline, including suspension, for being terminated from a treatment program for impaired practitioners, for failure to comply, without good cause, with the terms of the monitoring or treatment contract entered into by the licensee, or for not successfully completing any drug treatment or alcohol treatment program.

8. Mr. Moy violated Section 456.072(1)(hh), Florida Statutes (2012), by being terminated from PRN, a treatment program for impaired practitioners, and by failing to comply with the terms of his PRN monitoring contract.

9. Mr. Moy violated Section 465.016(1)(r), Florida Statutes (2012), by violating Section 456.072(1)(hh), Florida Statutes (2012).

10. Section 120.60(6), Florida Statutes (2012), authorizes the State Surgeon General to summarily suspend a pharmacist's license upon a finding

that the pharmacist presents an immediate, serious danger to the public health, safety or welfare.

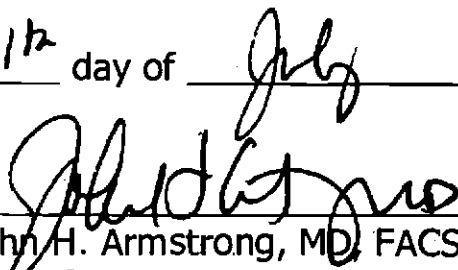
11. Mr. Moy's continued practice as a pharmacist constitutes an immediate, serious danger to the health, safety, or welfare of the citizens of the State of Florida, and this summary procedure is fair under the circumstances to adequately protect the public.

WHEREFORE, in accordance with Section 120.60(6), Florida Statutes (2012), it is **ORDERED THAT**:

1. The license of Mr. Moy to practice pharmacy, license number PS 34644, is immediately suspended.

2. A proceeding seeking formal discipline of the license of Mr. Moy to practice as a pharmacist will be promptly instituted and acted upon in compliance with Sections 120.569 and 120.60(6), Florida Statutes (2012).

DONE and ORDERED this 11th day of July, 2013.



John H. Armstrong, MD, FACS
State Surgeon General and
Secretary of Health

In Re: Emergency Suspension of the License of
Nathan W. Moy, R.Ph.
License No.: PS 34644
Case Number: 2013-09381

PREPARED BY:

Casie Barnette

Assistant General Counsel

DOH Prosecution Services Unit

4052 Bald Cypress Way, Bin C-65

Tallahassee, FL 32399-3265

Florida Bar Number 100159

(P) 850/245-4444, ext 8102

(F) 850/245-4662

(E) casie_barnette@doh.state.fl.us

In Re: Emergency Suspension of the License of
Nathan W. Moy, R.Ph.
License No.: PS 34644
Case Number: 2013-09381

NOTICE OF RIGHT TO JUDICIAL REVIEW

Pursuant to Sections 120.60(6), and 120.68, Florida Statutes, the Department's findings of immediate danger, necessity, and procedural fairness shall be judicially reviewable. Review proceedings are governed by the Florida Rules of Appellate Procedure. Such proceedings are commenced by filing a Petition for Review, in accordance with Florida Rule of Appellate Procedure 9.100, and accompanied by a filing fee prescribed by law with the District Court of Appeal, and providing a copy of that Petition to the Department of Health within thirty (30) days of the date this Order is filed.

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Rick Scott
Governor

John H. Armstrong, MD, FACS
State Surgeon General & Secretary

Vision: To be the Healthiest State in the Nation

AFFIDAVIT OF SERVICE

DEPARTMENT OF HEALTH

vs.

CASE No.: PS 2013-09381

NATHAN W. MOY, RPh

COMES NOW, the Affiant, who first being duly sworn, deposes and states:

1) Affiant is an Investigator employed by the Department of Health, State of Florida.

2) That on July 19, 2013, Affiant served ___ Administrative Complaint and related papers; ___ Order compelling examination(s); ___ Subpoena(s); ___ Final order; ___ Notice to cease and desist; **X ESO/ERO and related papers** (check appropriate block)

3) (Check applicable answer)

X Affiant made personal service on ULUSSES FELDER, Attorney of Record for the Respondent, via eMail to: Ulysses@ufelderlaw.com

___ Affiant was unable to make service after searching for Respondent at: (a) all addresses for Respondent shown in the DOH investigation of the case; (b) all official addresses for Respondent shown in his licensing records on the computer terminal or Board office; (c) Local telephone company for the last area Respondent was known to frequent; (d) Division of Drivers Licenses; and (e) Utilities (electric, cable, etc.); any others: _____

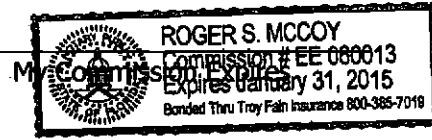
Enrique T. Torres, MMI - Affiant

STATE OF FLORIDA }
COUNTY OF BROWARD }

Before me, personally appeared **Enrique T. Torres** whose identity is personally known to me and who, acknowledges that his signature appears above.

Sworn to or affirmed by Affiant before me this 19th day of July, 2013.

Notary Public - State of Florida



Roger S. McCoy
Type or Print Name

Florida Department of Health
Division of Medical Quality Assurance • Bureau of Enforcement
1400 West Commercial Boulevard, Suite 130J, • Fort Lauderdale, Florida 33309
PHONE: (954) 202-3250 • FAX (954) 202-3254
MQA FORM 329

www.FloridasHealth.com
TWITTER: HealthyFLA
FACEBOOK: FLDepartmentofHealth
YOUTUBE: fldoh

MEMORANDUM OF FINDING OF PROBABLE CAUSE DETERMINATION

TO: Department of Health, Prosecution Services Unit
FROM: Chair, Probable Cause Panel, Florida Board of Pharmacy
RE: **DOH v. Nathan W. Moy, R.Ph**
DOH Case Number 2013-09381
MEMBERS: Michele Weizer, PharmD & Gavin W. Meshad

DATE OF PCP: July 30, 2013 **AGENDA ITEM:** A1

This matter came before the Probable Cause Panel on the above date. Having reviewed the complete investigative report, recommendations of the Department, and any information submitted by the Subject, and being otherwise fully advised in the premises, the panel finds that:

Probable cause exists and a formal complaint shall be filed for violation of statutes and rules, including but not limited to:

Count I: Section 465.016(1)(m), Florida Statutes (2012)

Count II: Section 465.016(1)(n), Florida Statutes (2012)

Count III: Section 465.016(1)(r), Florida Statutes (2012), by violating Section 456.072(1)(hh), Florida Statutes (2012)

Probable Cause was **not** found in this case

In lieu of probable cause, issue **letter of guidance**

Case requires **expert review**

Case needs **further investigation**

a)

b)

c)

Upon **reconsideration**, dismiss

Other _____

Michele Weizer, PharmD BCPS 7/30/2013
Chair, Probable Cause Panel Date
Board of Pharmacy



Rick Scott
Governor

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John H. Armstrong, MD, FACS
Surgeon General & Sec

Vision: To be the **Healthiest State** in the Nation

STATE OF FLORIDA
BOARD OF PHARMACY

DEPARTMENT OF HEALTH,
PETITIONER,

VS.

CASE NO. 201207164

KELLEY MECHELLE FLORIDA,
RESPONDENT.

NOTICE

TO: KELLEY MECHELLE FLORIDA
6630 WHITE BLOSSOM CIRCLE
JACKSONVILLE, FL 32258

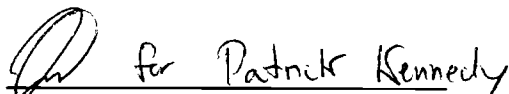
PLEASE TAKE NOTICE that a disciplinary hearing will be heard before the BOARD OF PHARMACY on Wednesday, August 13, 2014, commencing at 9 a.m. Although the Respondent is not required to be present, it is in their best interest to attend. This hearing will be held at DoubleTree by Hilton, 100 Fairway Drive, Deerfield Beach, FL 33441, 1(800) 624-3606.

The purpose of the hearing is to consider a motion for: Determination of Waiver

Note: Cases shown on the agenda as "timed" items may be heard in a different order or may be heard earlier if all parties are present. Cases are scheduled beginning at 9 a.m.; therefore, it is imperative that you arrive promptly at 9 a.m. and be prepared to be at the meeting for several hours until your case is heard.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Hearing has been sent by U.S. Mail to the above address(es) this 10th day of July, 2014.


Board Executive Director
BOARD OF PHARMACY
Florida Department of Health
4052 Bald Cypress Way, Bin #
Tallahassee, FL 32399 -

Florida Department of Health
Division of Medical Quality Assurance
4052 Bald Cypress Way, Bin C10 • Tallahassee, FL 32399-3260
PHONE: (850) 245-4444 • FAX: (850) 245-4791

www.FloridasHealth.com
TWITTER:HealthyFLA
FACEBOOK:FLDepartmentofHealth
YOUTUBE: fldoh

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Rick Scott
Governor

John H. Armstrong, MD, FACS
State Surgeon General & Secretary

Vision: To be the Healthiest State in the Nation

MEMORANDUM

TO: Patrick W. Kennedy, M.A., Executive Director, Board of Pharmacy
FROM: Matthew Witters, Assistant General Counsel (M)
RE: **Determination of Waiver**
SUBJECT: DOH v. Kelley Mechelle Florida, R.P.T.
DOH Case Number 2012-07164
DATE: June 17, 2014 AB

Enclosed you will find materials in the above-referenced case to be placed on the agenda for final agency action for the **August 13, 2014**, meeting of the board. The following information is provided in this regard.

Subject: Kelley Mechelle Florida
Subject's Address of Record: 6630 White Blossom Circle
Jacksonville, FL 32258
Enforcement Address: 6630 White Blossom Circle
Jacksonville, FL 32258
Subject's License No: 36023 **Rank:** RPT
Licensure File No: 36808
Initial Licensure Date: 12/30/2010
Board Certification: No
Required to Appear: No
Current IPN/PRN Contract: No
Allegation(s): 465.016(1)(e), FS (2011)
893.13(7)(a)(9), FS
Prior Discipline: None
Probable Cause Panel: June 20, 2013; Mesaros & Risch
Subject's Attorney: Pro Se
Complainant/Address: Department Of Health/Investigative Services
Unit-Jacksonville
1912 Hamilton Street Unit 104
Jacksonville, FL 32210
Materials Submitted: Memorandum to the Board
Motion For Determination of Waiver
Exhibit A - Administrative Complaint
Exhibit B - Copy of Certified Mail Receipt
Exhibit C - Affidavit of Service

Exhibit D – Board Affidavit
Exhibit E – Clerks Affidavit
Motion to Assess Costs with Attachments
Exhibit A – Affidavit of Fees & Costs
Exhibit 1 – Complaint Cost Summary
Exhibit 2 – Itemized Cost by Complaint
Memorandum of Probable Cause
Order to Compel Evaluation
Final Investigative Report with Exhibits 1-5

GUIDELINES:

From a \$5,000 fine and two years of probation to revocation.

PRELIMINARY CASE REMARKS

This is a one count administrative complaint which alleges that the Respondent admitted to law enforcement that she was stealing hydrocodone from her employer, and thus was acquiring a controlled substance by misrepresentation, fraud, forgery, deception, or subterfuge.

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

**DEPARTMENT OF HEALTH,
Petitioner,**

v.

CASE NO. 2012-07164

**KELLEY MECHELLE FLORIDA, R.P.T.,
Respondent.**

**MOTION FOR DETERMINATION OF WAIVER AND FOR
FINAL ORDER BY HEARING NOT INVOLVING DISPUTED
ISSUES OF MATERIAL FACT**

Petitioner, Department of Health, by and through counsel, moves the Board of Pharmacy to find that Respondent has waived his/her right to elect a method of disposition of the pending Administrative Complaint, to determine that no material facts are in dispute, to conduct a hearing not involving disputed issues of material fact, and to enter a Final Order. As grounds therefore, Petitioner states:

1. An Administrative Complaint was filed against Respondent on date. A copy of said Administrative Complaint is attached hereto as Petitioner's Exhibit A.
2. Copies of the Administrative Complaint, Explanation of Rights form, and Election of Rights forms were sent to Respondent, via certified US mail delivery, on June 23, 2013, (7196 9008 9111 9326 2796). A signed

green receipt card was not returned. A copy of the certified mail receipt is attached as Petitioner's Exhibit B.

3. Thereafter, the Department requested personal service on Respondent, which was completed on September 3, 2013. The affidavit of personal service is attached as Petitioner's Exhibit C.

4. Respondent has not filed with either the Department of Health or the Board of Pharmacy, an Election of Rights form or other responsive pleading in this case within the twenty-one (21) day period to dispute the allegations contained in the Administrative Complaint. Copies of affidavits supporting the same are attached hereto as Petitioner's Exhibits D and E.

5. Rule 28-106.111(2), Florida Administrative Code, provides in pertinent part that:

. . . persons seeking a hearing on an agency decision which does or may determine their substantial interests shall file a petition for hearing with the agency within 21 days of receipt of written notice of the decision.

6. Rule 28.106.111(4), Florida Administrative Code, provides in pertinent part that:

. . . any person who received written notice of an agency decision and who fails to file a written request for a hearing within 21 days waives the right to request a hearing on such matters.

7. Respondent has been advised, by a copy of this motion sent to his/her address of record, that a copy of the investigative file in this case shall be furnished to the Board to establish a prima facie case regarding the violations as set forth in the Administrative Complaint.

8. The Department has determined that there are no material facts in dispute and has concluded that Respondent has waived his/her right to elect the method of resolution.

9. The Department requests that this Motion and a hearing be placed on the agenda for the next regularly scheduled meeting of the Board of Pharmacy.

WHEREFORE, Petitioner respectfully requests that the Board find that Respondent has waived his/her right to elect a method of resolution of this matter, find that there are no material facts in dispute, hold a hearing not involving material issues of disputed fact based on the information contained in the investigative file, find that Respondent violated Chapters 456 and 465, Florida Statutes, as alleged in the Administrative Complaint, impose discipline in accordance with the disciplinary guidelines, and enter a Final Order.

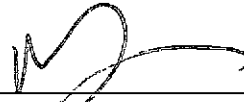
Respectfully submitted,



Matthew Witters
Assistant General Counsel
Florida Bar No. 91245
Department of Health
Prosecution Services Unit
4052 Bald Cypress Way Bin C-65
Tallahassee, Florida 32399-3265
Telephone: (850) 245-4444
Facsimile: (850) 245-4681
Email: matthew.witters@flhealth.gov

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Motion for Determination of Waiver and for Final Order by Hearing Not Involving Disputed Issues of Material Fact has been furnished via U.S. mail this 16 day of June, 2014, to Kelley Florida, 6630 White Blossom Circle, Jacksonville, FL 32258.



Matthew Witters
Assistant General Counsel

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO. 2012-07164

KELLEY MECHELLE FLORIDA, R.P.T.,

RESPONDENT.

ADMINISTRATIVE COMPLAINT

Petitioner Department of Health, by and through its undersigned counsel, files this Administrative Complaint before the Board of Pharmacy against Respondent, Kelley Mechelle Florida, R.P.T., and in support thereof alleges:

1. Petitioner is the state department charged with regulating the practice of pharmacy pursuant to Section 20.43, Florida Statutes; Chapter 456, Florida Statutes; and Chapter 465, Florida Statutes.
2. At all times material to this Order, Respondent was a licenses registered pharmacy technician (RPT) operating within the State of Florida, pursuant to Chapter 465, Florida Statutes, holding permit number RPT 36023.

EXHIBIT

A

tabbies

3. Respondent's address of record is 6630 White Blossom Circle, Jacksonville, Florida 32258.

4. At all time material to this complaint, Respondent was employed as a RPT at Walgreens Pharmacy (Walgreens) located in Jacksonville, Florida.

5. On or about April 22, 2012, the Jacksonville, Florida Sheriff's Office (JSO) responded to Walgreens in response to possible theft of controlled substances.

6. On or about April 22, 2012, the JSO met with Walgreens' loss prevention officer (LPO) R.M. concerning discrepancies in the narcotic count, specifically hydrocodone.

7. Hydrocodone is commonly prescribed to treat pain. According to Section 893.03(2), Florida Statutes, hydrocodone is a Schedule II controlled substance that has a high potential for abuse and has a currently accepted but severely restricted medical use in treatment in the United States, and abuse of hydrocodone may lead to severe psychological or physical dependence.

8. On or about May 5, 2012, Respondent was interviewed by the JSO.

9. On or about May 5, 2012, Respondent in a post *Miranda* statement admitted to the JSO that she had been stealing hydrocodone, a controlled substance from Walgreens for two (2) months.

10. On or about May 5, 2012, Respondent was arrested and charged with one (1) count of traffic in opium or derivative, a first degree felony in violation of Section 893.135(1)(C)1, Florida Statutes, and one (1) theft of a controlled substance, a felony in violation of Section 812.014(2)(C)13, Florida Statutes.

11. Section 465.016(1)(e), Florida Statutes (2011), provides that a registered pharmacy technician can be disciplined, including suspension, for violating a provision of Chapter 893, Florida Statutes.

12. Section 893.13(7)(a)(9), Florida Statutes, prohibits a person from acquiring or obtaining, or attempting to acquire or obtain, possession of a controlled substance by misrepresentation, fraud, forgery, deception, or subterfuge.

13. Respondent violated Section 465.016(1)(e), Florida Statutes (2011), by violating Section 893.13(7)(a)(9), Florida Statutes, by admitting to the JSO that she had been stealing hydrocodone, therefore Respondent

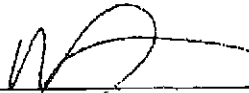
was obtaining a controlled substance by misrepresentation, fraud, forgery, deception, or subterfuge.

14. Based on the foregoing, Respondent has violated Section 465.016(1)(e), Florida Statutes (2011), by admitting to a violation of Section 893.13(7)(a)(9), Florida Statutes.

WHEREFORE, the Petitioner respectfully requests that the Board of Nursing enter an order imposing one or more of the following penalties: permanent revocation or suspension of Respondent's license, restriction of practice, imposition of an administrative fine, issuance of a reprimand, placement of the Respondent on probation, corrective action, refund of fees billed or collected, remedial education and/or any other relief that the Board deems appropriate.

SIGNED this 20 **day of** June, **2013.**

John H. Armstrong, MD
State Surgeon General and
Secretary of Health



Matthew G. Witters
Assistant General Counsel
Fla. Bar No. 0091245
Florida Department of Health
Office of the General Counsel
4052 Bald Cypress Way, Bin #C65
Tallahassee, FL 32399-3265
Telephone: (850) 245-4444
Facsimile: (850) 245-4683
Email: matthew_witters@doh.state.fl.us

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK *Angel Sanders*
DATE JUN 20 2013

PCP: June 20, 2013
PCP Members: Mesaros & Risch

Department of Health v. Kelley Mechelle Florida, R.P.T.
Case Number 2012-07164
AC - 893

5

NOTICE OF RIGHTS

Respondent has the right to request a hearing to be conducted in accordance with Section 120.569 and 120.57, Florida Statutes, to be represented by counsel or other qualified representative, to present evidence and argument, to call and cross-examine witnesses and to have subpoena and subpoena duces tecum issued on his or her behalf if a hearing is requested.

NOTICE REGARDING ASSESSMENT OF COSTS

Respondent is placed on notice that Petitioner has incurred costs related to the investigation and prosecution of this matter. Pursuant to Section 456.072(4), Florida Statutes, the Board shall assess costs related to the investigation and prosecution of a disciplinary matter, which may include attorney hours and costs, on the Respondent in addition to any other discipline imposed.

7196 9008 9111 9326 2796

TO:

K FLORIDA RPT

SENDER: CHRISTINE LILLICH
STIP PACK

REFERENCE: 2012-07164

PS Form 3800, January 2005

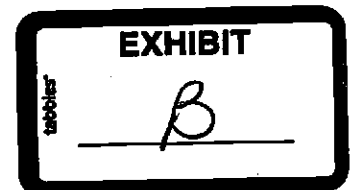
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| RETURN RECEIPT SERVICE | Postage | |
| | Certified Fee | |
| | Return Receipt Fee | |
| | Restricted Delivery | |
| | Total Postage & Fees | |

KELLEY MECHELLE FLORIDA RPT
6630 WHITE BLOSSOM CIR
JACKSONVILLE FL 32258

USPS®
Receipt for
Certified Mail™
No Insurance Coverage Provided
Do Not Use for International Mail

POSTMARK OR DATE

06/26/13





Prosecution Services Unit
4052 Bald Cypress Way, Bin #C65
Tallahassee, Florida 32399-3265



7196 9008 9111 9326 2796

Handwritten signature: Kelly Michelle

KELLY, MICHELLE FLORIDA RET.

- MOVED, LEFT NO ADDRESS
- ATTEMPTED - NOT KNOWN
- UNCLAIMED
- REFUSED
- NO SUCH STREET
- NO SUCH NUMBER
- INSUFFICIENT ADDRESS
- NOT DELIVERABLE AS
ADDRESSED UNABLE TO FORWARD



UNITED STATES
POSTAL SERVICE

CERTIFIED MAIL

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Rick Scott
Governor

John H. Armstrong, MD, FACS
State Surgeon General & Secretary

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AFFIDAVIT OF SERVICE OR DILIGENT SEARCH

DOH

Petitioner

vs

Case No. RPT 2012-07164

KELLEY M. FLORIDA, RPT

Respondent

COMES NOW, the affiant, who first being duly sworn, deposes and states:

1) Affiant is an Investigator/Inspector employed by the DEPARTMENT OF HEALTH, State of Florida.

2) That on (date) 09/03/13, Affiant made a diligent effort to locate Respondent, to serve X Administrative Complaint and related papers; Order compelling examination(s); Subpoena(s); Final order; Notice to cease and desist; ESO/ERO and related papers.

3) Check applicable answer below:

X Affiant made personal service on Respondent, ~~or on some person~~ at Respondent's usual place of abode ~~over the age of 15 residing there~~, on (date) 09/03/13.

 Affiant was unable to make service after searching for Respondent at: (a) all addresses for Respondent shown in the DOH investigation of the case; (b) all official addresses for Respondent shown in his licensing records on the computer terminal or Board office; (c) Local telephone company for the last area Respondent was known to frequent; (d) Division of Drivers

Licenses; and (e) Utilities (electric, cable, etc.); any others:

[Signature]
Affiant

State Of Florida
County Of Duval

Before me, personally appeared Ryan F. Heal whose identity is known to me by Personal Knowledge (type of identification) and who, acknowledges that his/her signature appears above.

Sworn to or affirmed by Affiant before me this 4th day of September 2013.

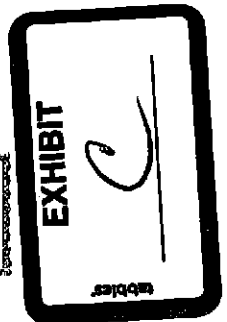
Paul D Kloko
Notary Public-State of Florida

My Commission Expires

Paul D Kloko
Type or Print Name



INV FORM 321



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state, county & community efforts.



Rick Scott
Governor

John H. Armstrong, MD, FACS
State Surgeon General & Secretary

Vision: To be the Healthiest State in the Nation

Affidavit of Non-Receipt

I, Patrick Kennedy, hereby certify in my official capacity as
custodian for the Board's licensure files that the Board of Pharmacy as of
June 16, 2014, has no evidence of an Election of Rights form or other
responsive pleading requesting a hearing prior to any agency action regarding **Kelley**
Mechelle Florida, R.P.T.; 2012-07164, which would affect the Subject's substantial
interests or rights.

Patrick Kennedy
Custodian of Records
Florida Board of Pharmacy

Before me, personally appeared Patrick Kennedy, whose identity is
known to me personally and who, under, oath, acknowledges that his/her signature
appears above.

Sworn to and subscribed before me this 16th day of

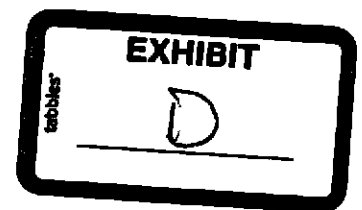
June, 2014.



Lorraine Gail Curry
Notary Public
My commission expires:

Florida Department of Health
Office of the General Counsel - Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65 • Tallahassee, FL 32399-1701
PHONE: 850/245-4444 • FAX 850/245-4683

www.FloridasHealth.com
TWITTER: HealthyFLA
FACEBOOK: FLDepartmentofHealth
YOUTUBE: fdch



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Rick Scott
Governor

John H. Armstrong, MD, FACS
State Surgeon General & Secretary

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AFFIDAVIT

I, Angel Sanders, Deputy Clerk for the Department Clerk's Office, hereby certify in my official capacity as custodian for the Department Clerk's records, that the Department Clerk's Office has not received an Election of Rights form or other responsive pleading, which requests a hearing prior to any Department action regarding Kelley Mechelle Florida, R.P.T.; 2012-07164, which would affect the Respondent's substantial interests or rights.

Angel Sanders
Custodian of Record
Department Clerk's Office

Before me, personally appeared Angel Sanders, whose identity is known to me personally and who, under oath, acknowledges that his/her signature appears above.

Sworn to and subscribed before me this 6th day of June, 2014.

Amy L. Caraway
Notary Public

My Commission Expires:



AMY L. CARRAWAY
MY COMMISSION # FF 073892
EXPIRES: January 17, 2018
Bonded Thru Budget Notary Services



STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,
Petitioner,

v.

CASE NO. 2012-07164

KELLEY MECHELLE FLORIDA, R.P.T.,
Respondent.

MOTION TO ASSESS COSTS IN ACCORDANCE
WITH SECTION 456.072(4)

COMES NOW the Department of Health, by and through undersigned counsel, and moves the Board of Pharmacy for the entry of a Final Order assessing costs against the Respondent for the investigation and prosecution of this case in accordance with Section 456.072(4), Florida Statutes. As grounds therefore, the Petitioner states the following:

1. At its next regularly scheduled meeting, the Board of Pharmacy will take up for consideration the above-styled disciplinary action and will enter a Final Order therein.

2. Section 456.072(4), Florida Statutes, states as follows:

In addition to any other discipline imposed through final order, or citation, entered on or

after July 1, 2001, pursuant to this section or discipline imposed through final order, or citation, entered on or after July 1, 2001, for a violation of any practice act, the board, or the department when there is not board, shall assess costs related to the investigation and prosecution of the case. Such costs related to the investigation and prosecution include, but are not limited to, salaries and benefits of personnel, costs related to the time spent by the attorney and other personnel working on the case, and any other expenses incurred by the department for the case. The board, or the department when there is no board, shall determine the amount of costs to be assessed after its consideration of an affidavit of itemized costs and any written objections thereto.

3. The investigation and prosecution of this case has resulted in costs in the total amount of \$1,902.84, based on the following itemized statement of costs:

| ***** Cost to Date ***** | | |
|--------------------------|-------|------------|
| | Hours | Costs |
| Complaint: | 0.80 | \$46.10 |
| Investigation: | 21.20 | \$1,308.40 |
| Legal: | 5.20 | \$546.73 |
| Compliance: | 0.00 | \$0.00 |
| Sub Total: | 27.25 | \$1,902.84 |
| Expenses to Date: | | \$0.00 |
| Prior | | \$0.00 |

| | | |
|----------------------|--|------------|
| Amount: | | |
| Total Costs to Date: | | \$1,902.84 |

Therefore, the Petitioner seeks an assessment of costs against the Respondent in the amount of \$1,356.11 as evidenced in the attached affidavit. (Exhibit A).

4. Should the Respondent file written objections to the assessment of costs, within ten (10) days of the date of this motion, specifying the grounds for the objections and the specific elements of the costs to which the objections are made, the Petitioner requests that the Board determine the amount of costs to be assessed based upon its consideration of the affidavit attached as Exhibit A and any timely-filed written objections.

5. Petitioner requests that the Board grant this motion and assess costs in the amount of \$1,356.11 as supported by competent, substantial evidence. This assessment of costs is in addition to any other discipline imposed by the Board and is in accordance with Section 456.072(4), Florida Statutes.

WHEREFORE, the Department of Health requests that the Board of Pharmacy enter a Final Order assessing costs against the Respondent in the amount of \$1,356.11.

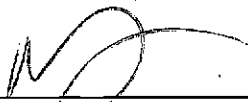
DATED this 16 day of June, 2014.



Matthew Witters
Assistant General Counsel
Fla. Bar No. 91245
Florida Department of Health
Office of the General Counsel
4052 Bald Cypress Way, Bin #C65
Tallahassee, FL 32399-3265
Telephone: (850) 245-4444
Facsimile: (850) 245-4683
Email: matthew.witters@flhealth.gov

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Motion to Assess Costs has been provided by U.S. Mail this 16 day of June, 2014, to Kelley Florida, 6630 White Blossom Circle, Jacksonville, FL 32258.



Matthew Witters
Assistant General Counsel

AFFIDAVIT OF FEES AND COSTS EXPENDED

STATE OF FLORIDA
COUNTY OF LEON:

BEFORE ME, the undersigned authority, personally appeared **SHONDRA A. WATSON** who was sworn and states as follows:

- 1) My name is Shondra A. Watson.
- 2) I am over the age of 18, competent to testify, and make this affidavit upon my own personal knowledge and after review of the records at the Florida Department of Health (DOH).
- 3) I am a Government Analyst in the Consumer Services and Compliance Management Unit where all complaints against Florida health care licensees (e.g., medical doctors, dentists, nurses, respiratory therapists) are officially filed. I have been in my current job position for more than one year. My business address is 4052 Bald Cypress Way, Bin C-75 Tallahassee, Florida 32399-3275.
- 4) As a Government Analyst in the Consumer Services and Compliance Management Unit, my job duties include reviewing data in the Time Tracking System and verifying that the amounts correspond. The Time Tracking System is a computer program which records and tracks DOH's costs regarding the investigation and prosecution of cases against Florida health care licensees.
- 5) As of today, DOH's total costs for investigating and prosecuting DOH case number **2012-07164** (Department of Health v **KELLEY MECHELLE FLORIDA, R.P.T.**) are **ONE THOUSAND, NINE HUNDRED, TWO DOLLARS, AND EIGHTY-FOUR CENTS, (\$1,902.84)**.
- 6) The costs for DOH case number **2012-07164** (Department of Health v. **KELLEY MECHELLE FLORIDA, R.P.T.**) are summarized in Exhibit 1 (Cost Summary Report), which is attached to this document.
- 7) The itemized costs and expenses for DOH case number **2012-07164** (Department of Health v. **KELLEY MECHELLE FLORIDA, R.P.T.**) are detailed in Exhibit 2 (Itemized Cost Report and Itemized Expense Report and receipts), which is attached to this document.
- 8) The itemized costs as reflected in Exhibit 2 are determined by the following method: DOH employees who work on cases daily are to



keep track of their time in six-minute increments (e.g., investigators and lawyers). A designated DOH employee in the Consumer Services Unit, Legal Department, and in each area office, inputs the time worked and expenses spent into the Time Tracking System. Time and expenses are charged against a state health care Board (e.g., Florida Board of Medicine, Florida Board of Dentistry, Florida Board of Osteopathic Medicine), and/or a case. If no Board or case can be charged, then the time and expenses are charged as administrative time. The hourly rate of each employee is calculated by formulas established by the Department. (See the Itemized Cost Report)

- 9) Shondra A. Watson, first being duly sworn, states that she has read the foregoing Affidavit and its attachments and the statements contained therein are true and correct to the best of her knowledge and belief.

FURTHER AFFIANT SAYETH NOT.

Shondra A. Watson
Shondra A. Watson, Affiant

State of Florida
County of Leon

Sworn to and subscribed before me this 26th day of December, 2013,
by Shondra A. Watson, who is personally known to me.

Towanda Burnett
Notary Signature

Towanda Burnett
Name of Notary Printed



Stamp Commissioned Name of Notary Public:

Complaint Cost Summary

Complaint Number: 201207164

Subject's Name: FLORIDA, KELLEY MECHELLE

| ***** Cost to Date ***** | | |
|-----------------------------|-------|------------|
| | Hours | Costs |
| Complaint: | 0.80 | \$46.10 |
| Investigation: | 21.20 | \$1,308.40 |
| Legal: | 5.20 | \$546.73 |
| Compliance: | 0.05 | \$1.61 |
| | ***** | ***** |
| Sub Total: | 27.25 | \$1,902.84 |
| Expenses to Date: | | \$0.00 |
| Prior Amount: | | \$0.00 |
| Total Costs to Date: | | \$1,902.84 |



**Time Tracking System
Itemized Cost by Complaint**

Complaint 201207164

Report Date 12/26/2013

Page 1 of 3

| Staff Code | Activity Hours | Staff Rate | Cost | Activity Date | Activity Code | Activity Description |
|------------|----------------|------------|------|---------------|---------------|----------------------|
|------------|----------------|------------|------|---------------|---------------|----------------------|

COMPLIANCE MANAGEMENT UNIT

| | | | | | | |
|------------------|-------------|---------|---------------|------------|-----|------------------------------|
| HC27 | 0.05 | \$32.13 | \$1.61 | 04/01/2013 | 137 | PRIORITY DOWNGRADES/UPGRADES |
| Sub Total | 0.05 | | \$1.61 | | | |

CONSUMER-SERVICES UNIT

| | | | | | | |
|------------------|-------------|---------|----------------|------------|----|--|
| HA107 | 0.80 | \$57.62 | \$46.10 | 05/10/2012 | 78 | INITIAL REVIEW AND ANALYSIS OF COMPLAINT |
| Sub Total | 0.80 | | \$46.10 | | | |

INVESTIGATIVE SERVICES UNIT

| | | | | | | |
|------|------|---------|----------|------------|-----|--|
| J191 | 1.70 | \$61.19 | \$104.02 | 05/11/2012 | 58 | TRAVEL TIME |
| J181 | 2.00 | \$61.19 | \$122.38 | 05/14/2012 | 4 | ROUTINE INVESTIGATIVE WORK |
| J181 | 3.00 | \$61.19 | \$183.57 | 05/14/2012 | 76 | REPORT PREPARATION |
| J181 | 1.00 | \$61.19 | \$61.19 | 05/16/2012 | 4 | ROUTINE INVESTIGATIVE WORK |
| J181 | 1.00 | \$61.19 | \$61.19 | 05/16/2012 | 76 | REPORT PREPARATION |
| J181 | 1.50 | \$61.19 | \$91.79 | 05/17/2012 | 4 | ROUTINE INVESTIGATIVE WORK |
| J181 | 0.50 | \$61.19 | \$30.60 | 08/14/2012 | 6 | SUPPLEMENTAL INVESTIGATION |
| J181 | 1.00 | \$61.19 | \$61.19 | 08/14/2012 | 58 | TRAVEL TIME |
| J181 | 1.00 | \$61.19 | \$61.19 | 08/23/2012 | 6 | SUPPLEMENTAL INVESTIGATION |
| J181 | 1.00 | \$61.19 | \$61.19 | 09/27/2012 | 6 | SUPPLEMENTAL INVESTIGATION |
| J181 | 0.50 | \$61.19 | \$30.60 | 10/02/2012 | 6 | SUPPLEMENTAL INVESTIGATION |
| J181 | 1.00 | \$61.19 | \$61.19 | 10/03/2012 | 6 | SUPPLEMENTAL INVESTIGATION |
| J181 | 1.00 | \$61.19 | \$61.19 | 10/03/2012 | 58 | TRAVEL TIME |
| J181 | 1.00 | \$61.19 | \$61.19 | 10/09/2012 | 6 | SUPPLEMENTAL INVESTIGATION |
| J181 | 1.00 | \$63.98 | \$63.98 | 08/08/2013 | 6 | SUPPLEMENTAL INVESTIGATION |
| J181 | 0.50 | \$63.98 | \$31.99 | 08/19/2013 | 6 | SUPPLEMENTAL INVESTIGATION |
| J181 | 2.00 | \$63.98 | \$127.96 | 09/03/2013 | 100 | SERVICE OF ADMINISTRATIVE COMPLAINTS, SUBPOENAS, NOTICE TO CEASE |
| J181 | 0.50 | \$63.98 | \$31.99 | 09/04/2013 | 6 | SUPPLEMENTAL INVESTIGATION |



**Time Tracking System
Itemized Cost by Complaint**

Complaint 201207164

Report Date 12/26/2013

| Staff Code | Activity Hours | Staff Rate | Cost | Activity Date | Activity Code | Activity Description |
|------------|----------------|------------|------|---------------|---------------|----------------------|
|------------|----------------|------------|------|---------------|---------------|----------------------|

Sub Total 21.20 \$1,308.40

PROSECUTION SERVICES UNIT

| | | | | | | |
|-----------|------|----------|----------|------------|----|---|
| HLL83B | 0.30 | \$102.41 | \$30.72 | 05/21/2012 | 78 | INITIAL REVIEW AND ANALYSIS OF COMPLAINT |
| HLL83B | 0.50 | \$102.41 | \$51.21 | 06/14/2012 | 40 | PREPARATION OF OR REVISION OF A PLEADING |
| HLL5A | 0.40 | \$102.41 | \$40.96 | 06/15/2012 | 27 | REVIEW MEMORANDUM |
| HLL83B | 0.40 | \$102.41 | \$40.96 | 06/18/2012 | 40 | PREPARATION OF OR REVISION OF A PLEADING |
| HLL90B | 0.20 | \$106.35 | \$21.27 | 04/01/2013 | 25 | REVIEW CASE FILE |
| HLL90B | 1.00 | \$106.35 | \$106.35 | 04/02/2013 | 28 | PREPARE OR REVISE ADMINISTRATIVE COMPLAINT |
| HLL90B | 0.40 | \$106.35 | \$42.54 | 04/03/2013 | 25 | REVIEW CASE FILE |
| HLL90B | 0.20 | \$106.35 | \$21.27 | 04/03/2013 | 70 | CONFERENCES WITH LAWYERS |
| HLL90B | 0.30 | \$106.35 | \$31.91 | 04/03/2013 | 28 | PREPARE OR REVISE ADMINISTRATIVE COMPLAINT |
| HLL90B | 0.20 | \$106.35 | \$21.27 | 04/11/2013 | 89 | PROBABLE CAUSE PREPARATION |
| HLL90B | 0.20 | \$106.35 | \$21.27 | 05/21/2013 | 89 | PROBABLE CAUSE PREPARATION |
| HLL90B | 0.10 | \$106.35 | \$10.64 | 06/20/2013 | 63 | PRESENTATION OF CASES TO PROBABLE CAUSE PANEL |
| HLL90B | 0.20 | \$106.35 | \$21.27 | 06/20/2013 | 79 | STIPULATION |
| HLL90B | 0.30 | \$106.35 | \$31.91 | 06/25/2013 | 90 | POST PROBABLE CAUSE PROCESSING |
| HLL90B | 0.20 | \$106.35 | \$21.27 | 06/25/2013 | 40 | PREPARATION OF OR REVISION OF A PLEADING |
| HLL90B | 0.10 | \$106.35 | \$10.64 | 08/08/2013 | 25 | REVIEW CASE FILE |
| HLL90B | 0.20 | \$106.35 | \$21.27 | 09/04/2013 | 25 | REVIEW CASE FILE |
| Sub Total | 5.20 | | \$546.73 | | | |

| | |
|-------------------|-------------------|
| Total Cost | \$1,902.84 |
|-------------------|-------------------|

**Time Tracking System
Itemized Cost by Complaint**

Complaint 201207164

Report Date 12/26/2013

Page 3 of 3

| Staff Code | Activity Hours | Staff Rate | Cost | Activity Date | Activity Code | Activity Description |
|------------|----------------|------------|------|---------------|---------------|----------------------|
|------------|----------------|------------|------|---------------|---------------|----------------------|

*** CONFIDENTIAL ***

**Time Tracking System
Itemized Expense by Complaint
Complaint**

Report Date: 12/26/2013

Page 1 of 1

| Staff Code | Expense Date | Expense Amount | Expense Code | Expense Code Description |
|------------|--------------|----------------|--------------|--------------------------|
|------------|--------------|----------------|--------------|--------------------------|

SubTotal

Total Expenses

MEMORANDUM OF PROBABLE CAUSE DETERMINATION

TO: Department of Health, Prosecution Services Unit
FROM: Chair, Probable Cause Panel, Florida Board of Pharmacy
RE: Kelly Mechelle Florida, R.P.T. (MGW)
Case Number: 2012-07164

MEMBERS: Gavin Meshad and Michele Weizer *Meseros/Rasch*


DATE OF PCP: June 20, 2013 **AGENDA ITEM:** A-9

.....
This matter came before the Probable Cause Panel on the above date. Having reviewed the complete investigative file, recommendations of the Department, and any information submitted by the Subject, and being otherwise fully advised in the premises, the panel finds that:

Probable cause exists and a formal complaint shall be filed for violation of statutes and rules, including but not limited to:

Section 456.016(1)(e), Florida Statutes (2011);

- Probable Cause was **not** found in this case
- In lieu of probable cause, issue **letter of guidance**
- Case requires **expert review**
- Case needs **further investigation**
 - a)
 - b)
- Upon **reconsideration**, dismiss
- other**



Chair, Probable Cause Panel
Board of Pharmacy

6/20/13

Date

2013 JUL -5 PM 2:24

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EXEMPT FROM PUBLIC RECORDS LAWS.

456.057 - Ownership and control of patient records; report or copies of records to be
furnished.—

10)(a)All patient records obtained by the department and any other documents
maintained by the department which identify the patient by name are confidential and exempt
from s. 119.07(1) and shall be used solely for the purpose of the department and the appropriate
regulatory board in its investigation, prosecution, and appeal of disciplinary proceedings. The
records shall not be available to the public as part of the record of investigation for and
prosecution in disciplinary proceedings made available to the public by the department or the
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appropriate board.



Rick Scott
Governor

Mission:

To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.

John H. Armstrong, MD, FACS

Surgeon General & Sec

Vision: To be the **Healthiest State** in the Nation

**STATE OF FLORIDA
BOARD OF PHARMACY**

DEPARTMENT OF HEALTH,
PETITIONER,

VS.

CASE NO. 201400231

CASTEDO EVELIO RODRIGUEZ,
RESPONDENT.

NOTICE

TO: CASTEDO EVELIO RODRIGUEZ
5100 SW 2ND STREET
MIAMI, FL 33144

PLEASE TAKE NOTICE that a disciplinary hearing will be heard before the BOARD OF PHARMACY on Wednesday, August 13, 2014, commencing at 9 a.m. Although the Respondent is not required to be present, it is in their best interest to attend. This hearing will be held at DoubleTree by Hilton, 100 Fairway Drive, Deerfield Beach, FL 33441, 1(800) 624-3606..

The purpose of the hearing is to consider a motion for: Determination of Waiver

Note: Cases shown on the agenda as "timed" items may be heard in a different order or may be heard earlier if all parties are present. Cases are scheduled beginning at 9 a.m.; therefore, it is imperative that you arrive promptly at 9 a.m. and be prepared to be at the meeting for several hours until your case is heard.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Hearing has been sent by U.S. Mail to the above address(es) this 10th day of July, 2014.


Patrick Kennedy

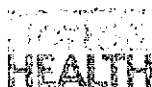
Board Executive Director
BOARD OF PHARMACY
Florida Department of Health
4052 Bald Cypress Way, Bin #
Tallahassee, FL 32399 -

Florida Department of Health
Division of Medical Quality Assurance
4052 Bald Cypress Way, Bin C10 • Tallahassee, FL 32399-3260
PHONE: (850) 245-4444 • FAX : (850) 245-4791

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Rick Scott

Governor

John H. Armstrong, MD, FACS

Surgeon General & Secretary

MEMORANDUM

TO: Patrick W. Kennedy, M.A., Executive Director, Board of Pharmacy
FROM: Karine Gialella, Assistant General Counsel
RE: **Determination of Waiver**
SUBJECT: DOH v. Castedo Evelio Rodriguez PSI, aka Evelio Rodriguez, PSI
 DOH Case Number 2014-00231
DATE: June 13, 2014

Enclosed you will find materials in the above-referenced case to be placed on the agenda for final agency action for the August 12-13, 2014 meeting of the board. The following information is provided in this regard.

Subject: Castedo Evelio Rodriguez, PSI
 Aka Evelio Rodriguez, PSI.

Subject's Address of Record: 5100 Sw 2nd Street
 Miami, FL 33144

Enforcement Address: 5100 Sw 2nd Street
 Miami, FL 33144

Subject's License No: 21966 **Rank:** PSI

Licensure File No: 9731

Initial Licensure Date: 2/28/2007

Board Certification: No

Required to Appear: No

Current IPN/PRN Contract: No

Allegation(s): Count I: Section 465.016(1)(e), Florida Statutes (2012-2013), by violating section 893.13(6)(a), Florida Statutes (2012-2013)
 Count II: Section 465.016(1)(i), Florida Statutes (2012-2013)
 Count III: Section 465.016(1)(e), Florida Statutes (2012-2013) by violating 893.13(7)(a)(9), Florida Statutes (2012-2013)

Prior Discipline: None

Probable Cause Panel: March 13, 2013
 Albert Garcia
 Leo Fallon

Subject's Attorney: Pro Se

Complainant/Address: Department Of Health/Investigative Services Unit-Miami

Materials Submitted: Memorandum to the Board
Motion for Determination of Waiver and Entry of Final Order Following Hearing
Exhibit A - Administrative Complaint
Exhibit B - Copy of Certified Mail Receipt
Exhibit C - Proof of Service
Exhibit D - Affidavit of Non-Receipt -Board Office
Exhibit E - Affidavit of Non-Receipt - Agency Clerk's Office
Motion to Assess Costs with Attachments
Exhibit A- Affidavit of Fees and Costs
Exhibit 1 - Complaint Cost Summary
Exhibit 2 - Itemized Cost by Complaint
Final Investigative Report with Exhibits 1-2
Order of Emergency Suspension of License
Memorandum of Finding Probable Cause

Disciplinary Guidelines:

Section 893.13(6)(a), Florida Statutes (2013):

Minimum: \$5,000 fine and two (2) years probation.

Maximum: \$10,000 fine and one (1) year suspension followed by two (2) years' probation, to Revocation.

Section 465.016(1)(e), Florida Statutes (2013):

Minimum: \$250 fine without ingestion or harm, to \$500 with ingestion, and complete approved CE course in the prevention of medication errors of no less than eight (8) hours.

Maximum: \$500 fine without ingestion or harm, to \$1,000 with ingestion, complete approved CE course in the prevention of medication errors of no less than eight (8) hours, and two (2) years' probation, to Revocation.

Section 893.13(7)(a)(9), Florida Statutes (2013):

Minimum: \$5,000 fine and two (2) years probation.

Maximum: \$10,000 fine and one (1) year suspension followed by two (2) years' probation, to Revocation.

Preliminary Case Remarks: Determination of Waiver

This case involves a three-count Administrative Complaint alleging that Respondent violated the following:

- Section 465.016(1)(e), Florida Statutes, by violating Section 893.13(6)(a), Florida Statutes by being in actual or constructive possession of phentermine that was not lawfully obtained from a practitioner or pursuant to a valid prescription or order of a practitioner.
- Section 465.016(1)(i), Florida Statutes, by distributing phentermine other than in the course of the professional practice of pharmacy
- Section 465.016(1)(e), Florida Statutes by violating Section 893.13(7)(a)(9) by acquiring possession of phentermine by misrepresentation, fraud, forgery, deception or subterfuge.

On or about November 2013, Respondent's place of employment conducted an audit of the pharmacy department which revealed a discrepancy in the count of phentermine tablets.

On or about December 23, 2013, video surveillance captured Respondent taking possession of one-and-a-half bottles of phentermine, a total of 146 tablets.

On or about December 24, 2013, Miami-Dade County Police presented to Respondent's employment to investigate the theft of phentermine tablets. Respondent admitted to the presenting officer that he took the tablets, left the pharmacy and gave the tablets out to individuals. Respondent admitted that he had been taking the phentermine tablets for approximately one year.

Respondent was charged with a felony count of third degree grand theft. The charge is currently pending resolution.

Recommended Penalty:

Revocation

STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,

Petitioner,

vs.

CASE NO. 2014-00231

CASTEDO EVELIO RODRIGUEZ, PSI.
AKA EVELIO RODRIGUEZ, PSI

Respondent.

**MOTION FOR DETERMINATION OF WAIVER AND
ENTRY OF FINAL ORDER FOLLOWING HEARING**

Petitioner, Department of Health, by and through undersigned counsel moves the Board of Pharmacy to find that Respondent has waived his right to elect a method of resolution of the pending Administrative Complaint, determine that no material facts are in dispute, conduct a hearing not involving disputed issues of material fact, and enter a Final Order thereafter.

As grounds therefore, Petitioner states:

1. An Administrative Complaint was filed against Respondent on March 13, 2014. A copy of said Administrative Complaint is attached hereto as Petitioner's Exhibit A.

2. A copy of the Administrative Complaint, Explanation of Rights, and Election of Rights forms were sent to Respondent's address of record, via certified US mail delivery, on March 21, 2014, article number 7005 2570 0001 2576 7675.

3. The attempt of service via certified US mail was unsuccessful. A copy of the envelope marked "Not Known" by the United States Postal Service is attached hereto as Petitioner's Exhibit B.

4. On April 9, 2014, a request was submitted to the Department of Health Investigator to have the Administrative Complaint, Explanation of Rights, and Election of Rights forms hand served to the Respondent.

5. The attempt of service via hand service by the Department of Health Investigator was successful. A copy of the Affidavit of Service is attached hereto as Petitioner's Exhibit C.

6. Pursuant to Rule 28-106.111, Florida Administrative Code, a person who receives written notice of agency decision and fails to file a written request for hearing within 21 days waives the right to request a hearing.

7. Respondent has not filed with the Department of Health nor the Board of Pharmacy an Election of Rights form or other responsive pleading in

this case disputing the allegations of fact contained in the Administrative Complaint within the twenty-one (21) day period required by Rule 28-106.111, Florida Administrative Code. Copies of affidavits supporting same are attached hereto as Petitioner's Exhibits D and E.

8. Respondent is advised by this Motion that a copy of the investigative file in this case shall be furnished to the Board to establish a prima facie case of the violations set forth in the Administrative Complaint.

9. Petitioner has determined that there are no material facts in dispute and Respondent has waived his right to elect a method of resolution.

10. Petitioner requests that this Motion and hearing be placed on the August 2014 meeting of the Board of Pharmacy, to be held on **August 12-13, 2014** in Deerfield Beach, FL.

WHEREFORE, Petitioner respectfully requests the Board find that Respondent has waived his right to elect a method of resolution of this matter, find that there are no material facts in dispute, hold a hearing not involving material issues of disputed fact based on the information contained in the investigative file, find that Respondent violated Chapters 456 and 459, Florida Statutes, as alleged in the Administrative Complaint, and enter a Final Order.

DATED this 13th day of June, 2014.

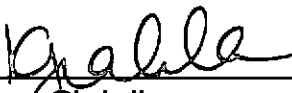
Respectfully submitted,



Karine Giaella
Assistant General Counsel
Florida Bar No. 0091101
Prosecution Services Unit
Department of Health
4052 Bald Cypress Way Bin-C-65
Tallahassee, Florida 32399-3265
Telephone (850)245-4444
Facsimile (850)245-4662 (fax)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Motion for Determination of Waiver and Entry of Final Order Following Hearing has been furnished to Castedo Evelio Rodriguez, aka Evelio Rodriguez, PSI., 5100 SW 2nd Street, Miami, FL 33144 by U.S. mail, on June 13th 2014.



Karine Gialla
Assistant General Counsel

KG/as

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

PETITIONER,

v.

**CASE NOS. 2014-00228
2014-00231**

**EVELIO RODRIGUEZ, R.P.T., A/K/A
CASTEDO EVELIO RODRIGUEZ, R.P.I.**

RESPONDENT.

ADMINISTRATIVE COMPLAINT

Petitioner, Department of Health, by and through undersigned counsel, files this Administrative Complaint before the Board of Pharmacy against Respondent, Evelio Rodriguez, R.P.T., A/K/A Castedo Evelio Rodriguez, R.P.I., and in support thereof alleges:

1. Petitioner is the state agency charged with regulating the practice of pharmacy pursuant to Chapters 20, Florida Statutes (2012-2013); Chapter 456, Florida Statutes (2012-2013); and Chapter 465, Florida Statutes (2012-2013).
2. At all times material to this Complaint, Respondent was a registered pharmacy technician and registered pharmacy Intern in the

EXHIBIT

A

State of Florida, having been issued registration numbers RPT 4704 and PSI 21966.

3. Respondent holds two addresses of record. Respondent's first address of record is 3715 NW 7th Street, Miami, Florida 33126. Respondent's second address of record is 670 NW 6th Street, #208, Miami, Florida 33136.

4. At all times material to this Complaint, Respondent worked at Walgreens ("WG") located at 3715 NW 7th Street, Miami, Florida 33126.

5. On or around November 2013, Walgreen's headquarters conducted an audit of the regional Walgreens stores' pharmacy departments. This audit revealed that more phentermine tablets were dispensed from WG than were ordered.

6. Phentermine is a stimulant commonly prescribed to assist with weight loss. According to Section 893.03(4), Florida Statutes (2012-2013), phentermine is a Schedule IV controlled substance that has a low potential for abuse relative to the substances in Schedule III and has a currently accepted medical use in treatment in the United States,

and abuse of phentermine may lead to limited physical or psychological dependence relative to the substances in Schedule III.

7. On or about December 23, 2013, video surveillance captured Respondent taking possession of the contents of one-and-a-half bottles of phentermine, a total of 146 tablets.

8. On or about December 24, 2013, Miami-Dade County Police dispatched Officer J.P. to WG in reference to a theft of prescription tablets.

9. Respondent informed Officer J.P. that he took a total of 146 tablets of phentermine HCl 13.7mg from inside the prescription bottles on the pharmacy counter at WG.

10. Respondent informed Officer J.P. that he left the store with the tablets, drove to meet some individuals and gave them the tablets.

11. Respondent was arrested and charged with felony count of third degree grand theft in Miami-Dade County Case Number 13-2013 CF-0300830001XX.

COUNT I

12. Petitioner realleges and incorporates by reference paragraphs one (1) through eleven (11) as if fully set forth herein.

13. Section 465.016(1)(e), Florida Statutes (2012-2013), subjects registered pharmacy technicians and registered pharmacy interns to discipline for violating Chapter 893, Florida Statutes (2012-2013).

14. Section 893.13(6)(a), Florida Statutes (2012-2013), states in pertinent part:

(6)(a) It is unlawful for any person to be in actual or constructive possession of a controlled substance unless such controlled substance was lawfully obtained from a practitioner or pursuant to a valid prescription or order of a practitioner while acting in the course of his or her professional practice or to be in actual or constructive possession of a controlled substance except as authorized by this chapter....

15. Respondent violated Section 465.016(1)(e), Florida Statutes (2012-2013), by violating Section 893.13(6)(a), Florida Statutes (2012-2013), by being in actual or constructive possession of phentermine, a controlled substance, that was not lawfully obtained from a practitioner or pursuant to a valid prescription or order of a practitioner while acting in the course of his professional practice.

COUNT II

16. Petitioner realleges and incorporates by reference paragraphs one (1) through eleven (11) as if fully set forth herein.

17. Section 465.016(1)(i), Florida Statutes (2012-2013), subjects registered pharmacy technicians and registered pharmacy interns to discipline for "compounding, dispensing, or distributing a legend drug, including any controlled substance, other than in the course of the professional practice of pharmacy."

18. Respondent violated 465.016(1)(i), Florida Statutes (2012-2013) by distributing phentermine, a controlled substance, other than in the course of the professional practice of pharmacy.

COUNT III

19. Petitioner realleges and incorporates by reference paragraphs one (1) through eleven (11) as if fully set forth herein.

20. Section 465.016(1)(e), Florida Statutes (2012-2013), subjects registered pharmacy technicians and registered pharmacy interns to discipline for violating Chapter 893, Florida Statutes (2012-2013).


21. Section 893.13(7)(a)(9), Florida Statutes (2012-2013), states that "A person may not...Acquire or obtain, or attempt to acquire or obtain, possession of a controlled substance by misrepresentation, fraud, forgery, deception or subterfuge."

22. Respondent violated 465.016(1)(e), Florida Statutes (2012-2013), by violating Section 893.13(7)(a)(9), Florida Statutes (2012-2013), by acquiring possession of phentermine, a controlled substance, by misrepresentation, fraud, forgery, deception or subterfuge in violation of Chapter 893.

WHEREFORE, Petitioner respectfully requests that the Board of Pharmacy enter an order imposing one or more of the following penalties: permanent revocation or suspension of Respondent's license, restriction of practice, imposition of an administrative fine, Issuance of a reprimand, placement of Respondent on probation, corrective action, refund of fees billed or collected, remedial education and/or any other relief that the Board deems appropriate.

SIGNED this 13th day of March, 2014.

John H. Armstrong, MD, FACS
State Surgeon General and
Secretary of Health



Karine Giaella
Assistant General Counsel
DOH Prosecution Services Unit

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK *Angel Sanders*
DATE **MAR 13 2014**

4052 Bald Cypress Way, Bin C-65
Tallahassee, FL 32399-3265
Florida Bar Number 0091101
Phone (850) 245-4444 x 8199
Fax (850) 245-4662
Karine.Gialella@flhealth.gov

PCP: March 13, 2014
PCP Members: Albert Garcia; Leo Fallon

DOH v. Evelio Rodríguez, R.P.T., A/K/A Castedo Evello Rodriguez, R.P.I.
DOH Case Numbers 2014-00228; 2014-00231

7

20

NOTICE OF RIGHTS

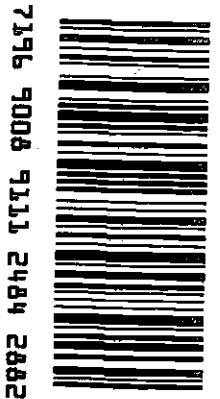
Respondent has the right to request a hearing to be conducted in accordance with Section 120.569 and 120.57, Florida Statutes, to be represented by counsel or other qualified representative, to present evidence and argument, to call and cross-examine witnesses and to have subpoena and subpoena duces tecum issued on his or her behalf if a hearing is requested.

NOTICE REGARDING ASSESSMENT OF COSTS

Respondent is placed on notice that Petitioner has incurred costs related to the investigation and prosecution of this matter. Pursuant to Section 456.072(4), Florida Statutes, the Board shall assess costs related to the investigation and prosecution of a disciplinary matter, which may include attorney hours and costs, on the Respondent in addition any other discipline imposed.



Florida Department of Health
Office of the General Counsel
Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, Florida 32399-1701



7196 9008 9111 2484 2882

CERTIFIED MAIL

EXHIBIT

B

32399



Florida Department of Health
Office of the General Counsel
Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, Florida 32399-1701

PRACTITIONER REGULATION
LEGAL

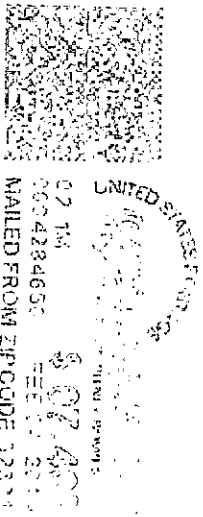
2014 MAR 13 AM 11:44

NSN



7196 9008 9111 2484 2875

CERTIFIED MAIL



Evelio Rodriguez, R.P.T.,
a/k/a Castedo Evelio Rodriguez, R.P.I.
5100 S.W. 2ns Street

RETURN TO SENDER
UNCLAIMED
UNABLE TO FORWARD

BC: 32399170199 *0838-03114-24-40

32399170199

BC: 32399170199 *0838-02900-24-40

RETURN TO SENDER
ATTEMPTED - NOT KNOWN
UNABLE TO FORWARD

NSN

Evelio Rodriguez, R.P.T.,
a/k/a Castedo Evelio Rodriguez, R.P.I.

NEXTE 333 FEE 1009 0003/06/14

Thank you for using Return Receipt Service

RETURN RECEIPT REQUESTED
USPS® MAIL CARRIER
DETACH ALONG PERFORATION

2. Article Number



7196 9008 9111 2484 2882

3. Service Type **CERTIFIED MAIL™**

4. Restricted Delivery? (Extra Fee) Yes

1. Article Addressed to:

Evelio Rodriguez, R.P.T.,
a/k/a Castedo Evelio Rodriguez, R.P.I.
3715 N.W. 7th Street
Miami, FL 33126

PS Form 3811, January 2005

Domestic Return Receipt

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT
OF THIS LINE

2. Article Number



7196 9008 9111 2484 2875

3. Service Type **CERTIFIED MAIL™**

4. Restricted Delivery? (Extra Fee) Yes

1. Article Addressed to:

Evelio Rodriguez, R.P.T.,
a/k/a Castedo Evelio Rodriguez, R.P.I.
5100 S.W. 2ns Street
Miami, FL 33144

PS Form 3811, January 2005

Domestic Return Receipt

Thank you for using Return Receipt Service

RETURN RECEIPT REQUESTED
USPS® MAIL CARRIER
DETACH ALONG PERFORATION

23134

Thank you for using Return Receipt Service

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly)

B. Date of Delivery

C. Signature

Agent
 Addressee

D. Is delivery address different from item 1?
If YES, enter delivery address below:

Yes
 No

EAU / Gialella
1400228, 1400231
2/24/14

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly)

B. Date of Delivery

C. Signature

Agent
 Addressee

D. Is delivery address different from item 1?
If YES, enter delivery address below:

Yes
 No

EAU / Gialella
1400228, 1400231
2/24/14

Thank you for using Return Receipt Service

**FLORIDA
HEALTH**

Florida Department of Health
Office of the General Counsel
Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, Florida 32399-1701

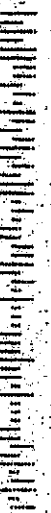
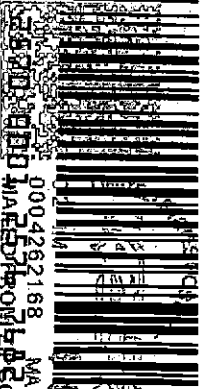
PRACTITIONER REGULATION
LEGAL

2014 APR -8 PM 12: 22

*Enelia D. Rodriguez R.R.P.T.
of/lla Castedo Enelia Rodriguez, R.R.P.T.
3715 NW 7th Street
Miami, FL 33126*

NIXIE 331263213-1N 04/02/14
RETURN TO SENDER
ATTEMPTED - NOT KNOWN
UNABLE TO FORWARD
RETURN TO SENDER

7005



Mission:

To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.



Rick Scott
Governor

John H. Armstrong, MD, FACS
State Surgeon General & Secretary

Vision: To be the Healthiest State in the Nation

AFFIDAVIT OF SERVICE OR DILIGENT SEARCH

DEPARTMENT OF HEALTH

Petitioner

vs

Case No. 2014-00231

CASTEDO EVELIO RODRIGUEZ, LMT

Respondent

COMES NOW, the affiant, who first being duly sworn, deposes and states:

- 1) Affiant is an Investigator/Inspector employed by the DEPARTMENT OF HEALTH, State of Florida.
- 2) That on 04//09/14, Affiant made a diligent effort to locate Respondent, to hand serve an Order of Emergency Suspension of License.

Affiant was able to make service at: 5100 SW 2nd Street, Miami, FL 33144

[Handwritten Signature]

Affiant

State Of Florida

County Of Miami-Dade

Before me, personally appeared: David Warshofsky whose identity is known to me by personally
known (type of identification) and who, acknowledges that his/her signature appears above.

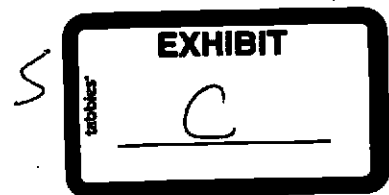
Sworn to or affirmed by Affiant before me this 10 day of April, 2014.

[Handwritten Signature]

Notary Public, State of Florida

My Commission Expires

Jeneice Mayers
Type or Print Name



Mission:
To protect, promote & improve the health
of all people in Florida through integrated
state, county & community efforts.

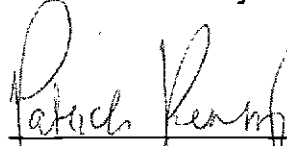


Vision: To be the Healthiest State in the Nation

Rick Scott
Governor

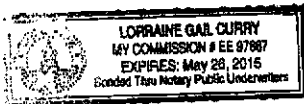
John H. Armstrong, MD, FACS
State Surgeon General & Secretary

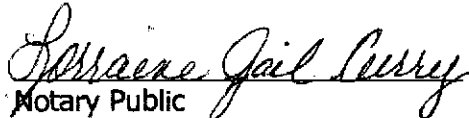
I, Patrick Kennedy, hereby certify in my official capacity as
custodian for the Board of Pharmacy licensure files that the Board of Pharmacy
as of June 3rd, 2014, has no evidence of an Election of Rights form or
other responsive pleading requesting a hearing prior to any agency action
regarding **Evelio Rodriguez, aka Castedo Evelio Rodriguez, PSI, Case
Number 2014-00231**, which would affect the Subject's substantial interests or
rights.



Custodian of Records
Florida Board of Pharmacy

Before me, personally appeared Patrick Kennedy, whose identity is
known to me by personally (type of identification) and who,
under, oath, acknowledges that his/her signature appears above.
Sworn to and subscribed this 3rd day of June, 2014.





Notary Public

Florida Department of Health
Office of the General Counsel - Prosecution Services Unit
4052 Bald Cypress Way, Bin C-85 - Tallahassee, FL 32399-3265
PHONE: 850/245-4444 • FAX 850/245-4662

www.FloridasHealth.com
TWITTER: HealthyFLA
FACEBOOK: FLDepartmentofHealth
YOUTUBE: fdoh



Mission:

To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.



Vision: To be the Healthiest State in the Nation

Rick Scott
Governor

John H. Armstrong, MD, FACS
State Surgeon General & Secretary

AFFIDAVIT

I, Angel Sanders, Deputy Clerk for the Department Clerk's Office, hereby certify in my official capacity as custodian for the Department Clerk's records, that the Department Clerk's Office has not received an Election of Rights form or other responsive pleading, which requests a hearing prior to any Department action regarding **Evelio Rodriguez, aka Castedo Evelio Rodriguez, PSI, Case Number 2014-00231** which would affect the Respondent's substantial interests or rights.

Angel Sanders

Custodian of Record
Department Clerk's Office

Before me, personally appeared Angel Sanders, whose identity is known to me by personally known (type of identification) and who, under oath, acknowledges that his/her signature appears above.

Sworn to and subscribed before me this 29th day of May, 2014.



Lawanda Bell

Notary Public

My Commission Expires:



**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

Petitioner,

v.

CASE NO. 2014-00231

**CASTEDO EVELIO RODRIGUEZ, PSI
AKA EVELIO RODRIGUEZ, PSI**

Respondent.

_____ /

**MOTION TO ASSESS COSTS
IN ACCORDANCE WITH SECTION 456.072(4)**

The Department of Health, by and through counsel, moves the Board of Pharmacy for entry of a Final Order assessing costs against Respondent for the investigation and prosecution of this case in accordance with Section 456.072(4), Florida Statutes (2013). As grounds therefore, the Petitioner states the following:

1. At its next regularly scheduled meeting, the Board of Pharmacy will take up for consideration the above-styled disciplinary action and will enter a Final Order.
2. Section 456.072(4), Florida Statutes (2013), states, in pertinent part, as follows:

In addition to any other discipline imposed through final order, or citation, entered on or after July 1, 2001, under

this section or discipline imposed through final order, or citation, entered on or after July 1, 2001, for a violation of any practice act, the board, or the department when there is no board, shall assess costs related to the investigation and prosecution of the case. The costs related to the investigation and prosecution include, but are not limited to, salaries and benefits of personnel, costs related to the time spent by the attorney and other personnel working on the case, and any other expenses incurred by the department for the case. The board, or the department when there is no board, shall determine the amount of costs to be assessed after its consideration of an affidavit of itemized costs and any written objections thereto....

3. As evidenced in the attached affidavit (Exhibit A), the investigation and prosecution of this case has resulted in costs in the total amount of \$1,124.77, based on the following itemized statement of costs:

| | |
|-----------------------------|-------------------|
| Complaint: | \$21.86 |
| Investigation: | \$363.85 |
| Legal: | \$723.88 |
| Compliance: | \$5.01 |
| Sub Total: | \$1,114.60 |
| Expenses To Date: | \$10.17 |
| Prior Amount: | \$0.00 |
| Total Costs To Date: | \$1,124.77 |

4. The attached affidavit reflects the Department's costs for attorney time in this case as \$723.88 (Exhibit A). The costs of obtaining an

affidavit from any outside attorney will be greater than \$723.88. Therefore, the Department is not seeking costs for attorney time in this case.

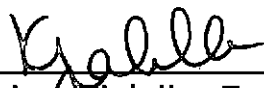
5. Should Respondent file written objections to the assessment of costs, within ten (10) days of the date of this motion, specifying the grounds for the objections and the specific elements of the costs to which objections are made, Petitioner requests that the Board determine the amount of costs to be assessed based upon its consideration of the affidavit attached as Exhibit A and any timely-filed written objections.

6. Petitioner requests that the Board grant this motion and assess costs in the amount of \$400.89 as supported by competent, substantial evidence. This assessment of costs is in addition to any other discipline imposed by the Board and is in accordance with Section 456.072(4), Florida Statutes (2013).

WHEREFORE, the Department of Health requests that the Board of Pharmacy enter a Final Order assessing costs against Respondent in the amount of \$400.89.

DATED this 13th day of June, 2014.


Respectfully submitted,



Karine Gialella, Esq.
Assistant General Counsel
Florida Bar No. 0091101
DOH Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, FL 32399-3265
850-245-4444 PHONE
850-245-4662 FAX
E-mail: Karine.Gialella@flhealth.gov

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Motion to Assess Costs has been furnished via certified postage-paid U.S. Mail to Respondent, Castedo Evelio Rodriguez, aka Evelio Rodriguez, PSI, at 5100 SW 2nd Street, Miami, FL 33144, this 13th day of June, 2014.



Karine Gialella
Assistant General Counsel

KG/as

AFFIDAVIT OF FEES AND COSTS EXPENDED

STATE OF FLORIDA
COUNTY OF LEON:

BEFORE ME, the undersigned authority, personally appeared **Shane Walters**, who was sworn and states as follows:

- 1) My name is Shane Walters.
- 2) I am over the age of 18, competent to testify, and make this affidavit upon my own personal knowledge and after review of the records at the Florida Department of Health (DOH).
- 3) I am a Operations Management Consultant for the Consumer Services Unit for DOH. The Consumer Services Unit is where all complaints against Florida health care licensees (e.g., medical doctors, dentists, nurses, respiratory therapists) are officially filed. I have been in my current job position for more than one year. My business address is 4052 Bald Cypress Way, Bin C-75, Tallahassee, Florida 32399.
- 4) As a Operations Management Consultant, my job duties include reviewing data in the Time Tracking System and verifying that the amounts correspond. The Time Tracking System is a computer program which records and tracks DOH's costs regarding the investigation and prosecution of cases against Florida health care licensees.
- 5) As of today, DOH's total costs for investigating and prosecuting DOH case number **2014-00231** (Department of Health v. **Evelio Rodriguez, aka Castedo Evelio Rodriguez, PSI** are **one thousand, one hundred, twenty-four dollars and seventy-seven cents (\$1,124.77)**
- 6) The costs for DOH case number **2014-00231** (Department of Health v. **Evelio Rodriguez, aka Castedo Evelio Rodriguez, R.P.T.**) are summarized in Exhibit 1 (Cost Summary Report), which is attached to this document.
- 7) The itemized costs and expenses for DOH case number **2014-00231** (Department of Health v. **Evelio Rodriguez, aka Castedo Evelio Rodriguez, R.P.T.** are detailed in Exhibit 2 (Itemized Cost Report and Itemized Expense Report and receipts), which is attached to this document.
- 8) The itemized costs as reflected in Exhibit 2 are determined by the following method: DOH employees who work on cases daily are to



keep track of their time in six-minute increments (e.g., investigators and lawyers). A designated DOH employee in the Consumer Services Unit, Legal Department, and in each area office, inputs the time worked and expenses spent into the Time Tracking System. Time and expenses are charged against a state health care Board (e.g., Florida Board of Medicine, Florida Board of Dentistry, Florida Board of Osteopathic Medicine), and/or a case. If no Board or case can be charged, then the time and expenses are charged as administrative time. The hourly rate of each employee is calculated by formulas established by the Department. (See the Itemized Cost Report)

- 9) Shane Walters, first being duly sworn, states that he has read the foregoing Affidavit and its attachments and the statements contained therein are true and correct to the best of his knowledge and belief.

FURTHER AFFIANT SAYETH NOT.

Shane Walters
Shane Walters, Affiant

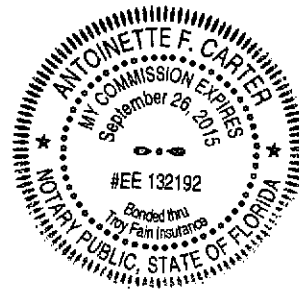
State of Florida
County of Leon

Sworn to and subscribed before me this 2 day of June, 2014,
by Shane Walters, who is personally known to me.

Antoinette F. Carter
Notary Signature

Antoinette F. Carter
Name of Notary Printed

Stamp Commissioned Name of Notary Public:



Complaint Cost Summary

Complaint Number: 201400231

Subject's Name: RODRIGUEZ, CASTEDO EVELIO

| | ***** Cost to Date ***** | |
|-----------------------------|--------------------------|------------|
| | Hours | Costs |
| Complaint: | 0.40 | \$21.86 |
| Investigation: | 5.70 | \$363.85 |
| Legal: | 7.10 | \$723.88 |
| Compliance: | 0.15 | \$5.01 |
| | ***** | ***** |
| Sub Total: | 13.35 | \$1,114.60 |
| Expenses to Date: | | \$10.17 |
| Prior Amount: | | \$0.00 |
| Total Costs to Date: | | \$1,124.77 |

EXHIBIT

tabbler

5/29/2014

***** CONFIDENTIAL *****
Time Tracking System
Itemized Cost by Complaint

Complaint 201400231

Report Date 05/29/2014

Page 1 of 2

| Staff Code | Activity Hours | Staff Rate | Cost | Activity Date | Activity Code | Activity Description |
|------------|----------------|------------|------|---------------|---------------|----------------------|
|------------|----------------|------------|------|---------------|---------------|----------------------|

COMPLIANCE MANAGEMENT UNIT

| | | | | | | |
|------------------|-------------|---------|---------------|------------|-----|-----------------------------|
| HC27 | 0.05 | \$33.33 | \$1.67 | 02/24/2014 | 125 | LICENSE STATUS CHANGE |
| HC27 | 0.05 | \$33.33 | \$1.67 | 02/24/2014 | 35 | TELEPHONE CALLS |
| HC27 | 0.05 | \$33.33 | \$1.67 | 02/24/2014 | 129 | UPDATING COMPLIANCE RECORDS |
| Sub Total | 0.15 | | \$5.01 | | | |

CONSUMER SERVICES UNIT

| | | | | | | |
|------------------|-------------|---------|----------------|------------|----|--|
| HA23 | 0.40 | \$54.65 | \$21.86 | 01/03/2014 | 78 | INITIAL REVIEW AND ANALYSIS OF COMPLAINT |
| Sub Total | 0.40 | | \$21.86 | | | |

INVESTIGATIVE SERVICES UNIT

| | | | | | | |
|------------------|-------------|---------|-----------------|------------|----|----------------------------|
| MI217 | 0.50 | \$63.83 | \$31.92 | 01/07/2014 | 4 | ROUTINE INVESTIGATIVE WORK |
| MI217 | 0.30 | \$63.83 | \$19.15 | 01/07/2014 | 4 | ROUTINE INVESTIGATIVE WORK |
| MI217 | 0.80 | \$63.83 | \$51.06 | 01/07/2014 | 76 | REPORT PREPARATION |
| MI217 | 0.20 | \$63.83 | \$12.77 | 01/27/2014 | 4 | ROUTINE INVESTIGATIVE WORK |
| MI217 | 0.20 | \$63.83 | \$12.77 | 01/28/2014 | 4 | ROUTINE INVESTIGATIVE WORK |
| MI217 | 0.50 | \$63.83 | \$31.92 | 01/28/2014 | 58 | TRAVEL TIME |
| MI217 | 0.20 | \$63.83 | \$12.77 | 01/28/2014 | 58 | TRAVEL TIME |
| MI217 | 0.50 | \$63.83 | \$31.92 | 01/28/2014 | 4 | ROUTINE INVESTIGATIVE WORK |
| MI217 | 0.50 | \$63.83 | \$31.92 | 01/28/2014 | 4 | ROUTINE INVESTIGATIVE WORK |
| MI200 | 0.30 | \$63.82 | \$19.15 | 04/09/2014 | 4 | ROUTINE INVESTIGATIVE WORK |
| MI200 | 0.50 | \$63.82 | \$31.91 | 04/09/2014 | 58 | TRAVEL TIME |
| MI217 | 1.00 | \$63.83 | \$63.83 | 04/10/2014 | 76 | REPORT PREPARATION |
| MI217 | 0.20 | \$63.82 | \$12.76 | 04/10/2014 | 4 | ROUTINE INVESTIGATIVE WORK |
| Sub Total | 5.70 | | \$363.85 | | | |

EXHIBIT
2

**Time Tracking System
Itemized Cost by Complaint**

Complaint 201400231

Report Date 05/29/2014

Page 2 of 2

| Staff Code | Activity Hours | Staff Rate | Cost | Activity Date | Activity Code | Activity Description |
|------------|----------------|------------|------|---------------|---------------|----------------------|
|------------|----------------|------------|------|---------------|---------------|----------------------|

PROSECUTION SERVICES UNIT

| | | | | | | |
|------------------|-------------|----------|-----------------|------------|----|---|
| HLL114B | 0.30 | \$101.95 | \$30.59 | 01/09/2014 | 25 | REVIEW CASE FILE |
| HLL114B | 1.70 | \$101.95 | \$173.32 | 02/05/2014 | 40 | PREPARATION OF OR REVISION OF A PLEADING |
| HLL114B | 0.40 | \$101.95 | \$40.78 | 02/06/2014 | 40 | PREPARATION OF OR REVISION OF A PLEADING |
| HLL114B | 1.30 | \$101.95 | \$132.54 | 02/13/2014 | 40 | PREPARATION OF OR REVISION OF A PLEADING |
| HLL114B | 0.30 | \$101.95 | \$30.59 | 02/17/2014 | 40 | PREPARATION OF OR REVISION OF A PLEADING |
| HLL114B | 0.10 | \$101.95 | \$10.20 | 02/24/2014 | 36 | PREPARATION OR REVISION OF LETTER |
| HLL114B | 1.00 | \$101.95 | \$101.95 | 03/10/2014 | 28 | PREPARE OR REVISE ADMINISTRATIVE COMPLAINT |
| HLL114B | 0.10 | \$101.95 | \$10.20 | 03/12/2014 | 89 | PROBABLE CAUSE PREPARATION |
| HLL114B | 0.30 | \$101.95 | \$30.59 | 03/13/2014 | 63 | PRESENTATION OF CASES TO PROBABLE CAUSE PANEL |
| HLL114B | 0.20 | \$101.95 | \$20.39 | 03/13/2014 | 90 | POST PROBABLE CAUSE PROCESSING |
| HLL114B | 0.80 | \$101.95 | \$81.56 | 03/21/2014 | 40 | PREPARATION OF OR REVISION OF A PLEADING |
| HLL114B | 0.40 | \$101.95 | \$40.78 | 03/21/2014 | 25 | REVIEW CASE FILE |
| HLL114B | 0.20 | \$101.95 | \$20.39 | 05/07/2014 | 25 | REVIEW CASE FILE |
| Sub Total | 7.10 | | \$723.88 | | | |

| | |
|-------------------|-------------------|
| Total Cost | \$1,114.60 |
|-------------------|-------------------|



***** CONFIDENTIAL *****
Time Tracking System
Itemized Expense by Complaint
 Complaint 201400231

Report Date: 05/29/2014

Page 1 of 1

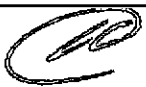
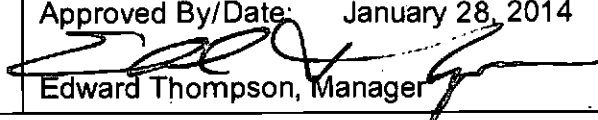
| Staff Code | Expense Date | Expense Amount | Expense Code | Expense Code Description |
|----------------------------------|-----------------------|----------------|--------------|---------------------------------|
| PROSECUTION SERVICES UNIT | | | | |
| HLL114B | 03/05/2014 | \$10.17 | 133100 | LEGAL & OFFICIAL ADVERTISEMENTS |
| | SubTotal | \$10.17 | | |
| | Total Expenses | \$10.17 | | |



STATE OF FLORIDA

DEPARTMENT OF HEALTH

INVESTIGATIVE REPORT

| | | | | | |
|--|---------------------|----------------------------------|---|----------------------------------|--|
| Office: Miami, Area XI | | Date of Case: 01/03/14 | | Case Number: 2014-00231 | |
| Subject: CASTEDO EVELIO RODRIGUEZ 5100 SW 2 ND St. Miami, FL 33144 786-786-2265 (c) | | | Source: DOH/INVESTIGATIVE SERVICES UNIT - MIAMI | | |
| Prefix: 2202 | License #: 21966 | Profession: Pharmacist Intern | Board: Pharmacy | Report Date: January 28, 2014 | |
| Period of Investigation: January 3, 2013 - January 28, 2014 | | | Type of Report: Supplemental | | |
| Alleged Violation: 456.072(1)(k)(z)(dd) and 465.016(1)(e)(j)(m)(r), F.S. Failure to perform statutory/legal obligation; Possible impairment; Violate statute/rule; Prescribe/dispense outside professional practice | | | | | |
| Synopsis: This Supplemental investigation is predicated upon receipt of a request from DOH PSU from CHRIS BYRNE for PSU Attorney specifically requesting to obtain a copy of surveillance footage from Walgreen's as referenced in the investigative report. | | | | | |
| A copy of the surveillance footage was obtained from Walgreen's Loss Prevention from the weekend of 12/23/13. | | | | | |
| <u>Exhibit 1</u> | | | | | |
| A CD-rom containing video surveillance footage from Walgreen's from the weekend of 12/23/13. | | | | | |
| Related Case(s): 2014-00228 | | | | | |
| Investigator/Date:  Lubomyr Kulynych, MI 217, January 28, 2014 | | | Approved By/Date: January 28, 2014  Edward Thompson, Manager | | |
| Distribution: HQ/ISU | | | | Page 1 | |

Received
Investigative Services

JAN 30 2014

DOH/MQA
Tallahassee HQ

RECEIVED-LEGAL
14 JAN 31 AM 10:07

CONFIDENTIAL AND EXEMPT MATERIALS

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EXEMPT FROM PUBLIC RECORDS LAWS.

456.057 - Ownership and control of patient records; report or copies of records to be
furnished.—

10)(a)All patient records obtained by the department and any other documents
maintained by the department which identify the patient by name are confidential and exempt
from s. 119.07(1) and shall be used solely for the purpose of the department and the appropriate
regulatory board in its investigation, prosecution, and appeal of disciplinary proceedings. The
records shall not be available to the public as part of the record of investigation for and
prosecution in disciplinary proceedings made available to the public by the department or the
appropriate board.

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prosecution in disciplinary proceedings made available to the public by the department or the
appropriate board.

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

In Re: Emergency Suspension of the Registration of
Evelio Rodriguez, R.P.T., A/K/A Castedo Evelio Rodriguez, R.P.I.
Registration Numbers: RPT 4704; PSI 21966
Case Numbers: 2014-00228; 2014-00231

ORDER OF EMERGENCY SUSPENSION OF REGISTRATIONS

John H. Armstrong, MD, FACS, State Surgeon General and Secretary of Health, ORDERS the emergency suspension of the registrations of Evelio Rodriguez, R.P.T., R.P.I. ("Mr. Rodriguez"), also known as Castedo Evelio Rodriguez, to practice as a registered pharmacy technician and registered pharmacy intern in the State of Florida. Mr. Rodriguez holds registration numbers RPT 4704 and PSI 21966. His address of record is 3715 NW 7th Street, Miami, Florida 33126. Mr. Rodriguez's alternate mailing address is 5100 SW 2nd Street, Miami, Florida 33144. The following Findings of Fact and Conclusions of Law support the emergency suspension of Mr. Rodriguez's registrations to practice as a pharmacy technician and a pharmacy intern in the State of Florida.

FINDINGS OF FACT

1. The Department of Health ("Department") is the state agency charged with regulating the practice of pharmacy, pharmacy technicians

In Re: Emergency Suspension of the Registration of
Evelio Rodriguez, R.P.T., A/K/A Castedo Evelio Rodriguez, R.P.I.
Registration Numbers RPT 4704; PSI 21966
Case Numbers 2014-00228; 2014-00231

and pharmacy interns pursuant to Chapters 20, 456, and 465, Florida Statutes (2012-2013). Section 456.073(8), Florida Statutes (2012-2013), authorizes the State Surgeon General to summarily suspend Mr. Rodriguez's registrations to practice as a registered pharmacy technician and registered pharmacy intern in the State of Florida in accordance with Section 120.60(6), Florida Statutes (2012-2013).

2. At all times material to this order, Mr. Rodriguez was a registered pharmacy technician and registered pharmacy intern in the State of Florida, pursuant to Chapter 465, Florida Statutes, and worked at Walgreens ("WG") located at 3715 NW 7th Street, Miami, Florida 33126.

3. On or around November 2013, Walgreen's headquarters in Deerfield, Illinois, conducted an audit of the regional Walgreens stores' pharmacy departments. This audit reflected a discrepancy in the count of phentermine tablets at WG for the past year. Specifically, the audit revealed that more phentermine tablets were dispensed from WG than were ordered.

4. Phentermine is a stimulant commonly prescribed to assist with weight loss. According to Section 893.03(4), Florida Statutes (2012-2013), phentermine is a Schedule IV controlled substance that has a low potential

for abuse relative to the substances in Schedule III and has a currently accepted medical use in treatment in the United States, and abuse of phentermine may lead to limited physical or psychological dependence relative to the substances in Schedule III.

5. Mr. C.G., Risk Manager at Walgreens Regional Offices, placed a new pharmacist at WG to inform Mr. C.G. of the day-to-day activities at WG. Additionally, surveillance video cameras were installed within the pharmacy area at WG.

6. On or about December 23, 2013, video surveillance captured Mr. Rodriguez taking possession of the contents of one-and-a-half bottles of phentermine, a total of 146 tablets.

7. On or about December 24, 2013, Miami-Dade County Police dispatched Officer J.P. to WG in reference to a theft of prescription tablets. Mr. Rodriguez admitted to Officer J.P. that he "did a wrong thing" and he was "ashamed of it."

8. Mr. Rodriguez informed Officer J.P. that he took the tablets from inside the prescription bottles on the pharmacy counter, a total of one-and-a-half bottles of Phentermine HCl 13.7mg, which contained a total of 146 tablets. Mr. Rodriguez further admitted that he placed the tablets inside a

plastic bag and put the bag inside his top scrub pocket in between the hours of 08:00 and 15:00 on December 23, 2013. Mr. Rodriguez stated that he left the store with the tablets, drove to meet some friends and gave them the tablets.

9. Mr. Rodriguez informed Officer J.P. that he "had been taking the... prescription tablets for approximately one year."

10. Mr. Rodriguez was arrested and charged with felony count of third degree grand theft in Miami-Dade County Case Number 13-2013-CF-0300830001XX. As of the date of this Order, this charge is pending resolution.

11. In the course of their work, registered pharmacy technicians and registered pharmacy interns have access to medications, including controlled substances, which have a high likelihood for abuse and harm. Registered pharmacy technicians and registered pharmacy interns assist pharmacists in data entry, and the counting, weighing, measuring, pouring and mixing of prescription medication or stock legend drugs and controlled substances, among various other tasks. Due to the gravity of these responsibilities, registered pharmacy technicians and registered pharmacy interns must possess good judgment and moral character in order to safely

and effectively perform their tasks.

12. Mr. Rodriguez's willingness to use his position as a registered pharmacy technician and registered pharmacy intern to divert 146 tablets of phentermine to distribute to friends, along with his admission of diverting prescription medications for the last year, demonstrates that Mr. Rodriguez lacks the good judgment and moral character required to safely and appropriately perform his tasks as a registered pharmacy technician and registered pharmacy intern.

13. Mr. Rodriguez's lack of good judgment and moral character, his theft of phentermine from his employer, his distribution of the controlled substances to people who did not have valid prescriptions, his admission to diverting these controlled substances for approximately one year, and his disregard for the laws and rules governing the practice of pharmacy in the State of Florida represent a significant likelihood that Mr. Rodriguez will continue his illegal behavior. This probability constitutes an immediate serious danger to the health, safety, and welfare of the citizens of the State of Florida.

14. Restricting Mr. Rodriguez's registrations would not adequately protect the public because the very nature of practicing as a registered

pharmacy technician and registered pharmacy intern puts Mr. Rodriguez in contact with legend drugs and controlled substances, which creates the risk for further theft and distribution of the controlled substances. The laws governing the practice of pharmacy technicians and pharmacy interns exist to prevent the theft of medications, and Mr. Rodriguez has refused to abide by these laws. As a result, nothing short of the immediate suspension of Mr. Rodriguez's registrations to practice as a registered pharmacy technician and registered pharmacy intern will protect the public from this danger.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the State Surgeon General concludes as follows:

1. The State Surgeon General of the Department of Health has jurisdiction over this matter pursuant to Sections 20.43 and 456.073(8), Florida Statutes (2012-2013), and Chapter 465, Florida Statutes (2012-2013), as set forth above.
2. Section 465.016(1)(e), Florida Statutes (2012-2013), subjects registered pharmacy technicians and registered pharmacy interns to discipline, including suspension, for violating Chapter 893, Florida

Statutes (2012-2013).

3. Section 893.13(6)(a), Florida Statutes (2012-2013), states in pertinent part:

(6)(a) It is unlawful for any person to be in actual or constructive possession of a controlled substance unless such controlled substance was lawfully obtained from a practitioner or pursuant to a valid prescription or order of a practitioner while acting in the course of his or her professional practice or to be in actual or constructive possession of a controlled substance except as authorized by this chapter....

4. Sections 893.13(7)(a)(1) and 893.13(7)(a)(9), Florida Statutes (2012-2013), state in pertinent part:

(7)(a) A person may not:

1. Distribute or dispense a controlled substance in violation of this chapter....

[or]

9. Acquire or obtain, or attempt to acquire or obtain, possession of a controlled substance by misrepresentation, fraud, forgery, deception or subterfuge.

5. Ms. Rodriguez violated Section 465.016(1)(e), Florida Statutes (2012-2013), in one or more of the following ways:

- a. By possessing phentermine in violation of Chapter 893.13(6)(a), Florida Statutes (2012-2013);
- b. By distributing or dispensing phentermine, in violation of

Chapter 893.13(7)(a)(1), Florida Statutes (2012-2013); and/or

c. By acquiring possession of phentermine by misrepresentation, fraud, forgery, deception or subterfuge in violation of Chapter 893.13(7)(a)(9), Florida Statutes (2012-2013).

6. Section 120.60(6), Florida Statutes (2013), authorizes the Department to suspend a registered pharmacy technician and pharmacy intern's registration upon a finding that the registered pharmacy technician and registered pharmacy intern presents an immediate, serious danger to the public health, safety or welfare.

7. Mr. Rodríguez's continued ability to practice as a registered pharmacy technician and registered pharmacy intern constitutes an immediate serious danger to the health, safety, or welfare of the public and this summary procedure is fair under the circumstances to adequately protect the public.

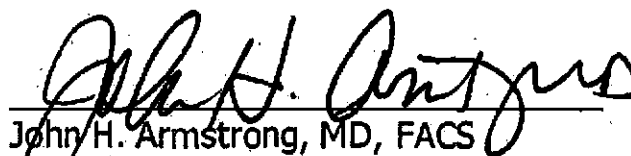
In accordance with Section 120.60(6), Florida Statutes (2012-2013), it is **ORDERED THAT:**

1. The registrations of Evelio Rodríguez, R.P.T., R.P.I A/K/A Castedo Evelio Rodríguez, registration numbers RPT 4704 and PSI 21966, are immediately suspended.

In Re: Emergency Suspension of the Registration of
Evelio Rodriguez, R.P.T., A/K/A Castedo Evelio Rodriguez, R.P.I.
Registration Numbers RPT 4704; PSI 21966
Case Numbers 2014-00228; 2014-00231

2. A proceeding seeking formal discipline of the registrations of Mr. Rodriguez to practice as a registered pharmacy technician and registered pharmacy intern will be promptly instituted and acted upon in compliance with Sections 120.569 and 120.60(6), Florida Statutes (2012-2013).

DONE and ORDERED this 23rd day of February, 2014.


John H. Armstrong, MD, FACS
State Surgeon General and
Secretary of Health

PREPARED BY:
Karine Gialella, Esq.
Assistant General Counsel
Fla. Bar No. 0091101
Florida Department of Health
Office of the General Counsel
4052 Bald Cypress Way, Bin C-65
Tallahassee, Florida 32399-3265
Telephone: (850) 245-4444 x8199
Facsimile: (850) 245-4662
Email: Karine.Gialella@flhealth.gov

In Re: Emergency Suspension of the Registration of
Evelio Rodriguez, R.P.T., A/K/A Castedo Evelio Rodriguez, R.P.I.
Registration Numbers RPT 4704; PSI 21966
Case Numbers 2014-00228; 2014-00231

NOTICE OF RIGHT TO JUDICIAL REVIEW

Pursuant to Sections 120.60(6) and 120.68, Florida Statutes, this Order is judicially reviewable. Review proceedings are governed by the Florida Rules of Appellate Procedure. Review proceedings are commenced by filing a Petition for Review, in accordance with Florida Rule of Appellate Procedure 9.100, with the District Court of Appeal, accompanied by a filing fee prescribed by law, and a copy of the Petition with the Agency Clerk of the Department within 30 days of the date this Order is filed.

Mission:
To protect, promote & improve the health
of all people in Florida through integrated
state, county & community efforts.



Rick Scott
Governor

John H. Armstrong, MD, FACS
State Surgeon General & Secretary

Vision: To be the Healthiest State in the Nation

MEMORANDUM OF PROBABLE CAUSE PANEL FINDINGS

TO: Department of Health (KG) *A-3*
FROM: Board of Pharmacy
SUBJECT: **Evelio Rodriguez, RPT aka Castedo Evelio Rodriguez, RPI**
CASE NO.: **2014-00228; 2014-00231**
DATE OF PROBABLE CAUSE MEETING: **March 13, 2014**

This matter was brought before a Probable Cause Panel composed of:

Albert Garcia, Leo Fallon

On the date set forth above. The panel, having received the investigative report and supplemental materials, having carefully reviewed said documentation and the recommendation of the agency/department, and having had the opportunity to inquire of counsel, finds that:

Probable cause exists herein that Subject violated the following statutes/rules:

Section 465.016(1)(e), Florida Statutes (2012-2013) by violating Section 893.13(6)(a), Florida Statutes (2012-2013)
Section 465.016(1)(i), Florida Statutes (2012-2013)
Section 465.016(1)(e), Florida Statutes (2012-2013) by violating Section 893.13(7)(a)(9), Florida Statutes (2012-2013)

The Panel suggests imposing the following penalty: **Costs, Permanent Revocation**

Probable cause does not exist and the case should be closed with the following closure code:

In lieu of a finding of probable cause, the above named licensee shall be issued a letter of guidance to address the conduct in question:

The panel has requested supplemental or additional information on the following:

Other

Leo Fallon 10 Apr 2014
CHAIRPERSON, PROBABLE CAUSE PANEL
BOARD OF PHARMACY

Florida Department of Health
Office of the General Counsel - Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65 - Tallahassee, FL 32309-3285
Express mail address: 2585 Merchants Row - Suite 105
PHONE: 850/245-4444 - FAX 850/245-4683

www.FloridasHealth.com
TWITTER: HealthyFLA
FACEBOOK: FLDepartmentofHealth
YOUTUBE: fdoh



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John H. Armstrong, MD, FACS
Surgeon General & Sec

Vision: To be the Healthiest State in the Nation

STATE OF FLORIDA
BOARD OF PHARMACY

DEPARTMENT OF HEALTH,
PETITIONER,

VS.

CASE NO. 201400228

EVELIO RODRIGUEZ,
RESPONDENT.

NOTICE

TO: EVELIO RODRIGUEZ
5800 SW 2ND STREET
MIAMI, FL 33144

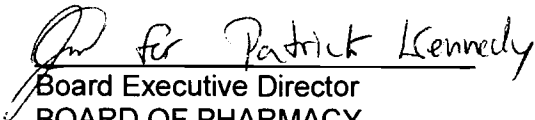
PLEASE TAKE NOTICE that a disciplinary hearing will be heard before the BOARD OF PHARMACY on Wednesday, August 13, 2014, commencing at 9 a.m. Although the Respondent is not required to be present, it is in their best interest to attend. This hearing will be held at DoubleTree by Hilton, 100 Fairway Drive, Deerfield Beach, FL 33441, 1(800) 624-3606..

The purpose of the hearing is to consider a motion for: Determination of Waiver

Note: Cases shown on the agenda as "timed" items may be heard in a different order or may be heard earlier if all parties are present. Cases are scheduled beginning at 9 a.m.; therefore, it is imperative that you arrive promptly at 9 a.m. and be prepared to be at the meeting for several hours until your case is heard.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Hearing has been sent by U.S. Mail to the above address(es) this 10th day of July, 2014.


Board Executive Director
BOARD OF PHARMACY

Florida Department of Health
4052 Bald Cypress Way, Bin #
Tallahassee, FL 32399 -

Florida Department of Health

Division of Medical Quality Assurance
4052 Bald Cypress Way, Bin C10 • Tallahassee, FL 32399-3260
PHONE: (850) 245-4444 • FAX : (850) 245-4791

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Rick Scott

Governor

John H. Armstrong, MD, FACS

Surgeon General & Secretary

MEMORANDUM

TO: Patrick W. Kennedy, M.A., Executive Director, Board of Pharmacy
FROM: Karine Gialella, Assistant General Counsel
RE: **Determination of Waiver**
SUBJECT: DOH v. Evelio Rodriguez, aka Castedo Evelio Rodriguez, R.PT.
 DOH Case Number 2014-00228
DATE: June 13, 2014

Enclosed you will find materials in the above-referenced case to be placed on the agenda for final agency action for the August 12-13, 2014 meeting of the board. The following information is provided in this regard.

Subject: Evelio Rodriguez, R.PT.
 Aka Castedo Evelio Rodriguez, R.PT.

Subject's Address of Record: 5100 SW 2nd Street
 Miami, FL 33144

Enforcement Address: 5100 SW 2nd Street
 Miami, FL 33144

Subject's License No: 4704 **Rank:** RPT

Licensure File No: 5263

Initial Licensure Date: 11/2/2009

Board Certification: No

Required to Appear: No

Current IPN/PRN Contract: No

Allegation(s): Count I: Section 456.016(1)(e), Florida Statutes (2012-2013) by violating Section 893.13(6)(a), Florida Statutes (2012-2013)
 Count II: Section 456.016(1)(i), Florida Statutes (2012-2013)
 Count III: Section 456.016(1)(e), Florida Statutes (2012-2013) by violating Section 893.13(7)(a)(9), Florida Statutes (2012-2013)

Prior Discipline: None

Probable Cause Panel: March 13, 2014
 Albert Garcia
 Leo Fallon

Subject's Attorney: Pro Se

Complainant/Address: Department Of Health/Investigative Services Unit-Miami

Materials Submitted: Memorandum to the Board
Motion for Determination of Waiver and Entry of Final Order Following Hearing
Exhibit A - Administrative Complaint
Exhibit B - Copy of Certified Mail Receipt
Exhibit C - Proof of Service
Exhibit D - Affidavit of Non-Receipt -Board Office
Exhibit E - Affidavit of Non-Receipt - Agency Clerk's Office
Motion to Assess Costs with Attachments
Exhibit A- Affidavit of Fees and Costs
Exhibit 1 - Complaint Cost Summary
Exhibit 2 - Itemized Cost by Complaint
Final Investigative Report with Exhibits 1-2
Order of Emergency Suspension of License
Memorandum of Finding Probable Cause

Disciplinary Guidelines:

Section 893.13(6)(a), Florida Statutes (2013):

Minimum: \$5,000 fine and two (2) years probation.

Maximum: \$10,000 fine and one (1) year suspension followed by two (2) years' probation, to Revocation.

Section 465.016(1)(e), Florida Statutes (2013):

Minimum: \$250 fine without ingestion or harm, to \$500 with ingestion, and complete approved CE course in the prevention of medication errors of no less than eight (8) hours.

Maximum: \$500 fine without ingestion or harm, to \$1,000 with ingestion, complete approved CE course in the prevention of medication errors of no less than eight (8) hours, and two (2) years' probation, to Revocation.

Section 893.13(7)(a)(9), Florida Statutes (2013):

Minimum: \$5,000 fine and two (2) years probation.

Maximum: \$10,000 fine and one (1) year suspension followed by two (2) years' probation, to Revocation.

Preliminary Case Remarks: Determination of Waiver

This case involves a three-count Administrative Complaint alleging that Respondent violated the following:

- Section 465.016(1)(e), Florida Statutes, by violating Section 893.13(6)(a), Florida Statutes by being in actual or constructive possession of phentermine that was not lawfully obtained from a practitioner or pursuant to a valid prescription or order of a practitioner.
- Section 465.016(1)(i), Florida Statutes, by distributing phentermine other than in the course of the professional practice of pharmacy
- Section 465.016(1)(e), Florida Statutes by violating Section 893.13(7)(a)(9) by acquiring possession of phentermine by misrepresentation, fraud, forgery, deception or subterfuge.

On or about November 2013, Respondent's place of employment conducted an audit of the pharmacy department which revealed a discrepancy in the count of phentermine tablets.

On or about December 23, 2013, video surveillance captured Respondent taking possession of one-and-a-half bottles of phentermine, a total of 146 tablets.

On or about December 24, 2013, Miami-Dade County Police presented to Respondent's employment to investigate the theft of phentermine tablets. Respondent admitted to the presenting officer that he took the tablets, left the pharmacy and gave the tablets out to individuals. Respondent admitted that he had been taking the phentermine tablets for approximately one year.

Respondent was charged with a felony count of third degree grand theft. The charge is currently pending resolution.

Recommended Penalty:

Revocation

STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,

Petitioner,

vs.

CASE NO. 2014-00228

EVELIO RODRIGUEZ, R.PT.
AKA CASTEDO EVELIO RODRIGUEZ, R.PT.,

Respondent.

**MOTION FOR DETERMINATION OF WAIVER AND
ENTRY OF FINAL ORDER FOLLOWING HEARING**

Petitioner, Department of Health, by and through undersigned counsel moves the Board of Pharmacy to find that Respondent has waived his right to elect a method of resolution of the pending Administrative Complaint, determine that no material facts are in dispute, conduct a hearing not involving disputed issues of material fact, and enter a Final Order thereafter.

As grounds therefore, Petitioner states:

1. An Administrative Complaint was filed against Respondent on March 13, 2014. A copy of said Administrative Complaint is attached hereto as Petitioner's Exhibit A.

2. A copy of the Administrative Complaint, Explanation of Rights, and Election of Rights forms were sent to Respondent's address of record, via certified US mail delivery, on March 21, 2014, article number 7005 2570 0001 2576 7675.

3. The attempt of service via certified US mail was unsuccessful. A copy of the envelope marked "Not Known" by the United States Postal Service is attached hereto as Petitioner's Exhibit B.

4. On April 9, 2014, a request was submitted to the Department of Health Investigator to have the Administrative Complaint, Explanation of Rights, and Election of Rights forms hand served to the Respondent.

5. The attempt of service via hand service by the Department of Health Investigator was successful. A copy of the Affidavit of Service is attached hereto as Petitioner's Exhibit C.

6. Pursuant to Rule 28-106.111, Florida Administrative Code, a person who receives written notice of agency decision and fails to file a written request for hearing within 21 days waives the right to request a hearing.

7. Respondent has not filed with the Department of Health nor the Board of Pharmacy an Election of Rights form or other responsive pleading in

this case disputing the allegations of fact contained in the Administrative Complaint within the twenty-one (21) day period required by Rule 28-106.111, Florida Administrative Code. Copies of affidavits supporting same are attached hereto as Petitioner's Exhibits D and E.

8. Respondent is advised by this Motion that a copy of the investigative file in this case shall be furnished to the Board to establish a prima facie case of the violations set forth in the Administrative Complaint.

9. Petitioner has determined that there are no material facts in dispute and Respondent has waived his right to elect a method of resolution.

10. Petitioner requests that this Motion and hearing be placed on the August 2014 meeting of the Board of Pharmacy, to be held on **August 12-13, 2014** in Deerfield Beach, FL.

WHEREFORE, Petitioner respectfully requests the Board find that Respondent has waived his right to elect a method of resolution of this matter, find that there are no material facts in dispute, hold a hearing not involving material issues of disputed fact based on the information contained in the investigative file, find that Respondent violated Chapters 456 and 459, Florida Statutes, as alleged in the Administrative Complaint, and enter a Final Order.

DATED this 13th day of June, 2014.

Respectfully submitted,



Karine Giaella
Assistant General Counsel
Florida Bar No. 0091101
Prosecution Services Unit
Department of Health
4052 Bald Cypress Way Bin-C-65
Tallahassee, Florida 32399-3265
Telephone (850)245-4444
Facsimile (850)245-4662 (fax)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Motion for Determination of Waiver and Entry of Final Order Following Hearing has been furnished to Evelio Rodriguez, aka Castedo Evelio Rodriguez, R.P.T., 5100 SW 2nd Street, Miami, FL 33144 by U.S. mail, on June 13th 2014.



Karine Giaella
Assistant General Counsel

KG/as

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

PETITIONER,

v.

**CASE NOS. 2014-00228
2014-00231**

**EVELIO RODRIGUEZ, R.P.T., A/K/A
CASTEDO EVELIO RODRIGUEZ, R.P.I.**

RESPONDENT.

ADMINISTRATIVE COMPLAINT

Petitioner, Department of Health, by and through undersigned counsel, files this Administrative Complaint before the Board of Pharmacy against Respondent, Evelio Rodriguez, R.P.T., A/K/A Castedo Evelio Rodriguez, R.P.I., and in support thereof alleges:

1. Petitioner is the state agency charged with regulating the practice of pharmacy pursuant to Chapters 20, Florida Statutes (2012-2013); Chapter 456, Florida Statutes (2012-2013); and Chapter 465, Florida Statutes (2012-2013).
2. At all times material to this Complaint, Respondent was a registered pharmacy technician and registered pharmacy Intern in the

EXHIBIT

A

State of Florida, having been issued registration numbers RPT 4704 and PSI 21966.

3. Respondent holds two addresses of record. Respondent's first address of record is 3715 NW 7th Street, Miami, Florida 33126. Respondent's second address of record is 670 NW 6th Street, #208, Miami, Florida 33136.

4. At all times material to this Complaint, Respondent worked at Walgreens ("WG") located at 3715 NW 7th Street, Miami, Florida 33126.

5. On or around November 2013, Walgreen's headquarters conducted an audit of the regional Walgreens stores' pharmacy departments. This audit revealed that more phentermine tablets were dispensed from WG than were ordered.

6. Phentermine is a stimulant commonly prescribed to assist with weight loss. According to Section 893.03(4), Florida Statutes (2012-2013), phentermine is a Schedule IV controlled substance that has a low potential for abuse relative to the substances in Schedule III and has a currently accepted medical use in treatment in the United States,

and abuse of phentermine may lead to limited physical or psychological dependence relative to the substances in Schedule III.

7. On or about December 23, 2013, video surveillance captured Respondent taking possession of the contents of one-and-a-half bottles of phentermine, a total of 146 tablets.

8. On or about December 24, 2013, Miami-Dade County Police dispatched Officer J.P. to WG in reference to a theft of prescription tablets.

9. Respondent informed Officer J.P. that he took a total of 146 tablets of phentermine HCl 13.7mg from inside the prescription bottles on the pharmacy counter at WG.

10. Respondent informed Officer J.P. that he left the store with the tablets, drove to meet some individuals and gave them the tablets.

11. Respondent was arrested and charged with felony count of third degree grand theft in Miami-Dade County Case Number 13-2013 CF-0300830001XX.

COUNT I

12. Petitioner realleges and incorporates by reference paragraphs one (1) through eleven (11) as if fully set forth herein.

13. Section 465.016(1)(e), Florida Statutes (2012-2013), subjects registered pharmacy technicians and registered pharmacy interns to discipline for violating Chapter 893, Florida Statutes (2012-2013).

14. Section 893.13(6)(a), Florida Statutes (2012-2013), states in pertinent part:

(6)(a) It is unlawful for any person to be in actual or constructive possession of a controlled substance unless such controlled substance was lawfully obtained from a practitioner or pursuant to a valid prescription or order of a practitioner while acting in the course of his or her professional practice or to be in actual or constructive possession of a controlled substance except as authorized by this chapter....

15. Respondent violated Section 465.016(1)(e), Florida Statutes (2012-2013), by violating Section 893.13(6)(a), Florida Statutes (2012-2013), by being in actual or constructive possession of phentermine, a controlled substance, that was not lawfully obtained from a practitioner or pursuant to a valid prescription or order of a practitioner while acting in the course of his professional practice.

COUNT II

16. Petitioner realleges and incorporates by reference paragraphs one (1) through eleven (11) as if fully set forth herein.

17. Section 465.016(1)(i), Florida Statutes (2012-2013), subjects registered pharmacy technicians and registered pharmacy interns to discipline for "compounding, dispensing, or distributing a legend drug, including any controlled substance, other than in the course of the professional practice of pharmacy."

18. Respondent violated 465.016(1)(i), Florida Statutes (2012-2013) by distributing phentermine, a controlled substance, other than in the course of the professional practice of pharmacy.

COUNT III

19. Petitioner realleges and incorporates by reference paragraphs one (1) through eleven (11) as if fully set forth herein.

20. Section 465.016(1)(e), Florida Statutes (2012-2013), subjects registered pharmacy technicians and registered pharmacy interns to discipline for violating Chapter 893, Florida Statutes (2012-2013).

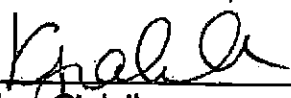
21. Section 893.13(7)(a)(9), Florida Statutes (2012-2013), states that "A person may not...Acquire or obtain, or attempt to acquire or obtain, possession of a controlled substance by misrepresentation, fraud, forgery, deception or subterfuge."

22. Respondent violated 465.016(1)(e), Florida Statutes (2012-2013), by violating Section 893.13(7)(a)(9), Florida Statutes (2012-2013), by acquiring possession of phentermine, a controlled substance, by misrepresentation, fraud, forgery, deception or subterfuge in violation of Chapter 893.

WHEREFORE, Petitioner respectfully requests that the Board of Pharmacy enter an order imposing one or more of the following penalties: permanent revocation or suspension of Respondent's license, restriction of practice, imposition of an administrative fine, issuance of a reprimand, placement of Respondent on probation, corrective action, refund of fees billed or collected, remedial education and/or any other relief that the Board deems appropriate.

SIGNED this 13th day of March, 2014.

John H. Armstrong, MD, FACS
State Surgeon General and
Secretary of Health



Karine Glalella
Assistant General Counsel
DOH Prosecution Services Unit

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK *Angel Sanders*
DATE **MAR 13 2014**

4052 Bald Cypress Way, Bin C-65
Tallahassee, FL 32399-3265
Florida Bar Number 0091101
Phone (850) 245-4444 x 8199
Fax (850) 245-4662
Karine.Gialella@flhealth.gov

PCP: March 13, 2014
PCP Members: Albert Garcia; Leo Fallon

DOH v. Evelio Rodríguez, R.P.T., A/K/A Castedo Evelio Rodríguez, R.P.I.
DOH Case Numbers 2014-00228; 2014-00231

7

NOTICE OF RIGHTS

Respondent has the right to request a hearing to be conducted in accordance with Section 120.569 and 120.57, Florida Statutes, to be represented by counsel or other qualified representative, to present evidence and argument, to call and cross-examine witnesses and to have subpoena and subpoena duces tecum issued on his or her behalf if a hearing is requested.

NOTICE REGARDING ASSESSMENT OF COSTS

Respondent is placed on notice that Petitioner has incurred costs related to the investigation and prosecution of this matter. Pursuant to Section 456.072(4), Florida Statutes, the Board shall assess costs related to the investigation and prosecution of a disciplinary matter, which may include attorney hours and costs, on the Respondent in addition any other discipline imposed.

7005 2570 0001 2576 7682

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

OFFICIAL USE

| | |
|---|----|
| Postage | \$ |
| Certified Fee | |
| Return Receipt Fee (Endorsement Required) | |
| Restricted Delivery Fee (Endorsement Required) | |
| Total Postage & Fees | \$ |

AC w/
Postmark
Here
SA
2014-00 228
2014-00231

Sent To Evelio Rodriguez aka Castedo
 Street, Apt. No.,
 or PO Box No. 3715 NW 7th Street
 City, State, ZIP+4 Miami, FL 33126

PS Form 3800, June 2002 See Reverse for Instructions



7005 2570 0001 2576 7675

U.S. Postal Service
CERTIFIED MAIL RECEIPT
 (Domestic Mail Only; No Insurance Coverage Provided)


For delivery information visit our website at www.usps.com

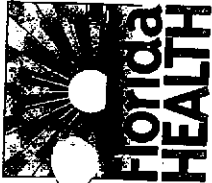
OFFICIAL USE

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| Postage | \$ |
| Certified Fee | |
| Return Receipt Fee (Endorsement Required) | |
| Restricted Delivery Fee (Endorsement Required) | |
| Total Postage & Fees | \$ |

AC pack
 w/SP
 Postmark Here
 2014-00228
 2014-00231

Sent To Evelio Rodriguez aka Castedo
 Street, Apt. No. or PO Box No. 670 NW 6th Street #208
 City, State, ZIP+4 Miami, FL 33126
 PS Form 3800, June 2002 See Reverse for Instructions

| SENDER: COMPLETE THIS SECTION | COMPLETE THIS SECTION ON DELIVERY |
|--|--|
| <ul style="list-style-type: none"> Complete Items 1, 2, and 3. Also complete Item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. | <p>A. Signature  <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) <u>Joseph</u></p> <p>C. Date of Delivery <u>3/27/14</u></p> <p>D. Is delivery address different from Item 1? <input type="checkbox"/> Yes <input type="checkbox"/> No If YES, enter delivery address below:</p> |
| <p>1. Article Addressed to:</p> <p><u>Evelio Rodriguez aka Castedo</u> <u>Evelio Rodriguez</u> <u>RP/RPI</u> <u>670 NW 6th Street #208</u> <u>Miami, FL 33126</u></p> | <p>3. Service Type</p> <p><input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail</p> <p><input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise</p> <p><input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> |
| <p>2. Article Number (Transfer from sender)</p> <p><u>7005 2570 0001 2576 7675</u></p> | <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p> |



Florida Department of Health
Office of the General Counsel
Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, Florida 32399-1701

7196 9006 9111 2484 2882



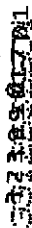
CERTIFIED MAIL

Evelio Rodriguez, R.P.T.,
a/k/a Castedo Evelio Rodriguez, R.P.I.

NIXIE 333 FE 1009 0003/05/14

RETURN TO SENDER
ATTEMPTED - NOT KNOWN
UNABLE TO FORWARD

BC: 32399170199 *0838-02900-24-40



Handwritten signature



Florida Department of Health
Office of the General Counsel
Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, Florida 32399-1701

2014 MAR 13 AM 11:44

PRACTITIONER REGULATION
LEGAL

7196 9006 9111 2484 2875



CERTIFIED MAIL

Evelio Rodriguez, R.P.T.,
a/k/a Castedo Evelio Rodriguez, R.P.I.
5100 S.W. 2ns Street

NIXIE 333 DC 1 0003/05/14

RETURN TO SENDER
UNCLAIMED
UNABLE TO FORWARD

BC: 32399170199 *0838-03114-24-40

Redacted area

Handwritten signature

Thank you for using Return Receipt Service

RETURN RECEIPT REQUESTED
USPS® MAIL CARRIER
DETACH ALONG PERFORATION

2. Article Number



7196 9008 9111 2484 2882

3. Service Type **CERTIFIED MAIL™**

4. Restricted Delivery? (Extra Fee) Yes

1. Article Addressed to:

Evelio Rodriguez, R.P.T.,
a/k/a Castedo Evelio Rodriguez, R.P.I.
3715 N.W. 7th Street
Miami, FL 33126

PS Form 3811, January 2005

Domestic Return Receipt

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT OF THE ZIP CODE

Thank you for using Return Receipt Service

RETURN RECEIPT REQUESTED
USPS® MAIL CARRIER
DETACH ALONG PERFORATION

2. Article Number



7196 9008 9111 2484 2875

3. Service Type **CERTIFIED MAIL™**

4. Restricted Delivery? (Extra Fee) Yes

1. Article Addressed to:

Evelio Rodriguez, R.P.T.,
a/k/a Castedo Evelio Rodriguez, R.P.I.
5100 S.W. 2ns Street
Miami, FL 33144

2134

PS Form 3811, January 2005

Domestic Return Receipt

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly)

B. Date of Delivery

C. Signature

Agent
 Addressee

D. Is delivery address different from item 1? If YES, enter delivery address below:

Yes
 No

EAU / Gialella
1400228, 1400231
2/24/14

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly)

B. Date of Delivery

C. Signature

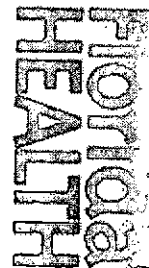
Agent
 Addressee

D. Is delivery address different from item 1? If YES, enter delivery address below:

Yes
 No

EAU / Gialella
1400228, 1400231
2/24/14

Thank you for using Return Receipt Service



Florida Department of Health
 Office of the General Counsel
 Prosecution Services Unit
 4052 Bald Cypress Way, Bin C-65
 Tallahassee, Florida 32399-1701

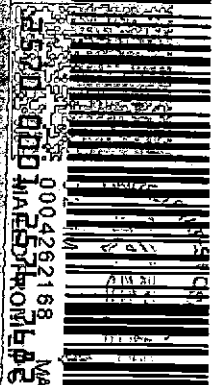
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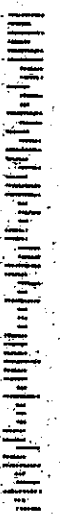
*Enelio Rodriguez R.P.T.
 aka Castedo Enelio Rodriguez R.P.T.
 3715 NW 7th Street
 Miami, FL 33126*

NIXIE 331263213-1N 04/02/14
 RETURN TO SENDER
 ATTEMPTED - NOT KNOWN
 UNABLE TO FORWARD
 RETURN TO SENDER

7005



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Mission:

To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.



Rick Scott
Governor

John H. Armstrong, MD, FACS
State Surgeon General & Secretary

Vision: To be the Healthiest State in the Nation

AFFIDAVIT OF SERVICE OR DILIGENT SEARCH

DEPARTMENT OF HEALTH

Petitioner

vs

Case No. 2014-00228

CASTEDO EVELIO RODRIGUEZ, LMT

Respondent

COMES NOW, the affiant, who first being duly sworn, deposes and states:

- 1) Affiant is an Investigator/Inspector employed by the DEPARTMENT OF HEALTH, State of Florida.
- 2) That on 04/09/14, Affiant made a diligent effort to locate Respondent, to hand serve an Order of Emergency Suspension of License.

X Affiant was able to make service at: 5100 SW 2nd Street, Miami, FL 33144

[Signature]

Affiant

State Of Florida
County Of Miami-Dade

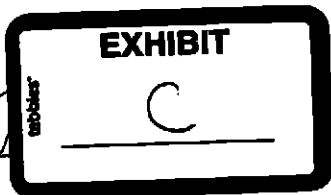
Before me, personally appeared David Warshofsky whose identity is known to me by personally known (type of identification) and who, acknowledges that his/her signature appears above.

Sworn to or affirmed by Affiant before me this 10 day of April 2014.

[Signature]
Notary Public-State of Florida

My Commission Expires

Jeneice Mayers
Type or Print Name



Mission:

To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.



Rick Scott
Governor

John H. Armstrong, MD, FACS
State Surgeon General & Secretary

Vision: To be the Healthiest State in the Nation

AFFIDAVIT

I, Angel Sanders, Deputy Clerk for the Department Clerk's Office, hereby certify in my official capacity as custodian for the Department Clerk's records, that the Department Clerk's Office has not received an Election of Rights form or other responsive pleading, which requests a hearing prior to any Department action regarding **Evelio Rodriguez, aka Castedo Evelio Rodriguez, R.P.T., Case Number 2014-00228** which would affect the Respondent's substantial interests or rights.

Angel Sanders
Custodian of Record
Department Clerk's Office

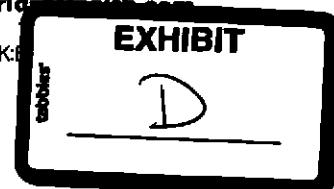
Before me, personally appeared Angel Sanders, whose identity is known to me by personally known (type of identification) and who, under oath, acknowledges that his/her signature appears above.

Sworn to and subscribed before me this 29th day of May, 2014.



Lawanda Bell
Notary Public

My Commission Expires:



Mission:
To protect, promote & improve the health
of all people in Florida through integrated
state, county & community efforts.

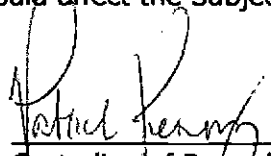


Rick Scott
Governor

John H. Armstrong, MD, FACS
State Surgeon General & Secretary

Vision: To be the Healthiest State in the Nation

I, Patrick Kennedy, hereby certify in my official capacity as custodian for the Board of Pharmacy licensure files that the Board of Pharmacy as of June 3rd, 2014, has no evidence of an Election of Rights form or other responsive pleading requesting a hearing prior to any agency action regarding **Evelio Rodriguez, aka Castedo Evelio Rodriguez, R.P.T., Case Number 2014-00228**, which would affect the Subject's substantial interests or rights.



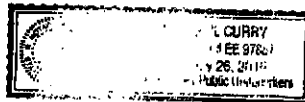
Custodian of Records
Florida Board of Pharmacy

Before me, personally appeared Patrick Kennedy, whose identity is known to me by personally (type of identification) and who, under, oath, acknowledges that his/her signature appears above.
Sworn to and subscribed this 3rd day of June, 2014.



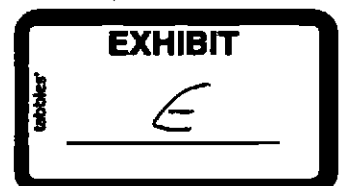


Notary Public



Florida Department of Health
Office of the General Counsel - Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65 • Tallahassee, FL 32399-3265
PHONE: 850/245-4444 • FAX 850/245-4662

www.FloridasHealth.com
TWITTER: HealthyFLA
FACEBOOK: FLDepartmentofHealth
YOUTUBE: fhdoh



**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

Petitioner,

v.

CASE NO. 2014-00228

**EVELIO RODRIGUEZ, R.PT.
AKA CASTEDO EVELIO RODRIGUEZ, R.PT.,**

Respondent.

**MOTION TO ASSESS COSTS
IN ACCORDANCE WITH SECTION 456.072(4)**

The Department of Health, by and through counsel, moves the Board of Pharmacy for entry of a Final Order assessing costs against Respondent for the investigation and prosecution of this case in accordance with Section 456.072(4), Florida Statutes (2013). As grounds therefore, the Petitioner states the following:

1. At its next regularly scheduled meeting, the Board of Pharmacy will take up for consideration the above-styled disciplinary action and will enter a Final Order.
2. Section 456.072(4), Florida Statutes (2013), states, in pertinent part, as follows:

In addition to any other discipline imposed through final order, or citation, entered on or after July 1, 2001, under

this section or discipline imposed through final order, or citation, entered on or after July 1, 2001, for a violation of any practice act, the board, or the department when there is no board, shall assess costs related to the investigation and prosecution of the case. The costs related to the investigation and prosecution include, but are not limited to, salaries and benefits of personnel, costs related to the time spent by the attorney and other personnel working on the case, and any other expenses incurred by the department for the case. The board, or the department when there is no board, shall determine the amount of costs to be assessed after its consideration of an affidavit of itemized costs and any written objections thereto....

3. As evidenced in the attached affidavit (Exhibit A), the investigation and prosecution of this case has resulted in costs in the total amount of \$2,071.78, based on the following itemized statement of costs:

| | |
|-----------------------------|-------------------|
| Complaint: | \$21.86 |
| Investigation: | \$1,168.13 |
| Legal: | \$866.62 |
| Compliance: | \$5.01 |
| Sub Total: | \$2,061.62 |
| Expenses To Date: | \$10.16 |
| Prior Amount: | \$0.00 |
| Total Costs To Date: | \$2,071.78 |

4. The attached affidavit reflects the Department's costs for attorney time in this case as \$866.62 (Exhibit A). The costs of obtaining an

affidavit from any outside attorney will be greater than \$866.62. Therefore, the Department is not seeking costs for attorney time in this case.

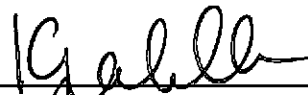
5. Should Respondent file written objections to the assessment of costs, within ten (10) days of the date of this motion, specifying the grounds for the objections and the specific elements of the costs to which objections are made, Petitioner requests that the Board determine the amount of costs to be assessed based upon its consideration of the affidavit attached as Exhibit A and any timely-filed written objections.

6. Petitioner requests that the Board grant this motion and assess costs in the amount of \$1,205.16 as supported by competent, substantial evidence. This assessment of costs is in addition to any other discipline imposed by the Board and is in accordance with Section 456.072(4), Florida Statutes (2013).

WHEREFORE, the Department of Health requests that the Board of Pharmacy enter a Final Order assessing costs against Respondent in the amount of \$1,205.16.

DATED this 13th day of June, 2014.

Respectfully submitted,



Karine Giaella, Esq.
Assistant General Counsel
Florida Bar No. 0091101
DOH Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, FL 32399-3265
850-245-4444 PHONE
850-245-4662 FAX
E-mail: Karine.Giaella@flhealth.gov

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Motion to Assess Costs has been furnished via certified postage-paid U.S. Mail to Respondent, Evelio Rodriguez, aka Castedo Evelio Rodriguez, R.P.T, at 5100 SW 2nd Street, Miami, FL 33144, this 13th day of June 2014.



Karine Giaella
Assistant General Counsel

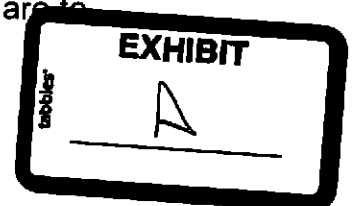
KG/as

AFFIDAVIT OF FEES AND COSTS EXPENDED

STATE OF FLORIDA
COUNTY OF LEON:

BEFORE ME, the undersigned authority, personally appeared **Shane Walters**, who was sworn and states as follows:

- 1) My name is Shane Walters.
- 2) I am over the age of 18, competent to testify, and make this affidavit upon my own personal knowledge and after review of the records at the Florida Department of Health (DOH).
- 3) I am a Operations Management Consultant for the Consumer Services Unit for DOH. The Consumer Services Unit is where all complaints against Florida health care licensees (e.g., medical doctors, dentists, nurses, respiratory therapists) are officially filed. I have been in my current job position for more than one year. My business address is 4052 Bald Cypress Way, Bin C-75, Tallahassee, Florida 32399.
- 4) As a Operations Management Consultant, my job duties include reviewing data in the Time Tracking System and verifying that the amounts correspond. The Time Tracking System is a computer program which records and tracks DOH's costs regarding the investigation and prosecution of cases against Florida health care licensees.
- 5) As of today, DOH's total costs for investigating and prosecuting DOH case number **2014-00228** (Department of Health v. **Evelio Rodriguez, aka Castedo Evelio Rodriguez, R.P.T.** are **two thousand, seventy-one dollars and seventy-eight cents (\$2,071.78)**
- 6) The costs for DOH case number **2014-00228** (Department of Health v. **Evelio Rodriguez, aka Castedo Evelio Rodriguez, R.P.T.**) are summarized in Exhibit 1 (Cost Summary Report), which is attached to this document.
- 7) The itemized costs and expenses for DOH case number **2014-00228** (Department of Health v. **Evelio Rodriguez, aka Castedo Evelio Rodriguez, R.P.T.** are detailed in Exhibit 2 (Itemized Cost Report and Itemized Expense Report and receipts), which is attached to this document.
- 8) The itemized costs as reflected in Exhibit 2 are determined by the following method: DOH employees who work on cases daily are to



keep track of their time in six-minute increments (e.g., investigators and lawyers). A designated DOH employee in the Consumer Services Unit, Legal Department, and in each area office, inputs the time worked and expenses spent into the Time Tracking System. Time and expenses are charged against a state health care Board (e.g., Florida Board of Medicine, Florida Board of Dentistry, Florida Board of Osteopathic Medicine), and/or a case. If no Board or case can be charged, then the time and expenses are charged as administrative time. The hourly rate of each employee is calculated by formulas established by the Department. (See the Itemized Cost Report)

- 9) Shane Walters, first being duly sworn, states that he has read the foregoing Affidavit and its attachments and the statements contained therein are true and correct to the best of his knowledge and belief.

FURTHER AFFIANT SAYETH NOT.

Shane Walters
Shane Walters, Affiant

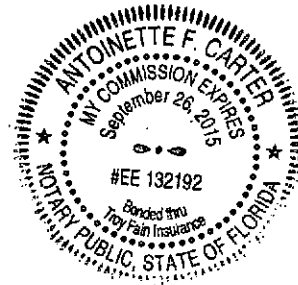
State of Florida
County of Leon

Sworn to and subscribed before me this 2 day of June, 2014,
by Shane Walters, who is personally known to me.

Antoinette F. Carter
Notary Signature

Antoinette F. Carter
Name of Notary Printed

Stamp Commissioned Name of Notary Public:



Complaint Cost Summary

Complaint Number: 201400228

Subject's Name: RODRIGUEZ, EVELIO

| | ***** Cost to Date ***** | |
|-----------------------------|--------------------------|------------|
| | Hours | Costs |
| Complaint: | 0.40 | \$21.86 |
| Investigation: | 18.30 | \$1,168.13 |
| Legal: | 8.50 | \$866.62 |
| Compliance: | 0.15 | \$5.01 |
| | ***** | ***** |
| Sub Total: | 27.35 | \$2,061.62 |
| Expenses to Date: | | \$10.16 |
| Prior Amount: | | \$0.00 |
| Total Costs to Date: | | \$2,071.78 |



**Time Tracking System
Itemized Cost by Complaint**

Complaint 201400228

Report Date 05/29/2014

| Staff Code | Activity Hours | Staff Rate | Cost | Activity Date | Activity Code | Activity Description |
|------------------------------------|----------------|------------|----------|---------------|---------------|--|
| COMPLIANCE MANAGEMENT UNIT | | | | | | |
| HC27 | 0.05 | \$33.33 | \$1.67 | 02/24/2014 | 125 | LICENSE STATUS CHANGE |
| HC27 | 0.05 | \$33.33 | \$1.67 | 02/24/2014 | 35 | TELEPHONE CALLS |
| HC27 | 0.05 | \$33.33 | \$1.67 | 02/24/2014 | 129 | UPDATING COMPLIANCE RECORDS |
| Sub Total | 0.15 | | \$5.01 | | | |
| CONSUMER SERVICES UNIT | | | | | | |
| HA23 | 0.40 | \$54.65 | \$21.86 | 01/03/2014 | 78 | INITIAL REVIEW AND ANALYSIS OF COMPLAINT |
| Sub Total | 0.40 | | \$21.86 | | | |
| INVESTIGATIVE SERVICES UNIT | | | | | | |
| M1217 | 0.20 | \$63.83 | \$12.77 | 01/03/2014 | 4 | ROUTINE INVESTIGATIVE WORK |
| M1217 | 0.30 | \$63.83 | \$19.15 | 01/03/2014 | 4 | ROUTINE INVESTIGATIVE WORK |
| M1217 | 0.60 | \$63.83 | \$38.30 | 01/06/2014 | 14 | TRAINING |
| M1217 | 0.20 | \$63.83 | \$12.77 | 01/06/2014 | 4 | ROUTINE INVESTIGATIVE WORK |
| M1217 | 1.00 | \$63.83 | \$63.83 | 01/06/2014 | 76 | REPORT PREPARATION |
| M1217 | 0.70 | \$63.83 | \$44.68 | 01/06/2014 | 4 | ROUTINE INVESTIGATIVE WORK |
| M1217 | 0.50 | \$63.83 | \$31.92 | 01/07/2014 | 14 | TRAINING |
| M1217 | 0.50 | \$63.83 | \$31.92 | 01/07/2014 | 4 | ROUTINE INVESTIGATIVE WORK |
| M1217 | 0.30 | \$63.83 | \$19.15 | 01/07/2014 | 4 | ROUTINE INVESTIGATIVE WORK |
| M1217 | 0.80 | \$63.83 | \$51.06 | 01/07/2014 | 76 | REPORT PREPARATION |
| M1217 | 3.50 | \$63.83 | \$223.41 | 01/08/2014 | 76 | REPORT PREPARATION |
| M1217 | 0.20 | \$63.83 | \$12.77 | 01/27/2014 | 4 | ROUTINE INVESTIGATIVE WORK |
| M1217 | 0.20 | \$63.83 | \$12.77 | 01/28/2014 | 4 | ROUTINE INVESTIGATIVE WORK |
| M1217 | 0.20 | \$63.83 | \$12.77 | 01/28/2014 | 58 | TRAVEL TIME |
| M1217 | 0.50 | \$63.83 | \$31.92 | 01/28/2014 | 4 | ROUTINE INVESTIGATIVE WORK |
| M1217 | 0.50 | \$63.83 | \$31.92 | 01/28/2014 | 4 | ROUTINE INVESTIGATIVE WORK |

EXHIBIT
2

**Time Tracking System
Itemized Cost by Complaint**

Complaint 201400228

Report Date 05/29/2014

| Staff Code | Activity Hours | Staff Rate | Cost | Activity Date | Activity Code | Activity Description |
|------------------|----------------|------------|-------------------|---------------|---------------|----------------------------|
| MI217 | 1.00 | \$63.83 | \$63.83 | 01/29/2014 | 4 | ROUTINE INVESTIGATIVE WORK |
| MI217 | 1.50 | \$63.83 | \$95.75 | 02/24/2014 | 6 | SUPPLEMENTAL INVESTIGATION |
| MI200 | 0.30 | \$63.82 | \$19.15 | 04/09/2014 | 4 | ROUTINE INVESTIGATIVE WORK |
| MI200 | 0.50 | \$63.82 | \$31.91 | 04/09/2014 | 58 | TRAVEL TIME |
| MI217 | 1.00 | \$63.83 | \$63.83 | 04/10/2014 | 76 | REPORT PREPARATION |
| MI200 | 0.20 | \$63.82 | \$12.76 | 04/10/2014 | 4 | ROUTINE INVESTIGATIVE WORK |
| MI217 | 1.40 | \$63.83 | \$89.36 | 04/11/2014 | 4 | ROUTINE INVESTIGATIVE WORK |
| MI217 | 1.00 | \$63.83 | \$63.83 | 04/11/2014 | 58 | TRAVEL TIME |
| MI217 | 1.20 | \$63.83 | \$76.60 | 04/11/2014 | 4 | ROUTINE INVESTIGATIVE WORK |
| Sub Total | 18.30 | | \$1,168.13 | | | |

PROSECUTION SERVICES UNIT

| | | | | | | |
|------------------|-------------|----------|-----------------|------------|----|---|
| HLL114B | 0.20 | \$101.95 | \$20.39 | 01/09/2014 | 25 | REVIEW CASE FILE |
| HLL114B | 0.70 | \$101.95 | \$71.37 | 01/27/2014 | 25 | REVIEW CASE FILE |
| HLL114B | 1.50 | \$101.95 | \$152.93 | 02/05/2014 | 40 | PREPARATION OF OR REVISION OF A PLEADING |
| HLL114B | 0.40 | \$101.95 | \$40.78 | 02/06/2014 | 40 | PREPARATION OF OR REVISION OF A PLEADING |
| HLL114B | 1.30 | \$101.95 | \$132.54 | 02/13/2014 | 40 | PREPARATION OF OR REVISION OF A PLEADING |
| HLL114B | 0.30 | \$101.95 | \$30.59 | 02/17/2014 | 40 | PREPARATION OF OR REVISION OF A PLEADING |
| HLL114B | 0.10 | \$101.95 | \$10.20 | 02/24/2014 | 36 | PREPARATION OR REVISION OF LETTER |
| HLL114B | 1.10 | \$101.95 | \$112.15 | 03/10/2014 | 28 | PREPARE OR REVISE ADMINISTRATIVE COMPLAINT |
| HLL114B | 1.00 | \$101.95 | \$101.95 | 03/12/2014 | 89 | PROBABLE CAUSE PREPARATION |
| HLL114B | 0.30 | \$101.95 | \$30.59 | 03/13/2014 | 63 | PRESENTATION OF CASES TO PROBABLE CAUSE PANEL |
| HLL114B | 0.20 | \$101.95 | \$20.39 | 03/13/2014 | 90 | POST PROBABLE CAUSE PROCESSING |
| HLL114B | 0.80 | \$101.95 | \$81.56 | 03/21/2014 | 40 | PREPARATION OF OR REVISION OF A PLEADING |
| HLL114B | 0.30 | \$101.95 | \$30.59 | 03/21/2014 | 25 | REVIEW CASE FILE |
| HLL114B | 0.30 | \$101.95 | \$30.59 | 05/07/2014 | 25 | REVIEW CASE FILE |
| Sub Total | 8.50 | | \$866.62 | | | |

**Time Tracking System
Itemized Cost by Complaint**

Complaint 201400228

Report Date 05/29/2014

Page 3 of 3

Staff Code Activity Hours Staff Rate Cost Activity Date Activity Code Activity Description

Total Cost

\$2,061.62

***** CONFIDENTIAL *****
Time Tracking System
Itemized Expense by Complaint
 Complaint 201400228

Report Date: 05/29/2014

Page 1 of 1


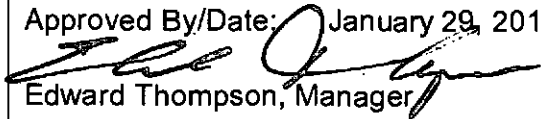
| Staff Code | Expense Date | Expense Amount | Expense Code | Expense Code Description |
|----------------------------------|-----------------------|----------------|--------------|---------------------------------|
| PROSECUTION SERVICES UNIT | | | | |
| HLL114B | 03/05/2014 | \$10.16 | 133100 | LEGAL & OFFICIAL ADVERTISEMENTS |
| | SubTotal | \$10.16 | | |
| | Total Expenses | \$10.16 | | |



STATE OF FLORIDA

DEPARTMENT OF HEALTH

INVESTIGATIVE REPORT

| | | | | | |
|--|--------------------|--|--|----------------------------------|--|
| Office: Miami, Area XI | | Date of Case: 01/03/14 | | Case Number: 2014-00228 | |
| Subject: EVELIO RODRIGUEZ 5800 SW 2 ND St. Miami, FL 33144 305-479-0243 (c) | | | Source: DOH/INVESTIGATIVE SERVICES UNIT - MIAMI | | |
| Prefix: 2208 | License #: 4704 | Profession: Registered Pharmacy Technician | Board: Pharmacy | Report Date: January 29, 2014 | |
| Period of Investigation: January 3, 2013 - January 29, 2014 | | | Type of Report: Supplemental | | |
| Alleged Violation: 456.072(1)(k)(z)(dd) and 465.016(1)(e)(j)(m)(r), F.S. Failure to perform statutory/legal obligation; Possible impairment; Violate statute/rule; Prescribe/dispense outside professional practice | | | | | |
| Synopsis: This Supplemental investigation is predicated upon receipt of a request from DOH PSU from CHRIS BYRNE for PSU Attorney specifically requesting to obtain a copy of surveillance footage from Walgreen's as referenced in the investigative report. | | | | | |
| A copy of the surveillance footage was obtained from Walgreen's Loss Prevention from the weekend of 12/23/13. | | | | | |
| <u>Exhibit 1</u> | | | | | |
| A CD-rom containing video surveillance footage from Walgreen's from the weekend of 12/23/13. | | | | | |
| Related Case(s): 2014-00231 | | | | | |
| Investigator/Date:  Lubomyr Kulynych, MI 217, January 29, 2014 | | | Approved By/Date: January 29, 2014  Edward Thompson, Manager | | |
| Distribution: HQ/ISU | | | | Page 1 | |

Received
Investigative Services

JAN 30 2014

DOH/MQA
Tallahassee HQ

RECEIVED-LEGAL
17 JAN 31 AM 10:07

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456.057 - Ownership and control of patient records; report or copies of records to be
furnished.—

10)(a)All patient records obtained by the department and any other documents
maintained by the department which identify the patient by name are confidential and exempt
from s. 119.07(1) and shall be used solely for the purpose of the department and the appropriate
regulatory board in its investigation, prosecution, and appeal of disciplinary proceedings. The
records shall not be available to the public as part of the record of investigation for and
prosecution in disciplinary proceedings made available to the public by the department or the
appropriate board.

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records shall not be available to the public as part of the record of investigation for and
prosecution in disciplinary proceedings made available to the public by the department or the
appropriate board.

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

In Re: Emergency Suspension of the Registration of
Evelio Rodriguez, R.P.T., A/K/A Castedo Evelio Rodriguez, R.P.I.
Registration Numbers: RPT 4704; PSI 21966
Case Numbers: 2014-00228; 2014-00231

ORDER OF EMERGENCY SUSPENSION OF REGISTRATIONS

John H. Armstrong, MD, FACS, State Surgeon General and Secretary of Health, ORDERS the emergency suspension of the registrations of Evelio Rodriguez, R.P.T., R.P.I. ("Mr. Rodriguez"), also known as Castedo Evelio Rodriguez, to practice as a registered pharmacy technician and registered pharmacy intern in the State of Florida. Mr. Rodriguez holds registration numbers RPT 4704 and PSI 21966. His address of record is 3715 NW 7th Street, Miami, Florida 33126. Mr. Rodriguez's alternate mailing address is 5100 SW 2nd Street, Miami, Florida 33144. The following Findings of Fact and Conclusions of Law support the emergency suspension of Mr. Rodriguez's registrations to practice as a pharmacy technician and a pharmacy intern in the State of Florida.

FINDINGS OF FACT

1. The Department of Health ("Department") is the state agency charged with regulating the practice of pharmacy, pharmacy technicians

In Re: Emergency Suspension of the Registration of
Evelio Rodriguez, R.P.T., A/K/A Castedo Evelio Rodriguez, R.P.I.
Registration Numbers RPT 4704; PSI 21966
Case Numbers 2014-00228; 2014-00231

and pharmacy interns pursuant to Chapters 20, 456, and 465, Florida Statutes (2012-2013). Section 456.073(8), Florida Statutes (2012-2013), authorizes the State Surgeon General to summarily suspend Mr. Rodriguez's registrations to practice as a registered pharmacy technician and registered pharmacy intern in the State of Florida in accordance with Section 120.60(6), Florida Statutes (2012-2013).

2. At all times material to this order, Mr. Rodriguez was a registered pharmacy technician and registered pharmacy intern in the State of Florida, pursuant to Chapter 465, Florida Statutes, and worked at Walgreens ("WG") located at 3715 NW 7th Street, Miami, Florida 33126.

3. On or around November 2013, Walgreen's headquarters in Deerfield, Illinois, conducted an audit of the regional Walgreens stores' pharmacy departments. This audit reflected a discrepancy in the count of phentermine tablets at WG for the past year. Specifically, the audit revealed that more phentermine tablets were dispensed from WG than were ordered.

4. Phentermine is a stimulant commonly prescribed to assist with weight loss. According to Section 893.03(4), Florida Statutes (2012-2013), phentermine is a Schedule IV controlled substance that has a low potential

for abuse relative to the substances in Schedule III and has a currently accepted medical use in treatment in the United States, and abuse of phentermine may lead to limited physical or psychological dependence relative to the substances in Schedule III.

5. Mr. C.G., Risk Manager at Walgreens Regional Offices, placed a new pharmacist at WG to inform Mr. C.G. of the day-to-day activities at WG. Additionally, surveillance video cameras were installed within the pharmacy area at WG.

6. On or about December 23, 2013, video surveillance captured Mr. Rodriguez taking possession of the contents of one-and-a-half bottles of phentermine, a total of 146 tablets.

7. On or about December 24, 2013, Miami-Dade County Police dispatched Officer J.P. to WG in reference to a theft of prescription tablets. Mr. Rodriguez admitted to Officer J.P. that he "did a wrong thing" and he was "ashamed of it."

8. Mr. Rodriguez informed Officer J.P. that he took the tablets from inside the prescription bottles on the pharmacy counter, a total of one-and-a-half bottles of Phentermine HCl 13.7mg, which contained a total of 146 tablets. Mr. Rodriguez further admitted that he placed the tablets inside a

plastic bag and put the bag inside his top scrub pocket in between the hours of 08:00 and 15:00 on December 23, 2013. Mr. Rodriguez stated that he left the store with the tablets, drove to meet some friends and gave them the tablets.

9. Mr. Rodriguez informed Officer J.P. that he "had been taking the... prescription tablets for approximately one year."

10. Mr. Rodriguez was arrested and charged with felony count of third degree grand theft in Miami-Dade County Case Number 13-2013-CF-0300830001XX. As of the date of this Order, this charge is pending resolution.

11. In the course of their work, registered pharmacy technicians and registered pharmacy interns have access to medications, including controlled substances, which have a high likelihood for abuse and harm. Registered pharmacy technicians and registered pharmacy interns assist pharmacists in data entry, and the counting, weighing, measuring, pouring and mixing of prescription medication or stock legend drugs and controlled substances, among various other tasks. Due to the gravity of these responsibilities, registered pharmacy technicians and registered pharmacy interns must possess good judgment and moral character in order to safely

and effectively perform their tasks.

12. Mr. Rodriguez's willingness to use his position as a registered pharmacy technician and registered pharmacy intern to divert 146 tablets of phentermine to distribute to friends, along with his admission of diverting prescription medications for the last year, demonstrates that Mr. Rodriguez lacks the good judgment and moral character required to safely and appropriately perform his tasks as a registered pharmacy technician and registered pharmacy intern.

13. Mr. Rodriguez's lack of good judgment and moral character, his theft of phentermine from his employer, his distribution of the controlled substances to people who did not have valid prescriptions, his admission to diverting these controlled substances for approximately one year, and his disregard for the laws and rules governing the practice of pharmacy in the State of Florida represent a significant likelihood that Mr. Rodriguez will continue his illegal behavior. This probability constitutes an immediate serious danger to the health, safety, and welfare of the citizens of the State of Florida.

14. Restricting Mr. Rodriguez's registrations would not adequately protect the public because the very nature of practicing as a registered

pharmacy technician and registered pharmacy intern puts Mr. Rodriguez in contact with legend drugs and controlled substances, which creates the risk for further theft and distribution of the controlled substances. The laws governing the practice of pharmacy technicians and pharmacy interns exist to prevent the theft of medications, and Mr. Rodriguez has refused to abide by these laws. As a result, nothing short of the immediate suspension of Mr. Rodriguez's registrations to practice as a registered pharmacy technician and registered pharmacy intern will protect the public from this danger.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the State Surgeon General concludes as follows:

1. The State Surgeon General of the Department of Health has jurisdiction over this matter pursuant to Sections 20.43 and 456.073(8), Florida Statutes (2012-2013), and Chapter 465, Florida Statutes (2012-2013), as set forth above.
2. Section 465.016(1)(e), Florida Statutes (2012-2013), subjects registered pharmacy technicians and registered pharmacy Interns to discipline, including suspension, for violating Chapter 893, Florida

Statutes (2012-2013).

3. Section 893.13(6)(a), Florida Statutes (2012-2013), states in pertinent part:

(6)(a) It is unlawful for any person to be in actual or constructive possession of a controlled substance unless such controlled substance was lawfully obtained from a practitioner or pursuant to a valid prescription or order of a practitioner while acting in the course of his or her professional practice or to be in actual or constructive possession of a controlled substance except as authorized by this chapter....

4. Sections 893.13(7)(a)(1) and 893.13(7)(a)(9), Florida Statutes (2012-2013), state in pertinent part:

(7)(a) A person may not:

1. Distribute or dispense a controlled substance in violation of this chapter....

[or]

9. Acquire or obtain, or attempt to acquire or obtain, possession of a controlled substance by misrepresentation, fraud, forgery, deception or subterfuge.

5. Ms. Rodriguez violated Section 465.016(1)(e), Florida Statutes (2012-2013), in one or more of the following ways:

a. By possessing phentermine in violation of Chapter 893.13(6)(a), Florida Statutes (2012-2013);

b. By distributing or dispensing phentermine, in violation of

Chapter 893.13(7)(a)(1), Florida Statutes (2012-2013); and/or

c. By acquiring possession of phentermine by misrepresentation, fraud, forgery, deception or subterfuge in violation of Chapter 893.13(7)(a)(9), Florida Statutes (2012-2013).

6. Section 120.60(6), Florida Statutes (2013), authorizes the Department to suspend a registered pharmacy technician and pharmacy intern's registration upon a finding that the registered pharmacy technician and registered pharmacy intern presents an immediate, serious danger to the public health, safety or welfare.

7. Mr. Rodriguez's continued ability to practice as a registered pharmacy technician and registered pharmacy intern constitutes an immediate serious danger to the health, safety, or welfare of the public and this summary procedure is fair under the circumstances to adequately protect the public.

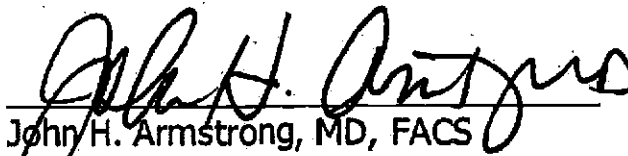
In accordance with Section 120.60(6), Florida Statutes (2012-2013), it is **ORDERED THAT:**

1. The registrations of Evelio Rodriguez, R.P.T., R.P.I A/K/A Castedo Evelio Rodriguez, registration numbers RPT 4704 and PSI 21966, are immediately suspended.

In Re: Emergency Suspension of the Registration of
Evelio Rodriguez, R.P.T., A/K/A Castedo Evelio Rodriguez, R.P.I.
Registration Numbers RPT 4704; PSI 21966
Case Numbers 2014-00228; 2014-00231

2. A proceeding seeking formal discipline of the registrations of Mr. Rodriguez to practice as a registered pharmacy technician and registered pharmacy intern will be promptly instituted and acted upon in compliance with Sections 120.569 and 120.60(6), Florida Statutes (2012-2013).

DONE and ORDERED this 23rd day of February, 2014.


John H. Armstrong, MD, FACS
State Surgeon General and
Secretary of Health

PREPARED BY:
Karine Giaella, Esq.
Assistant General Counsel
Fla. Bar No. 0091101
Florida Department of Health
Office of the General Counsel
4052 Bald Cypress Way, Bin C-65
Tallahassee, Florida 32399-3265
Telephone: (850) 245-4444 x8199
Facsimile: (850) 245-4662
Email: Karine.Giaella@flhealth.gov

In Re: Emergency Suspension of the Registration of
Evelio Rodriguez, R.P.T., A/K/A Castedo Evelio Rodriguez, R.P.I.
Registration Numbers RPT 4704; PSI 21966
Case Numbers 2014-00228; 2014-00231

NOTICE OF RIGHT TO JUDICIAL REVIEW

Pursuant to Sections 120.60(6) and 120.68, Florida Statutes, this Order is judicially reviewable. Review proceedings are governed by the Florida Rules of Appellate Procedure. Review proceedings are commenced by filing a Petition for Review, in accordance with Florida Rule of Appellate Procedure 9.100, with the District Court of Appeal, accompanied by a filing fee prescribed by law, and a copy of the Petition with the Agency Clerk of the Department within 30 days of the date this Order is filed.

Mission:
To protect, promote & improve the health
of all people in Florida through integrated
state, county & community efforts.



Rick Scott
Governor

John H. Armstrong, MD, FACS
State Surgeon General & Secretary

Vision: To be the Healthiest State in the Nation

MEMORANDUM OF PROBABLE CAUSE PANEL FINDINGS

TO: Department of Health (KG) *A-3*
FROM: Board of Pharmacy
SUBJECT: Evelio Rodriguez, RPT aka Castedo Evelio Rodriguez, RPI
CASE NO.: 2014-00228; 2014-00231
DATE OF PROBABLE CAUSE MEETING: March 13, 2014

This matter was brought before a Probable Cause Panel composed of:

Albert Garcia, Leo Fallon

On the date set forth above. The panel, having received the investigative report and supplemental materials, having carefully reviewed said documentation and the recommendation of the agency/department, and having had the opportunity to inquire of counsel, finds that:

Probable cause exists herein that Subject violated the following statutes/rules:

Section 465.016(1)(e), Florida Statutes (2012-2013) by violating Section 893.13(6)(a), Florida Statutes (2012-2013)
Section 465.016(1)(i), Florida Statutes (2012-2013)
Section 465.016(1)(e), Florida Statutes (2012-2013) by violating Section 893.13(7)(a)(9), Florida Statutes (2012-2013)

The Panel suggests imposing the following penalty: **Costs, Permanent Revocation**

- Probable cause does not exist and the case should be closed with the following closure code:
- In lieu of a finding of probable cause, the above named licensee shall be issued a letter of guidance to address the conduct in question:
- The panel has requested supplemental or additional information on the following:
- Other

Leo Fallon
CHAIRPERSON, PROBABLE CAUSE PANEL
BOARD OF PHARMACY
10 Apr 2014

Florida Department of Health
Office of the General Counsel - Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65 • Tallahassee, FL 32399-3265
Express mail address: 2585 Merchants Row - Suite 105
PHONE: 850/245-4444 • FAX 850/245-4683

www.FloridasHealth.com
TWITTER:HealthyFLA
FACEBOOK:FLDepartmentofHealth
YOUTUBE:fdoh



Rick Scott
Governor

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John H. Armstrong, MD, FACS

Surgeon General & Sec

Vision: To be the **Healthiest State** in the Nation

STATE OF FLORIDA
BOARD OF PHARMACY

DEPARTMENT OF HEALTH,
PETITIONER,

VS.

CASE NO. 201300709

BABATUNDE O OLURINDE,
RESPONDENT.

NOTICE

TO: BABATUNDE O OLURINDE
2375 SW 126TH AVE
MIRAMAR, FL 33027

PLEASE TAKE NOTICE that a disciplinary hearing will be heard before the BOARD OF PHARMACY on Wednesday, August 13, 2014, commencing at 9 a.m. Although the Respondent is not required to be present, it is in their best interest to attend. This hearing will be held at DoubleTree by Hilton, 100 Fairway Drive, Deerfield Beach, FL 33441, 1(800) 624-3606..

The purpose of the hearing is to consider a motion for: Determination of Waiver

Note: Cases shown on the agenda as "timed" items may be heard in a different order or may be heard earlier if all parties are present. Cases are scheduled beginning at 9 a.m.; therefore, it is imperative that you arrive promptly at 9 a.m. and be prepared to be at the meeting for several hours until your case is heard.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Hearing has been sent by U.S. Mail to the above address(es) this 10th day of July, 2014.

Board Executive Director
BOARD OF PHARMACY
Florida Department of Health
4052 Bald Cypress Way, Bin #
Tallahassee, FL 32399 -

Florida Department of Health

Division of Medical Quality Assurance
4052 Bald Cypress Way, Bin C10 • Tallahassee, FL 32399-3260
PHONE: (850) 245-4444 • FAX: (850) 245-4791

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STATE OF FLORIDA
BOARD OF PHARMACY

DEPARTMENT OF HEALTH,
PETITIONER,

VS. CASE NO. 201300709

BABATUNDE O OLURINDE,
RESPONDENT.

NOTICE

TO: EMELIKE NWOSUOCHA
160 N W 176 ST. #201-1
MIAMI, FL 33169

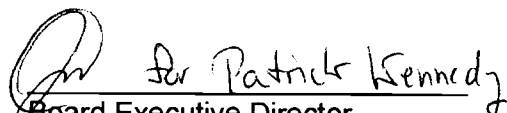
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The purpose of the hearing is to consider a motion for: Determination of Waiver

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Hearing has been sent by U.S. Mail to the above address(es) this 10th day of July, 2014.

A handwritten signature in black ink that reads "Dr. Patrick Kennedy".

Board Executive Director
BOARD OF PHARMACY
Florida Department of Health
4052 Bald Cypress Way, Bin #
Tallahassee, FL 32399 -

Florida Department of Health
Division of Medical Quality Assurance • Bureau of HCPR
4052 Bald Cypress Way, Bin C-04 • Tallahassee, FL 32399-1701
PHONE: 850/245-4292 • FAX 850/413-6982

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FLORIDA
HEALTH

Rick Scott

Governor

John H. Armstrong, MD, FACS

Surgeon General & Secretary

Vision: To be the Healthiest State in the Nation

MEMORANDUM

TO: Patrick W. Kennedy, M.A., Executive Director, Board of Pharmacy
FROM: Mary S. Miller, Assistant General Counsel
RE: **Determination of Waiver** *MSM*
SUBJECT: DOH v. Babatunde O. Olurinde, R. Ph.
 DOH Case Number 2013-00709
DATE: June 12, 2014

Enclosed you will find materials in the above-referenced case to be placed on the agenda for final agency action for the **August 13, 2014** meeting of the board. The following information is provided in this regard.

Subject: Babatunde O. Olurinde, R. Ph.
Subject's Address of Record: 2375 S. W. 126th Avenue
 Miramar, FL 33027

Enforcement Address: 2375 S. W. 126th Avenue
 Miramar, FL 33027

Subject's License No: 14062 **Rank:** PS

Licensure File No: 4547

Initial Licensure Date: 3/5/1990

Board Certification: No

Required to Appear: No

Current IPN/PRN Contract: No

Allegation(s): Section 456.072(1)(k), F.S. (2012), by violating Section 465.022(11)(a), F.S. (2012), by violating Rules 64B16-27.797(1), 64B16-27.797(7), and 64B16-28.140(4), F.A.C.

Prior Discipline: None

Probable Cause Panel: September 5, 2013: Mesaros and Glass

Subject's Attorney: Emelike Nwosuocha, Esq.
 160 N. W. 176 Street, Ste. #201-1
 Miami, FL 33169

Complainant/Address:

Department of Health/Investigative Services Unit-Fort
Lauderdale

Materials Submitted:

Memorandum to the Board
Motion for Determination of Waiver
 Exhibit A - Administrative Complaint
 Exhibit B - Certified Mail Receipt
 Exhibit C - Board Affidavit
 Exhibit D - Clerk's Affidavit
Motion to Assess Costs
 Exhibit A - Cost Affidavit
 Exhibit 1 - Cost Summary
 Exhibit 2 - Itemized Costs
PCP Memorandum

Disciplinary Guidelines: Section 456.072(1)(k), Florida Statutes (2012), by violating Section 465.022(11)(a), F.S. (2012), by violating Rules 64B16-27.797(1)(l), 64B16-27.797(7), 64B16-27.797(1), 64B16-27.797(7), and 64B16-28.140, F.A.C.: from a \$500 fine , 12 hour CE course in Laws and Rules, a course in sterile compounding, and one year probation to Revocation.

PRELIMINARY CASE REMARKS: DETERMINATION OF WAIVER

On or about 1/4/13, the Department conducted a routine inspection of Respondent's facility. As detailed in the AC, on or about 1/4/13, the Department's inspector noted multiple violations of Rule 64B16-27.797, Florida Administrative Code during the inspection. The Department's inspector also noted the Respondent's facility also did not maintain its compounding records in an appropriate manner.

MSM/aed

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

**DEPARTMENT OF HEALTH,
Petitioner,**

v.

CASE NO. 2013-00709

**BABATUNDE O. OLURINDE, P.S., R. PH.,
Respondent.**

**MOTION FOR DETERMINATION OF WAIVER AND FOR
FINAL ORDER BY HEARING NOT INVOLVING DISPUTED
ISSUES OF MATERIAL FACT**

Petitioner, Department of Health, by and through counsel, moves the Board of Pharmacy to find that Respondent has waived his right to elect a method of disposition of the pending Administrative Complaint, to determine that no material facts are in dispute, to conduct a hearing not involving disputed issues of material fact, and to enter a Final Order. As grounds therefore, Petitioner states:

1. An Administrative Complaint was filed against Respondent on date. A copy of said Administrative Complaint is attached hereto as Petitioner's Exhibit A.

2. Copies of the Administrative Complaint, Explanation of Rights, and Election of Rights forms were sent to Respondent, via certified US mail delivery, on date September 13, 2013 (#7196 9008 9111 1387 1176). A

signed green receipt card was not returned. A copy of the certified mail receipt with tracking certificate is attached as Petitioner's Exhibit B showing copies of the Administrative Complaint, Explanation of Rights, and Election of Rights forms were delivered on or about September 16, 2013.

3. Respondent has not filed with either the Department of Health or the Board of Pharmacy, an Election of Rights form or other responsive pleading in this case within the twenty-one (21) day period to dispute the allegations contained in the Administrative Complaint. Copies of affidavits supporting the same are attached hereto as Petitioner's Exhibits C and D.

4. Rule 28-106.111(2), Florida Administrative Code, provides in pertinent part that:

. . . persons seeking a hearing on an agency decision which does or may determine their substantial interests shall file a petition for hearing with the agency within 21 days of receipt of written notice of the decision.

5. Rule 28.106.111(4), Florida Administrative Code, provides in pertinent part that:

. . . any person who received written notice of an agency decision and who fails to file a written request for a hearing within 21 days waives the right to request a hearing on such matters.

6. Respondent has been advised, by a copy of this motion sent to his/her address of record that a copy of the investigative file in this case shall be furnished to the Board to establish a prima facie case regarding the violations as set forth in the Administrative Complaint.

7. The Department has determined that there are no material facts in dispute and has concluded that Respondent has waived his/her right to elect the method of resolution.

8. The Department requests that this Motion and a hearing be placed on the agenda for the next regularly scheduled meeting of the Board of Pharmacy.

WHEREFORE, Petitioner respectfully requests that the Board find that Respondent has waived his right to elect a method of resolution of this matter, find that there are no material facts in dispute, hold a hearing not involving material issues of disputed fact based on the information contained in the investigative file, find that Respondent violated Chapters 456 and 465, Florida Statutes, as alleged in the Administrative Complaint, impose discipline in accordance with the disciplinary guidelines, and enter a Final Order.

Respectfully submitted,



Mary S. Miller, Esq.
Assistant General Counsel
Florida Bar No. 0780420
Department of Health
Prosecution Services Unit
4052 Bald Cypress Way Bin C-65
Tallahassee, Florida 32399-3265
Telephone: (850) 245-4444, ext. 8104
Facsimile: (850) 245-4681
Email: mary.millers2@flhealth.gov

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Motion for Determination of Waiver and for Final Order by Hearing Not Involving Disputed Issues of Material Fact has been furnished via U.S. mail this 12th day of June, 2014, to Babatunde O. Olurinde, P.S., R. Ph., 2375 S.W. 126th Avenue, Miramar, FL 33027 and Emelike Nwosuacha, Esq., 160 N.W. 176 Street, Suite 201-1, Miami, FL 33169.



Mary S. Miller, Esq.
Assistant General Counsel

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO. 2013-00709

BABTUNDE O. OLURINDE, R.Ph.,

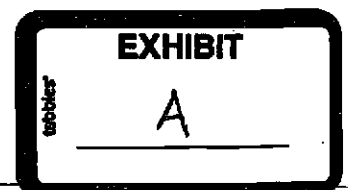
RESPONDENT.

ADMINISTRATIVE COMPLAINT

COMES NOW, Petitioner, Department of Health, by and through its undersigned counsel, and files this Administrative Complaint before the Board of Pharmacy against Respondent, Babatunde O. Olurinde, R.Ph., and in support thereof alleges:

1. Petitioner is the state agency charged with regulating the practice of pharmacy pursuant to Section 20.43, Florida Statutes; Chapter 456, Florida Statutes; and Chapter 465, Florida Statutes.

2. At all times material to this Complaint, Respondent was a licensed pharmacist within the state of Florida, having been issued license number PS 14062.



3. Respondent's address of record is 2375 Southwest 126th Avenue, Miramar, Florida 33027.

4. At all times material to this complaint, Respondent was the prescription department manager (PDM) of NW Pharmacy, Inc. (the Permittee), which is a permitted special parenteral and enteral compounding pharmacy in the State of Florida pursuant to Chapter 465, Florida Statutes (2012), holding permit number PH 19077.

5. Section 465.022(11)(a), Florida Statutes (2012), states "[t]he prescription department manager must ensure the permittee's compliance with all rules adopted under those chapters as they relate to the practice of the profession of pharmacy and the sale of prescription drugs."

6. As the PDM, Respondent was responsible for ensuring the Permittee complied with the following Rules:

a) Sterilized high-risk preparations pass sterility tests or preparations are properly stored, as required by Rule 64B16-27.797(1)(i)4, Florida Administrative Code; and/or

b) Personnel authorized to compound high-risk compounded sterile preparations (CSPs), completed a media-filled test with a high-risk test kit on a semi-annual basis, as required by Rule 64B16-27.797(1)(i)7, Florida Administrative Code; and/or

- c) High risk compounded sterile preparations (CSPs) produced in batches greater than 25 units passed antimicrobial testing before dispensing, pursuant to Rule 64B16-27.797(7)(a)3, Florida Administrative Code; and/or
- d) Rule 64B16-27.797(1)(a), Florida Administrative Code, which requires the anteroom or ante-area be maintained and certified by an independent qualified organization within ISO class level 8 semiannually for high risk CSPs and annually for medium and low risk CSPs;
- e) The buffer area (clean room) is maintained within ISO class 7 level of particulate contamination, and must be a separate room for high-risk compounding as required by Rule 64B16-27.797(1)(f), Florida Administrative Code; and/or
- f) Rule 64B16-27.797(7), Florida Administrative Code, which requires the Permittee to have an on-going quality assurance program with audits at regular intervals; and/or
- g) Rule 64B16-28.140(4), Florida Administrative Code, which requires the Permittee to maintain compounding records in a proper manner.

7. On or about January 4, 2013, a Department inspector conducted a routine inspection of the Permittee at its business address of 3180 N.W. 7th Street, Miami, Florida 33125. Respondent and Y.M., a registered pharmacy technician, were present during the Department's inspection.

8. On or about January 4, 2013, the Department inspector noted the following deficiencies:

- a) Sterilized high-risk preparations did not pass sterility tests or preparations were not properly stored; and/or
- b) Personnel authorized to compound high-risk compounded sterile preparations (CSPs), had not completed a media-filled test with a high-risk test kit on a semi-annual basis; and/or
- c) High risk compounded sterile preparations (CSPs) produced in batches greater than 25 units were dispensed without antimicrobial testing; and/or
- d) The clean room was not maintained within ISO class level 8 and there was not a separate room for high risk CSPs; and/or
- e) The buffer area (clean room) was not maintained within ISO class 7 level of particulate contamination, and must be a separate room for high-risk compounding; and/or

f) The Permittee did not have an on-going quality assurance program with audits at planned, regular intervals; and/or

g) The Permittee did not maintain compounding records in a proper manner.

9. Section 456.072(1)(k), Florida Statutes (2012), provides that failing to perform any statutory or legal obligation placed upon a licensee is grounds for disciplinary action.

10. Section 465.022(11)(a), Florida Statutes (2012), provides that the prescription department manager must ensure the permittee's compliance with all rules adopted under those chapters as they relate to the practice of the profession of pharmacy and the sale of prescription drugs.

11. Respondent failed to ensure the Permittee's compliance with the rules regulating pharmacy in one or more of the following ways:

a. By failing to ensure the Permittee complied with Rule 64B16-27.797(1)(i)4, Florida Administrative Code, as set forth in paragraph 8 above; and/or

b. By failing to ensure the Permittee complied with Rule 64B16-27.797(1)(i)7, Florida Administrative Code, as set forth above in paragraph 8 above; and/or

c. By failing to ensure the Permittee complied with Rule 64B16-27.797(7)(a), Florida Administrative Code, as set forth in paragraph 8 above; and/or

d. By failing to ensure the Permittee complied with Rule 64B16-27.797(1)(a), Florida Administrative Code, as set forth in paragraph 8 above; and/or

e. By failing to ensure the Permittee complied with Rule 64B16-27.797(f), Florida Administrative Code, as set forth in paragraph 8 above; and/or

f. By failing to ensure the Permittee complied with Rule 64B16-27.797(7), Florida Administrative Code, as set forth in paragraph 8 above; and/or

g. By failing to ensure the Permittee complied with Rule 64B16-28.140(4), Florida Administrative Code, as set forth in paragraph 8 above.

12. Based on the foregoing, Respondent violated Section 456.072(1)(k), Florida Statutes (2012), failing to perform any statutory or legal obligation placed on a licensee, by violating Section 465.022(11)(a), Florida Statutes (2012), by failing to ensure the permittee's compliance

with all rules adopted under those chapters as they relate to the practice of the profession of pharmacy and the sale of prescription drugs.

WHEREFORE, Petitioner respectfully requests that the Board of Pharmacy enter an order imposing one or more of the following penalties: permanent revocation or suspension of Respondent's license, restriction of practice, imposition of an administrative fine, issuance of a reprimand, placement of Respondent on probation, corrective action, refund of fees billed or collected, remedial education and/or any other relief that the Board deems appropriate.

SIGNED this 5th day of September, 2013.

JOHN H. ARMSTRONG, MD, FACS
State Surgeon General and Secretary of Health

Mary S. Miller

Mary S. Miller
Assistant General Counsel
DOH Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, Florida 32399-3265
Fl. Bar No. 0780420
(850) 245-4444, ext. 8104, telephone
(850) 245-4683 fax
Mary_Miller2@doh.state.fl.us E-Mail

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK *Angel Sanders*
DATE SEP 06 2013

PCP: September 5, 2013
PCP Members: Mesros + Glass

NOTICE OF RIGHTS

Respondent has the right to request a hearing to be conducted in accordance with Section 120.569 and 120.57, Florida Statutes, to be represented by counsel or other qualified representative, to present evidence and argument, to call and cross-examine witnesses and to have subpoena and subpoena duces tecum issued on his or her behalf if a hearing is requested.

NOTICE REGARDING ASSESSMENT OF COSTS

Respondent is placed on notice that Petitioner has incurred costs related to the investigation and prosecution of this matter. Pursuant to Section 456.072(4), Florida Statutes, the Board shall assess costs related to the investigation and prosecution of a disciplinary matter, which may include attorney hours and costs, on the Respondent in addition to any other discipline imposed.

English

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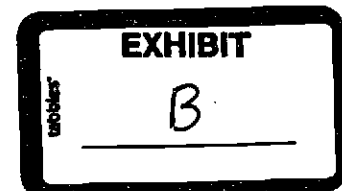
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Governor

John H. Armstrong, MD, FACS
State Surgeon General & Secretary

Vision: To be the Healthiest State in the Nation

Affidavit of Non-Receipt

I, Patrick Kennedy, hereby certify in my official capacity as custodian for the Board's licensure files that the Board of Pharmacy as of May 14, 2014, has no evidence of an Election of Rights form or other responsive pleading requesting a hearing prior to any agency action regarding Babtunde O. Olurinde, P.S., R.Ph., 2013-00709, which would affect the Subject's substantial interests or rights.

Patrick Kennedy
Custodian of Records
Florida Board of Pharmacy

Before me, personally appeared Patrick Kennedy, whose identity is known to me personally and who, under, oath, acknowledges that his/her signature appears above.

Sworn to and subscribed before me this 14th day of May, 2014.

Lorraine Gail Curry
Notary Public
My commission expires:



Florida Department of Health
Office of the General Counsel • Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65 • Tallahassee, FL 32399-1701
PHONE: 850/245-4444 • FAX 850/245-4683

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Rick Scott
Governor

John H. Armstrong, MD, FACS
State Surgeon General & Secretary

AFFIDAVIT

I, Angel Sanders, Deputy Clerk for the Department Clerk's Office, hereby certify in my official capacity as custodian for the Department Clerk's records, that the Department Clerk's Office has not received an Election of Rights form or other responsive pleading, which requests a hearing prior to any Department action regarding Babtunde O. Olurinde, P.S., R.Ph., 2013-00709, which would affect the Respondent's substantial interests or rights.

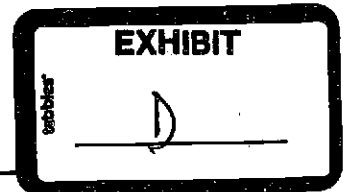
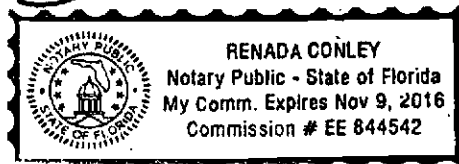
Angel Sanders
Custodian of Record
Department Clerk's Office

Before me, personally appeared Angel Sanders, whose identity is known to me personally and who, under oath, acknowledges that his/her signature appears above.

Sworn to and subscribed before me this 14th day of May, 2014.

Renada Conley
Notary Public

My Commission Expires:



STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,
Petitioner,

v.

CASE NO. 2013-00709

BABATUNDE O. OLURINDE, P.S., R. PH.,
Respondent.

MOTION TO ASSESS COSTS IN ACCORDANCE
WITH SECTION 456.072(4)

COMES NOW the Department of Health, by and through undersigned counsel, and moves the Board of Pharmacy for the entry of a Final Order assessing costs against the Respondent for the investigation and prosecution of this case in accordance with Section 456.072(4), Florida Statutes. As grounds therefore, the Petitioner states the following:

1. At its next regularly scheduled meeting, the Board of Pharmacy will take up for consideration the above-styled disciplinary action and will enter a Final Order therein.

2. Section 456.072(4), Florida Statutes, states as follows:

In addition to any other discipline imposed through final order, or citation, entered on or after July 1, 2001, pursuant to this section or

discipline imposed through final order, or citation, entered on or after July 1, 2001, for a violation of any practice act, the board, or the department when there is not board, shall assess costs related to the investigation and prosecution of the case. Such costs related to the investigation and prosecution include, but are not limited to, salaries and benefits of personnel, costs related to the time spent by the attorney and other personnel working on the case, and any other expenses incurred by the department for the case. The board, or the department when there is no board, shall determine the amount of costs to be assessed after its consideration of an affidavit of itemized costs and any written objections thereto.

3. The investigation and prosecution of this case has resulted in costs in the total amount of \$1,602.89 based on the following itemized statement of costs:

Complaint Cost Summary

Complaint Number: 201300709

| | ***** Cost to Date ***** | |
|-----------------------------|--------------------------|------------|
| | Hours | Costs |
| Complaint: | 2.00 | \$109.80 |
| Investigation: | 7.90 | \$505.43 |
| Legal: | 9.30 | \$985.99 |
| Compliance: | 0.05 | \$1.67 |
| | ***** | ***** |
| Sub Total: | 19.25 | \$1,602.89 |
| Expenses to Date: | | \$0.00 |
| Prior Amount: | | \$0.00 |
| Total Costs to Date: | | \$1,602.89 |

Therefore, the Petitioner seeks an assessment of costs against the Respondent in the amount of \$616.90 as evidenced in the attached affidavit. (Exhibit A).


4. Should the Respondent file written objections to the assessment of costs, within ten (10) days of the date of this motion, specifying the grounds for the objections and the specific elements of the costs to which the objections are made, the Petitioner requests that the Board determine the amount of costs to be assessed based upon its consideration of the affidavit attached as Exhibit A and any timely-filed written objections.

5. Petitioner requests that the Board grant this motion and assess costs in the amount of \$616.90 as supported by competent, substantial evidence. This assessment of costs is in addition to any other discipline imposed by the Board and is in accordance with Section 456.072(4), Florida Statutes.

WHEREFORE, the Department of Health requests that the Board of Nursing enter a Final Order assessing costs against the Respondent in the amount of \$616.90.

DATED this 12th day of June, 2014.

Respectfully submitted,



Mary S. Miller, Esq.
Assistant General Counsel
DOH Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, FL 32399-3265
Florida Bar # 0780420
(850) 245-4444, ext. 8104
(850) 245-4683 Fax
Email: mary.miller2@flhealth.gov

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Motion to Assess Costs has been provided by U.S. Mail this 12th day of June, 2014, to BABATUNDE O. OLURINDE, P.S., R. Ph., 2375 S.W. 126th Avenue, Miramar, FL 33027 and Emelike Nwosuacha, Esq., 160 N.W. 176 Street, Suite 201-1, Miami, FL 33169.



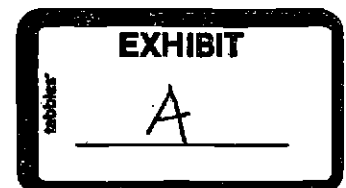
Mary S. Miller, Esq.
Assistant General Counsel

AFFIDAVIT OF FEES AND COSTS EXPENDED

STATE OF FLORIDA
COUNTY OF LEON:

BEFORE ME, the undersigned authority, personally appeared **SHANE WALTERS** who was sworn and states as follows:

- 1) My name is Shane Walters.
- 2) I am over the age of 18, competent to testify, and make this affidavit upon my own personal knowledge and after review of the records at the Florida Department of Health (DOH).
- 3) I am the Operations and Management Consultant Manager (OMCM) for the Consumer Services and Compliance Management Unit for DOH. The Consumer Services Unit is where all complaints against Florida health care licensees (e.g., medical doctors, dentists, nurses, respiratory therapists) are officially filed. I have been in my current job position for more than one year. My business address is 4052 Bald Cypress Way, Bin C-75 Tallahassee, Florida 32399-3275.
- 4) As OMCM of the Consumer Services and Compliance Management Unit, my job duties include reviewing data in the Time Tracking System and verifying that the amounts correspond. The Time Tracking System is a computer program which records and tracks DOH's costs regarding the investigation and prosecution of cases against Florida health care licensees.
- 5) As of today, DOH's total costs for investigating and prosecuting DOH case number(s) **2013-00709** (Department of Health v **BABATUNDE O. OLURINDE, P.S.**) are **ONE THOUSAND SIX HUNDRED TWO DOLLARS AND EIGHTY-NINE CENTS (\$1,602.89)**.
- 6) The costs for DOH case number(s) **2013-00709** (Department of Health v **BABATUNDE O. OLURINDE, P.S.**) are summarized in Exhibit 1 (Cost Summary Report), which is attached to this document.
- 7) The itemized costs and expenses for DOH case number(s) **2013-00709** (Department of Health v **BABATUNDE O. OLURINDE, P.S.**) are detailed in Exhibit 2 (Itemized Cost Report and Itemized Expense Report and receipts), which is attached to this document.
- 8) The itemized costs as reflected in Exhibit 2 are determined by the following method: DOH employees who work on cases daily are to keep track of their time in six-minute increments (e.g., investigators



and lawyers). A designated DOH employee in the Consumer Services Unit, Legal Department, and in each area office, inputs the time worked and expenses spent into the Time Tracking System. Time and expenses are charged against a state health care Board (e.g., Florida Board of Medicine, Florida Board of Dentistry, Florida Board of Osteopathic Medicine), and/or a case. If no Board or case can be charged, then the time and expenses are charged as administrative time. The hourly rate of each employee is calculated by formulas established by the Department. (See the Itemized Cost Report)

- 9) Shane Walters, first being duly sworn, states that she has read the foregoing Affidavit and its attachments and the statements contained therein are true and correct to the best of her knowledge and belief.

FURTHER AFFIANT SAYETH NOT.

Shane Walters
Shane Walters, Affiant

State of Florida
County of Leon

Sworn to and subscribed before me this 15th day of May, 2014,
by Shane Walters, who is personally known to me.

Bernadette Lawanda Hayes
Notary Signature

Bernadette Lawanda Hayes
Name of Notary Printed

Stamp Commissioned Name of Notary Public:



Complaint Cost Summary

Complaint Number: 201300709

Subject's Name: OLURINDE, BABATUNDE O

| | ***** Cost to Date ***** | |
|----------------------|--------------------------|------------|
| | Hours | Costs |
| Complaint: | 2.00 | \$109.80 |
| Investigation: | 7.90 | \$505.43 |
| Legal: | 9.30 | \$985.99 |
| Compliance: | 0.05 | \$1.67 |
| | ***** | ***** |
| Sub Total: | 19.25 | \$1,602.89 |
| Expenses to Date: | | \$0.00 |
| Prior Amount: | | \$0.00 |
| Total Costs to Date: | | \$1,602.89 |

EXHIBIT

1



*** CONFIDENTIAL ***

Time Tracking System
Itemized Cost by Complaint

Complaint 201300709

Report Date 05/15/2014

| Staff Code | Activity Hours | Staff Rate | Cost | Activity Date | Activity Code | Activity Description |
|------------|----------------|------------|------|---------------|---------------|----------------------|
|------------|----------------|------------|------|---------------|---------------|----------------------|

COMPLIANCE MANAGEMENT UNIT

| | | | | | | |
|-----------|------|---------|--------|------------|-----|------------------------------|
| HC27 | 0.05 | \$33.33 | \$1.67 | 05/20/2013 | 137 | PRIORITY DOWNGRADES/UPGRADES |
| Sub Total | 0.05 | | \$1.67 | | | |

CONSUMER SERVICES UNIT

| | | | | | | |
|-----------|------|---------|----------|------------|----|--|
| HA107 | 2.00 | \$54.90 | \$109.80 | 01/14/2013 | 78 | INITIAL REVIEW AND ANALYSIS OF COMPLAINT |
| Sub Total | 2.00 | | \$109.80 | | | |

INVESTIGATIVE SERVICES UNIT

| | | | | | | |
|-----------|------|---------|----------|------------|----|----------------------------|
| MI211 | 2.80 | \$63.98 | \$179.14 | 01/25/2013 | 4 | ROUTINE INVESTIGATIVE WORK |
| MI211 | 2.00 | \$63.98 | \$127.96 | 01/28/2013 | 76 | REPORT PREPARATION |
| MI211 | 0.30 | \$63.98 | \$19.19 | 01/29/2013 | 76 | REPORT PREPARATION |
| MI211 | 0.50 | \$63.98 | \$31.99 | 02/05/2013 | 6 | SUPPLEMENTAL INVESTIGATION |
| MI211 | 0.50 | \$63.98 | \$31.99 | 02/11/2013 | 4 | ROUTINE INVESTIGATIVE WORK |
| MI211 | 0.50 | \$63.98 | \$31.99 | 02/19/2013 | 4 | ROUTINE INVESTIGATIVE WORK |
| MI211 | 1.30 | \$63.98 | \$83.17 | 07/24/2013 | 4 | ROUTINE INVESTIGATIVE WORK |
| Sub Total | 7.90 | | \$505.43 | | | |

PROSECUTION SERVICES UNIT

| | | | | | | |
|--------|------|----------|----------|------------|----|--|
| HLL70B | 0.20 | \$106.35 | \$21.27 | 05/20/2013 | 26 | PREPARE OR REVISE MEMORANDUM |
| HLL70A | 0.60 | \$106.35 | \$63.81 | 05/23/2013 | 25 | REVIEW CASE FILE |
| HLL70A | 5.00 | \$106.35 | \$531.75 | 07/09/2013 | 28 | PREPARE OR REVISE ADMINISTRATIVE COMPLAINT |
| HLL70A | 1.60 | \$106.35 | \$170.16 | 09/11/2013 | 79 | STIPULATION |
| HLL70A | 0.40 | \$106.35 | \$42.54 | 09/12/2013 | 79 | STIPULATION |
| HLL70A | 0.10 | \$106.35 | \$10.64 | 09/26/2013 | 41 | REVIEW PLEADING |
| HLL70A | 0.20 | \$106.35 | \$21.27 | 10/21/2013 | 35 | TELEPHONE CALLS |

EXHIBIT

2



*** CONFIDENTIAL ***

Time Tracking System
Itemized Cost by Complaint

Complaint 201300709

Report Date 05/15/2014

Page 2 of 2

| Staff Code | Activity Hours | Staff Rate | Cost | Activity Date | Activity Code | Activity Description |
|------------------|----------------|------------|-----------------|---------------|---------------|------------------------------|
| HLL70A | 0.50 | \$106.35 | \$53.18 | 10/21/2013 | 25 | REVIEW CASE FILE |
| HLL70A | 0.70 | \$101.95 | \$71.37 | 04/18/2014 | 26 | PREPARE OR REVISE MEMORANDUM |
| Sub Total | 9.30 | | \$985.99 | | | |

| | |
|-------------------|-------------------|
| Total Cost | \$1,602.89 |
|-------------------|-------------------|



*** CONFIDENTIAL ***

Time Tracking System
Itemized Expense by Complaint
Complaint

Report Date: 05/15/2014

Page 1 of 1

| Staff Code | Expense Date | Expense Amount | Expense Code | Expense Code Description |
|------------|--------------|----------------|--------------|--------------------------|
|------------|--------------|----------------|--------------|--------------------------|

SubTotal

Total Expenses

MEMORANDUM OF PROBABLE CAUSE DETERMINATION

TO: Department of Health, Prosecution Services Unit
FROM: Chair, Probable Cause Panel, Florida Board of Pharmacy
RE: Babtunde O. Olurinde, R.Ph. (MSM)
Case No. 2013-00709

MEMBERS: ^{Glass} Cynthia Griffin, PharmD and Jeffrey Mesaros

DATE OF PCP: September 5, 2013 **AGENDA ITEM:** A-3

.....
This matter came before the Probable Cause Panel on the above date. Having reviewed the complete investigative file, recommendations of the Department, and any information submitted by the Subject, and being otherwise fully advised in the premises, the panel finds that:

Probable cause exists and a formal complaint shall be filed for violation of statutes and rules, including but not limited to:

Section 465.016(1)(r), Florida Statutes (2012), by violating Section 465.022(11)(a), Florida Statutes (2012);

Probable Cause was **not** found in this case

In lieu of probable cause, issue **letter of guidance**

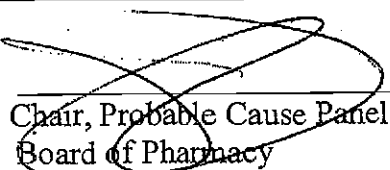
Case requires **expert review**

Case needs **further investigation**

- a)
- b)
- c)

Upon **reconsideration**, dismiss

other _____


Chair, Probable Cause Panel
Board of Pharmacy

9/5/13

Date

MEMORANDUM OF PROBABLE CAUSE DETERMINATION

TO: Department of Health, Prosecution Services Unit
FROM: Chair, Probable Cause Panel, Florida Board of Pharmacy
RE: Babtunde O. Olurinde, R.Ph. (MSM)
Case No. 2013-00709

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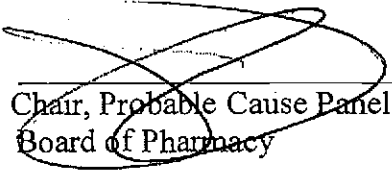
Case requires **expert review**

Case needs **further investigation**

- a)
- b)
- c)

Upon **reconsideration**, dismiss

other _____



Chair, Probable Cause Panel
Board of Pharmacy

9/5/13

Date

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456.057 - Ownership and control of patient records; report or copies of records to be
furnished.—

10)(a)All patient records obtained by the department and any other documents
maintained by the department which identify the patient by name are confidential and exempt
from s. 119.07(1) and shall be used solely for the purpose of the department and the appropriate
regulatory board in its investigation, prosecution, and appeal of disciplinary proceedings. The
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Rick Scott
Governor

Mission:

To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.

John H. Armstrong, MD, FACS
Surgeon General & Sec

Vision: To be the **Healthiest State** in the Nation

STATE OF FLORIDA
BOARD OF PHARMACY

DEPARTMENT OF HEALTH,
PETITIONER,

VS.

CASE NO. 201217623

NORIEL BATISTA,
RESPONDENT.

NOTICE

TO: NORIEL BATISTA
7245 CORAL WAY
MIAMI, FL 33155

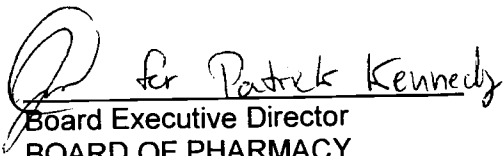
PLEASE TAKE NOTICE that a disciplinary hearing will be heard before the BOARD OF PHARMACY on Wednesday, August 13, 2014, commencing at 9 a.m. Although the Respondent is not required to be present, it is in their best interest to attend. This hearing will be held at DoubleTree by Hilton, 100 Fairway Drive, Deerfield Beach, FL 33441, 1(800) 624-3606.

The purpose of the hearing is to consider a motion for: Determination of Waiver

Note: Cases shown on the agenda as "timed" items may be heard in a different order or may be heard earlier if all parties are present. Cases are scheduled beginning at 9 a.m.; therefore, it is imperative that you arrive promptly at 9 a.m. and be prepared to be at the meeting for several hours until your case is heard.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Hearing has been sent by U.S. Mail to the above address(es) this 10th day of July, 2014.


Board Executive Director
BOARD OF PHARMACY

Florida Department of Health
4052 Bald Cypress Way, Bin #
Tallahassee, FL 32399 -

Florida Department of Health

Division of Medical Quality Assurance
4052 Bald Cypress Way, Bin C10 • Tallahassee, FL 32399-3260
PHONE: (850) 245-4444 • FAX : (850) 245-4791

www.FloridasHealth.com
TWITTER: HealthyFLA
FACEBOOK: FLDepartmentofHealth
YOUTUBE: fldoh



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CASE NO. 201217623

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RESPONDENT.

NOTICE

TO: NORIEL BATISTA – DC#B12331
19000 SW 377TH STREET
FLORIDA CITY, FL 33034

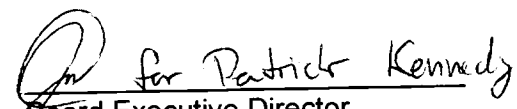
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BOARD OF PHARMACY**

DEPARTMENT OF HEALTH,
PETITIONER,

VS.

CASE NO. 201217623

NORIEL BATISTA,
RESPONDENT.

NOTICE

TO: DAVID S WEINSTEIN
799 BRICKELL PLAZA #900
MIAMI, FL 33131

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MEMORANDUM

TO: Patrick W. Kennedy, M.A., Executive Director, Board of Pharmacy
FROM: Matthew Witters, Assistant General Counsel *(MW)*
RE: **Determination of Waiver**
SUBJECT: DOH v. Noriel Batista, R.P.T.
 DOH Case Number 2012-17623
DATE: May 16, 2014 *AB*

Enclosed you will find materials in the above-referenced case to be placed on the agenda for final agency action for the **August 13, 2014**, meeting of the board. The following information is provided in this regard.

| | |
|--------------------------------------|---|
| Subject: | Noriel Batista |
| Subject's Address of Record: | 7245 Coral Way Miami, FL 33155 |
| Enforcement Address: | 7245 Coral Way Miami, FL 33155 |
| Subject's Additional Address: | Dade Correctional Institution, DC#B12331 19000 SW 377th Street Florida City, FL 33034-6409 |
| Subject's License No: | 3144 |
| License File No: | 4635 |
| Initial Licensure Date: | 10/19/2009 |
| Board Certification: | No |
| Required to Appear: | No |
| Current IPN/PRN Contract: | No |
| Allegation(s): | Ct 1: 456.072(1)(c), FS (2013) Ct 2: 456.072(1)(x), FS (2013) |
| Prior Discipline: | None |
| Probable Cause Panel: | February 20, 2014; Weizer & Phillip |
| Subject's Attorney: | Pro Se |
| Complainant/Address: | Department Of Health/Consumer Services Unit |
| Materials Submitted: | Memorandum to the Board Motion For Determination of Waiver and Final Order Exhibit A - Administrative Complaint Exhibit B - Copy of Certified Mail Receipt Exhibit C - Affidavit of Non-Receipt - Board Office Exhibit D - Affidavit of Non-Receipt - Agency Clerk |

Florida Department of Health

Office of the General Counsel • Prosecution Services Unit
 4052 Bald Cypress Way, Bln C-85 • Tallahassee, FL 32399-1701
 Express mail address: 2585 Merchants Row - Suite 105
 PHONE: 850/245-4444 • FAX 850/245-4683

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TWITTER: HealthyFLA
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Prosecutor's documents
Motion to Assess Costs
Exhibit A – Affidavit of Fees and Costs Expended
Exhibit 1 – Complaint Cost Summary
Exhibit 2 – Itemized Cost by Complaint
Probable Cause Memorandum
Final Investigative Report with Exhibits 1-2

GUIDELINES:

Count I: From a \$3,000 fine and one year of probation up to revocation.
Count II: From a \$1,000 fine up to revocation.

PRELIMINARY CASE REMARKS

This is a one count administrative complaint which alleges that the Respondent entered pleas of guilty to offenses relating to the practice or ability to practice the Respondent's profession.

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

**DEPARTMENT OF HEALTH,
Petitioner,**

v.

CASE NO. 2012-17623

**NORIEL BATISTA, R.P.T.,
Respondent.**

**MOTION FOR DETERMINATION OF WAIVER AND FOR
FINAL ORDER BY HEARING NOT INVOLVING DISPUTED
ISSUES OF MATERIAL FACT**

Petitioner, Department of Health, by and through counsel, moves the Board of Pharmacy to find that Respondent has waived his/her right to elect a method of disposition of the pending Administrative Complaint, to determine that no material facts are in dispute, to conduct a hearing not involving disputed issues of material fact, and to enter a Final Order. As grounds therefore, Petitioner states:

1. An Administrative Complaint was filed against Respondent on February 20, 2014. A copy of said Administrative Complaint is attached hereto as Petitioner's Exhibit A.

2. Copies of the Administrative Complaint, Explanation of Rights form, and Election of Rights forms were sent to Respondent, via certified US mail delivery, on February 21, 2014, (7196 9008 9111 1388 1328). A signed

green receipt card was returned. A copy of the certified mail receipt is attached as Petitioner's Exhibit B.

3. Respondent has not filed with either the Department of Health or the Board of Pharmacy, an Election of Rights form or other responsive pleading in this case within the twenty-one (21) day period to dispute the allegations contained in the Administrative Complaint. Copies of affidavits supporting the same are attached hereto as Petitioner's Exhibits C and D.

4. Rule 28-106.111(2), Florida Administrative Code, provides in pertinent part that:

. . . persons seeking a hearing on an agency decision which does or may determine their substantial interests shall file a petition for hearing with the agency within 21 days of receipt of written notice of the decision.

5. Rule 28.106.111(4), Florida Administrative Code, provides in pertinent part that:

. . . any person who received written notice of an agency decision and who fails to file a written request for a hearing within 21 days waives the right to request a hearing on such matters.

6. Respondent has been advised, by a copy of this motion sent to his/her address of record, that a copy of the investigative file in this case

shall be furnished to the Board to establish a prima facie case regarding the violations as set forth in the Administrative Complaint.

7. The Department has determined that there are no material facts in dispute and has concluded that Respondent has waived his/her right to elect the method of resolution.

8. The Department requests that this Motion and a hearing be placed on the agenda for the next regularly scheduled meeting of the Board of Pharmacy.

WHEREFORE, Petitioner respectfully requests that the Board find that Respondent has waived his/her right to elect a method of resolution of this matter, find that there are no material facts in dispute, hold a hearing not involving material issues of disputed fact based on the information contained in the investigative file, find that Respondent violated Chapters 456 and 465, Florida Statutes, as alleged in the Administrative Complaint, impose discipline in accordance with the disciplinary guidelines, and enter a Final Order.

Respectfully submitted,



Matt Witters
Assistant General Counsel
Florida Bar No. 91245
Department of Health
Prosecution Services Unit
4052 Bald Cypress Way Bin C-65
Tallahassee, Florida 32399-3265
Telephone: (850) 245-4444
Facsimile: (850) 245-4681
Email: matthew.witters@flhealth.gov

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Motion for Determination of Waiver and for Final Order by Hearing Not Involving Disputed Issues of Material Fact has been furnished via U.S. mail this 20 day of June, 2014, to Noriel Batista DC #B12321, Dade Correctional Institution, 19000 SW 377 Street, Florida City, FL 33034-6409; and to 7245 Coral Way, Miami, FL 33155.



Matthew Witters
Assistant General Counsel

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO. 2012-17623

NORIEL BATISTA, R.P.T.,

RESPONDENT.

ADMINISTRATIVE COMPLAINT

COMES NOW, Petitioner, Department of Health, by and through its undersigned counsel, and files this Administrative Complaint (Complaint) before the Board of Pharmacy against Respondent, Noriel Batista, R.P.T., and in support thereof alleges:

1. Petitioner is the state department charged with regulating the practice of pharmacy pursuant to Section 20.43, Florida Statutes; Chapter 456, Florida Statutes; and Chapter 465, Florida Statutes.
2. At all times material to this Complaint, Respondent was a registered pharmacy technician ("RPT") in the state of Florida, having been issued license RPT 3144.

EXHIBIT

A

3. Respondent's address of record is 7245 Coral Way, Miami, Florida 33155.

4. Respondent's address may be Dade Correctional Institution., 19000, SW 377th Street, Florida City, Florida 33034-6409, Attention Noriel Batista, DC Number B12331.

5. On or about October 17, 2013, in the Circuit Court for the Eleventh Judicial Circuit, in and for Miami-Dade County, Florida, in case number F12-029437 C, Respondent entered pleas of guilty to one count of Medicaid fraud/filing false claim, a first degree felony in violation of Section 409.920(2)(A), Florida Statutes and one count of grand theft greater than \$100,000, a first degree felony in violation of Section 812.014(2)(A), Florida Statutes.

6. Medicaid fraud/filing false claim and grand theft greater than \$100,000 are crimes that directly relate to the practice of pharmacy.

7. Respondent failed to report the guilty pleas to the Board of the Department within thirty days of the date in which the Respondent entered the pleas.

COUNT I

8. Petitioner realleges and incorporates paragraphs one through seven as if fully set forth herein.

9. Section 456.072(1)(c), Florida Statutes (2013), provides that being convicted or found guilty of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the practice of, or the ability to practice, a licensee's profession is grounds for disciplinary action.

10. Respondent entered pleas of guilty to one count of Medicaid fraud/filing false claim and one count of grand theft greater than \$100,000, crimes that relate to the practice of pharmacy, which is the licensee's profession.

11. Based on the foregoing, Respondent violated Section 456.072(1)(c), Florida Statutes (2013), by being convicted or found guilty of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the practice of, or the ability to practice, a licensee's profession.

COUNT II

12. Petitioner realleges and incorporates paragraphs one through seven as if fully set forth herein.

13. Section 456.072(1)(x), Florida Statutes (2013), provides that failing to report to the board, or the department if there is no board, in writing within thirty days after the licensee has been convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction is grounds for disciplinary action.

14. Respondent failed to report the pleas of guilty to one count of Medicaid fraud/filing false claim and one count of grand theft greater than \$100,000, to the Board of Pharmacy in writing within thirty (30) days of the date Respondent entered the plea.

15. Based on the foregoing, Respondent violated Section 456.072(1)(x) Florida Statutes (2013), which provides that failing to report to the board, or the department if there is no board, in writing within thirty (30) days after the licensee has been convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction constitutes grounds for discipline.

WHEREFORE, the Petitioner respectfully requests that the Board of Pharmacy enter an order imposing one or more of the following penalties: permanent revocation or suspension of Respondent's license, restriction of practice, imposition of an administrative fine, issuance of a reprimand, placement of the Respondent on probation, corrective action, refund of fees billed or collected, remedial education and/or any other relief that the Board deems appropriate.

SIGNED this 20th day of February, 2014.

John H. Armstrong, MD, FACS
State Surgeon General and
Secretary of Health

Christopher A. Jencks for
Matthew G. Witters

Assistant General Counsel

Fla. Bar No. 0091245

Florida Department of Health

Office of the General Counsel

4052 Bald Cypress Way, Bin #C65

Tallahassee, FL 32399-3265

Telephone: (850) 245-4444

Facsimile: (850) 245-4683

Email: matthew.witters@flhealth.gov

FILED

DEPARTMENT OF HEALTH
DEPUTY CLERK

CLERK: *Angelo S. Sides*

DATE: FEB 20 2014

PCP: February 20, 2014

PCP Members: Dr. Weizer and Mr. Phillip

NOTICE OF RIGHTS

Respondent has the right to request a hearing to be conducted in accordance with Section 120.569 and 120.57, Florida Statutes, to be represented by counsel or other qualified representative, to present evidence and argument, to call and cross-examine witnesses and to have subpoena and subpoena duces tecum issued on his or her behalf if a hearing is requested.

NOTICE REGARDING ASSESSMENT OF COSTS

Respondent is placed on notice that Petitioner has incurred costs related to the investigation and prosecution of this matter. Pursuant to Section 456.072(4), Florida Statutes, the Board shall assess costs related to the investigation and prosecution of a disciplinary matter, which may include attorney hours and costs, on the Respondent in addition to any other discipline imposed.

7196 9008 9111 1388 1328

TO:

N BATISTA RPT

SENDER: CHRISTINE LILICH
STIP PACK

REFERENCE: 2012-17623

NORIEL BATISTA DC# B12331
DADE CORRECTIONAL INSTITUTION
19000 SW 377TH ST
FLORIDA CITY FL 33034-6409

PS Form 3800, January 2005

| | | |
|------------------------------|----------------------|--|
| RETURN RECEIPT SERVICE | Postage | |
| | Certified Fee | |
| | Return Receipt Fee | |
| | Restricted Delivery | |
| | Total Postage & Fees | |

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Certified Mail™**

No Insurance Coverage Provided
Do Not Use for International Mail

POSTMARK OR DATE

2/21/2014


| | | | |
|---|--|--|---|
| 2. Article Number | | COMPLETE THIS SECTION ON DELIVERY | |
|  7196 9008 9111 1388 1328 | | A. Received by (Please Print Clearly) | B. Date of Delivery |
| | | C. Signature X <i>[Signature]</i> | <input type="checkbox"/> Agent <input type="checkbox"/> Addressee <input type="checkbox"/> Yes <input type="checkbox"/> No |
| 3. Service Type CERTIFIED MAIL™ | | D. Is delivery address different from item 1? If YES, enter delivery address below: | |
| 4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes | | | |
| 1. Article Addressed to: | | 2014 MAR -5 AM 9:21 PRACTITIONER REGULATION LEGAL | |
| NORIEL BATISTA DC# B12331 | | | |
| DADE CORRECTIONAL INSTITUTION 19000 SW 377TH ST FLORIDA CITY FL 33034-6409 | | | |
| WRITERS/STIP PACK BATISTA/2012-17623 | | | |
| PS Form 3811, January 2005 | | Domestic Return Receipt | |

EXHIBIT
B

Mission:
To protect, promote & improve the health
of all people in Florida through integrated
state, county & community efforts.



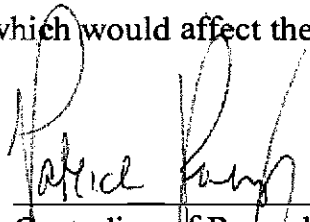
Rick Scott
Governor

John H. Armstrong, MD, FACS
State Surgeon General & Secretary

Vision: To be the Healthiest State in the Nation

Affidavit of Non-Receipt

I, Patrick Kennedy, hereby certify in my official capacity as
custodian for the Board's licensure files that the Board of Pharmacy as of
May 21, 2014, has no evidence of an Election of Rights form or other
responsive pleading requesting a hearing prior to any agency action regard to Noriel
Batista, R.P.T.; 2012-17623, which would affect the Subject's substantial interests or
rights.



Custodian of Records
Florida Board of Pharmacy

Before me, personally appeared Patrick Kennedy, whose identity is
known to me personally and who, under, oath, acknowledges that his/her signature
appears above.

Sworn to and subscribed before me this 21st day of
May, 2014.

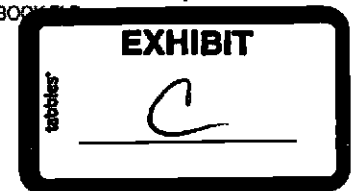


Notary Public
My commission expires:



Florida Department of Health
Office of the General Counsel • Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65 • Tallahassee, FL 32399-1701
PHONE: 850/245-4444 • FAX 850/245-4683

www.FloridasHealth.com
TWITTER: HealthyFLA
FACEBOOK: HealthyFLA



Mission:

To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.



Vision: To be the Healthiest State in the Nation

Rick Scott
Governor

John H. Armstrong, MD, FACS
State Surgeon General & Secretary

AFFIDAVIT

I, Brygel Saucedo, Deputy Clerk for the Department Clerk's Office, hereby certify in my official capacity as custodian for the Department Clerk's records, that the Department Clerk's Office has not received an Election of Rights form or other responsive pleading, which requests a hearing prior to any Department action regarding Noriel Batista, R.P.T.; 2012-17623, which would affect the Respondent's substantial interests or rights.

Brygel Saucedo

Custodian of Record
Department Clerk's Office

Before me, personally appeared Brygel Saucedo, whose identity is known to me personally and who, under oath, acknowledges that his/her signature appears above.

Sworn to and subscribed before me this 19th day of May, 2014.

Lawanda Bell

Notary Public

My Commission Expires:



Florida Department of Health
Office of the General Counsel • Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65 • Tallahassee, FL 32399-1701
PHONE: 850/245-4444 • FAX 850/245-4683

www.
FACE



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furnished.—

10)(a)All patient records obtained by the department and any other documents
maintained by the department which identify the patient by name are confidential and exempt
from s. 119.07(1) and shall be used solely for the purpose of the department and the appropriate
regulatory board in its investigation, prosecution, and appeal of disciplinary proceedings. The
records shall not be available to the public as part of the record of investigation for and
prosecution in disciplinary proceedings made available to the public by the department or the
appropriate board.

STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,
Petitioner,

v.

CASE NO. 2012-17623

NORIEL BATISTA, R.P.T.,
Respondent.

MOTION TO ASSESS COSTS IN ACCORDANCE
WITH SECTION 456.072(4)

COMES NOW the Department of Health, by and through undersigned counsel, and moves the Board of Pharmacy for the entry of a Final Order assessing costs against the Respondent for the investigation and prosecution of this case in accordance with Section 456.072(4), Florida Statutes. As grounds therefore, the Petitioner states the following:

1. At its next regularly scheduled meeting, the Board of Pharmacy will take up for consideration the above-styled disciplinary action and will enter a Final Order therein.

2. Section 456.072(4), Florida Statutes, states as follows:

In addition to any other discipline imposed through final order, or citation, entered on or

after July 1, 2001, pursuant to this section or discipline imposed through final order, or citation, entered on or after July 1, 2001, for a violation of any practice act, the board, or the department when there is not board, shall assess costs related to the investigation and prosecution of the case. Such costs related to the investigation and prosecution include, but are not limited to, salaries and benefits of personnel, costs related to the time spent by the attorney and other personnel working on the case, and any other expenses incurred by the department for the case. The board, or the department when there is no board, shall determine the amount of costs to be assessed after its consideration of an affidavit of itemized costs and any written objections thereto. .

3. The investigation and prosecution of this case has resulted in costs in the total amount of \$343.29, based on the following itemized statement of costs:

| ***** Cost to Date ***** | | |
|--------------------------|-------|----------|
| | Hours | Costs |
| Complaint: | 2.70 | \$148.11 |
| Investigation: | 0.40 | \$21.86 |
| Legal: | 1.70 | \$173.32 |
| Compliance: | 0.00 | \$0.00 |
| Sub Total: | 4.80 | \$343.29 |
| Expenses to Date: | | \$0.00 |
| Prior | | \$0.00 |

| | | |
|----------------------|--|----------|
| Amount: | | |
| Total Costs to Date: | | \$343.29 |

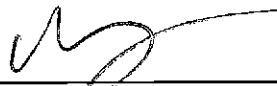
Therefore, the Petitioner seeks an assessment of costs against the Respondent in the amount of \$169.97 as evidenced in the attached affidavit. (Exhibit A).

4. Should the Respondent file written objections to the assessment of costs, within ten (10) days of the date of this motion, specifying the grounds for the objections and the specific elements of the costs to which the objections are made, the Petitioner requests that the Board determine the amount of costs to be assessed based upon its consideration of the affidavit attached as Exhibit A and any timely-filed written objections.

5. Petitioner requests that the Board grant this motion and assess costs in the amount of \$169.97 as supported by competent, substantial evidence. This assessment of costs is in addition to any other discipline imposed by the Board and is in accordance with Section 456.072(4), Florida Statutes.

WHEREFORE, the Department of Health requests that the Board of Pharmacy enter a Final Order assessing costs against the Respondent in the amount of \$169.97.

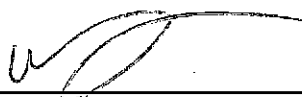
DATED this 20 day of June, 2014.



Matthew Witters
Assistant General Counsel
Fla. Bar No. 91245
Florida Department of Health
Office of the General Counsel
4052 Bald Cypress Way, Bin #C65
Tallahassee, FL 32399-3265
Telephone: (850) 245-4444
Facsimile: (850) 245-4683
Email: matthew.witters@flhealth.gov

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Motion to Assess Costs has been provided by U.S. Mail this 20 day of June, 2014, to Noriel Batista, DC#B12321, Dade Correctional Institution, 19000 SW 377 Street, Florida City, FL 33034-6409; and to 7245 Coral Way, Miami, FL 33155.



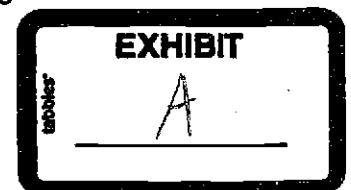
Matthew Witters
Assistant General Counsel

AFFIDAVIT OF FEES AND COSTS EXPENDED

STATE OF FLORIDA
COUNTY OF LEON:

BEFORE ME, the undersigned authority, personally appeared **SHANE WALTERS** who was sworn and states as follows:

- 1) My name is Shane Walters.
- 2) I am over the age of 18, competent to testify, and make this affidavit upon my own personal knowledge and after review of the records at the Florida Department of Health (DOH).
- 3) I am the Operations and Management Consultant Manager (OMCM) for the Consumer Services and Compliance Management Unit for DOH. The Consumer Services Unit is where all complaints against Florida health care licensees (e.g., medical doctors, dentists, nurses, respiratory therapists) are officially filed. I have been in my current job position for more than one year. My business address is 4052 Bald Cypress Way, Bin C-75 Tallahassee, Florida 32399-3275.
- 4) As OMCM of the Consumer Services and Compliance Management Unit, my job duties include reviewing data in the Time Tracking System and verifying that the amounts correspond. The Time Tracking System is a computer program which records and tracks DOH's costs regarding the investigation and prosecution of cases against Florida health care licensees.
- 5) As of today, DOH's total costs for investigating and prosecuting DOH case number(s) **2012-17623** (Department of Health v **NORIEL BATISTA**) are **THREE HUNDRED FORTY-THREE DOLLARS AND TWENTY-NINE CENTS (\$343.29)**.
- 6) The costs for DOH case number(s) **2012-17623** (Department of Health v **NORIEL BATISTA**) are summarized in Exhibit 1 (Cost Summary Report), which is attached to this document.
- 7) The itemized costs and expenses for DOH case number(s) **2012-17623** (Department of Health v **NORIEL BATISTA**) are detailed in Exhibit 2 (Itemized Cost Report and Itemized Expense Report and receipts), which is attached to this document.
- 8) The itemized costs as reflected in Exhibit 2 are determined by the following method: DOH employees who work on cases daily are to keep track of their time in six-minute increments (e.g., investigators



and lawyers). A designated DOH employee in the Consumer Services Unit, Legal Department, and in each area office, inputs the time worked and expenses spent into the Time Tracking System. Time and expenses are charged against a state health care Board (e.g., Florida Board of Medicine, Florida Board of Dentistry, Florida Board of Osteopathic Medicine), and/or a case. If no Board or case can be charged, then the time and expenses are charged as administrative time. The hourly rate of each employee is calculated by formulas established by the Department. (See the Itemized Cost Report)

- 9) Shane Walters, first being duly sworn, states that she has read the foregoing Affidavit and its attachments and the statements contained therein are true and correct to the best of her knowledge and belief.

FURTHER AFFIANT SAYETH NOT.

Shane Walters
Shane Walters, Affiant

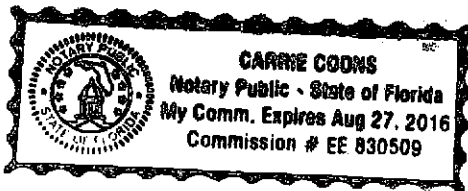
State of Florida
County of Leon

Sworn to and subscribed before me this 20th day of May, 2014,
by Shane Walters, who is personally known to me.

Carrie Coons
Notary Signature

Carrie Coons
Name of Notary Printed

Stamp Commissioned Name of Notary Public:



Complaint Cost Summary

Complaint Number: 201217623

Subject's Name: BATISTA, NORIEL

| | ***** Cost to Date ***** | |
|-----------------------------|--------------------------|-----------------|
| | Hours | Costs |
| Complaint: | 2.70 | \$148.11 |
| Investigation: | 0.40 | \$21.86 |
| Legal: | 1.70 | \$173.32 |
| Compliance: | 0.00 | \$0.00 |
| | ***** | ***** |
| Sub Total: | 4.80 | \$343.29 |
| Expenses to Date: | | \$0.00 |
| Prior Amount: | | \$0.00 |
| Total Costs to Date: | | \$343.29 |

EXHIBIT

1

**Time Tracking System
Itemized Cost by Complaint**

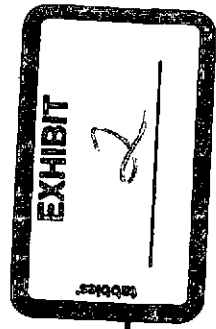
Complaint 201217623

Report Date 05/20/2014

| Staff Code | Activity Hours | Staff Rate | Cost | Activity Date | Activity Code | Activity Description |
|-------------------------------|----------------|------------|-----------------|---------------|---------------|--|
| CONSUMER SERVICES UNIT | | | | | | |
| HA23 | 0.60 | \$54.90 | \$32.94 | 11/30/2012 | 78 | INITIAL REVIEW AND ANALYSIS OF COMPLAINT |
| HA23 | 0.20 | \$54.90 | \$10.98 | 12/28/2012 | 144 | CSU INVESTIGATIVE WORK |
| HA23 | 0.20 | \$54.90 | \$10.98 | 02/28/2013 | 144 | CSU INVESTIGATIVE WORK |
| HA23 | 0.20 | \$54.90 | \$10.98 | 04/17/2013 | 144 | CSU INVESTIGATIVE WORK |
| HA23 | 0.20 | \$54.90 | \$10.98 | 06/05/2013 | 144 | CSU INVESTIGATIVE WORK |
| HA23 | 0.20 | \$54.90 | \$10.98 | 07/10/2013 | 144 | CSU INVESTIGATIVE WORK |
| HA23 | 0.20 | \$54.90 | \$10.98 | 08/05/2013 | 144 | CSU INVESTIGATIVE WORK |
| HA23 | 0.20 | \$54.90 | \$10.98 | 09/05/2013 | 144 | CSU INVESTIGATIVE WORK |
| HA23 | 0.20 | \$54.90 | \$10.98 | 10/08/2013 | 144 | CSU INVESTIGATIVE WORK |
| HA23 | 0.40 | \$54.65 | \$21.86 | 11/07/2013 | 144 | CSU INVESTIGATIVE WORK |
| HA23 | 0.40 | \$54.65 | \$21.86 | 01/02/2014 | 76 | REPORT PREPARATION |
| HA23 | 0.10 | \$54.65 | \$5.47 | 01/06/2014 | 144 | CSU INVESTIGATIVE WORK |
| Sub Total | 3.10 | | \$169.97 | | | |

| PROSECUTION SERVICES UNIT | | | | | | |
|----------------------------------|-------------|----------|-----------------|------------|----|---|
| HLL90B | 0.80 | \$101.95 | \$81.56 | 01/10/2014 | 25 | REVIEW CASE FILE |
| HLL90B | 0.10 | \$101.95 | \$10.20 | 01/13/2014 | 25 | REVIEW CASE FILE |
| HLL90B | 0.20 | \$101.95 | \$20.39 | 02/17/2014 | 89 | PROBABLE CAUSE PREPARATION |
| HLL90B | 0.20 | \$101.95 | \$20.39 | 02/17/2014 | 79 | STIPULATION |
| HLL90B | 0.20 | \$101.95 | \$20.39 | 02/20/2014 | 63 | PRESENTATION OF CASES TO PROBABLE CAUSE PANEL |
| HLL90B | 0.20 | \$101.95 | \$20.39 | 04/08/2014 | 59 | LOCATING CASE FILE |
| Sub Total | 1.70 | | \$173.32 | | | |

Total Cost **\$343.29**



**Time Tracking System
Itemized Cost by Complaint**

Complaint 201217623

Report Date 05/20/2014

Page 2 of 2

| Staff Code | Activity Hours | Staff Rate | Cost | Activity Date | Activity Code | Activity Description |
|------------|----------------|------------|------|---------------|---------------|----------------------|
|------------|----------------|------------|------|---------------|---------------|----------------------|

**Time Tracking System
Itemized Expense by Complaint
Complaint**

Report Date: 05/20/2014

Page 1 of 1

| Staff Code | Expense Date | Expense Amount | Expense Code | Expense Code Description |
|------------|--------------|----------------|--------------|--------------------------|
|------------|--------------|----------------|--------------|--------------------------|

SubTotal

Total Expenses

| | | | |
|--------|----------------------------------|------|------|
| Search | Complaint/Case Number: 201217623 | MAIN | HELP |
|--------|----------------------------------|------|------|

Mission:

To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.



Vision: To be the Healthiest State in the Nation

Rick Scott
Governor

John M. Armstrong, MD, FACS
State Surgeon General & Secretary

MEMORANDUM OF PROBABLE CAUSE PANEL FINDINGS

TO: Department of Health (MW)
Pharmacy
FROM: Board of Nursing, Probable Cause Panel
SUBJECT: N. Batista, R.P.T. **CASE NO.:** 2012-17623
DATE OF PROBABLE CAUSE MEETING: February 20, 2014

This matter was brought before a Probable Cause Panel composed of:

Dr. Weizer and Mr. Phillip

On the date set forth above, the Panel, having received the investigative report and supplemental materials, having carefully reviewed said documentation and the recommendation of the agency/department, and having had the opportunity to inquire of counsel, finds that:

Probable cause exists herein that Subject violated the following statutes/rules:

Section 464.072(1)(c), Florida Statutes (2013)
Section 456.072(1)(x), Florida Statutes (2013)

Probable cause does not exist and the case should be closed with the following closure code:

In lieu of a finding of probable cause, the above named licensee shall be issued a letter of guidance to address the conduct in question:

The panel has requested supplemental or additional information on the following:

Other

Patricia Kerny for Michele Weizer 5/21/2014
CHAIRPERSON, PROBABLE CAUSE PANEL
BOARD OF NURSING

Pharmacy

Florida Department of Health
Office of the General Counsel - Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65 • Tallahassee, FL 32399-3265
Express mail address: 2585 Merchants Row - Suite 105
PHONE: 850/245-4444 • FAX 850/245-4683

www.FloridasHealth.com
TWITTER: HealthyFLA
FACEBOOK: FLDepartmentofHealth
YOUTUBE: fldoh

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456.057 - Ownership and control of patient records; report or copies of records to be
furnished.—

10)(a)All patient records obtained by the department and any other documents
maintained by the department which identify the patient by name are confidential and exempt
from s. 119.07(1) and shall be used solely for the purpose of the department and the appropriate
regulatory board in its investigation, prosecution, and appeal of disciplinary proceedings. The
records shall not be available to the public as part of the record of investigation for and
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from s. 119.07(1) and shall be used solely for the purpose of the department and the appropriate
regulatory board in its investigation, prosecution, and appeal of disciplinary proceedings. The
records shall not be available to the public as part of the record of investigation for and
prosecution in disciplinary proceedings made available to the public by the department or the
appropriate board.



Rick Scott
Governor

Mission:

To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.

John H. Armstrong, MD, FACS

Surgeon General & Sec

Vision: To be the Healthiest State in the Nation

STATE OF FLORIDA
BOARD OF PHARMACY

DEPARTMENT OF HEALTH,
PETITIONER,

VS.

CASE NO. 201204848

CHRISTOPHER THOMAS DUFFY,
RESPONDENT.

NOTICE

TO: CHRISTOPHER THOMAS DUFFY
4524 35TH AVE. NO.
ST. PETERSBURG, FL 33713

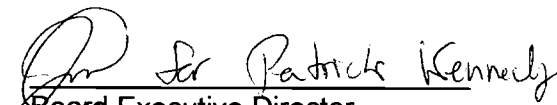
PLEASE TAKE NOTICE that a disciplinary hearing will be heard before the BOARD OF PHARMACY on Wednesday, August 13, 2014, commencing at 9 a.m. Although the Respondent is not required to be present, it is in their best interest to attend. This hearing will be held at DoubleTree by Hilton, 100 Fairway Drive, Deerfield Beach, FL 33441, 1(800) 624-3606..

The purpose of the hearing is to consider a motion for: Determination of Waiver

Note: Cases shown on the agenda as "timed" items may be heard in a different order or may be heard earlier if all parties are present. Cases are scheduled beginning at 9 a.m.; therefore, it is imperative that you arrive promptly at 9 a.m. and be prepared to be at the meeting for several hours until your case is heard.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Hearing has been sent by U.S. Mail to the above address(es) this 10th day of July, 2014.


Board Executive Director
BOARD OF PHARMACY

Florida Department of Health
4052 Bald Cypress Way, Bin #
Tallahassee, FL 32399 -

Florida Department of Health

Division of Medical Quality Assurance
4052 Bald Cypress Way, Bin C10 • Tallahassee, FL 32399-3260
PHONE: (850) 245-4444 • FAX: (850) 245-4791

www.FloridasHealth.com

TWITTER: HealthyFLA
FACEBOOK: FLDepartmentofHealth
YOUTUBE: fldoh

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Rick Scott
Governor

John H. Armstrong, MD, FACS
State Surgeon General & Secretary

Vision: To be the Healthiest State in the Nation

MEMORANDUM

TO: Patrick W. Kennedy, M.A., Executive Director, Board of Pharmacy
FROM: Matthew Witters, Assistant General Counsel (M)
RE: **Determination of Waiver**
SUBJECT: DOH v. Christopher Thomas Duffy, R.P.T.
 DOH Case Number 2012-04848
DATE: June 5, 2014 AB

Enclosed you will find materials in the above-referenced case to be placed on the agenda for final agency action for the **October 8, 2014**, meeting of the board. The following information is provided in this regard:

| | |
|-------------------------------------|--|
| Subject: | Christopher Thomas Duffy |
| Subject's Address of Record: | 4524 35th Ave. No. St. Petersburg, FL 33713 |
| Enforcement Address: | 4524 35th Ave. No. St. Petersburg, FL 33713 |
| Subject's License No: | 26171 |
| Licensure File No: | 11471 |
| Initial Licensure Date: | 1/13/2010 |
| Board Certification: | No |
| Required to Appear: | No |
| Current IPN/PRN Contract: | No |
| Allegation(s): | Ct 1: 456.072(1)(c), FS (2011) Ct 2: 456.072(1)(x), FS (2011) |
| Prior Discipline: | 4010, 11/02/2012, DOH-12-2427-FOI |
| Probable Cause Panel: | June 20, 2013; Mesaros & Risch |
| Subject's Attorney: | Pro Se |
| Complainant/Address: | DOH/ISU/St. Petersburg |
| Materials Submitted: | Memorandum to the Board Motion For Determination of Waiver Exhibit A - Administrative Complaint Exhibit B - Copy of Certified Mail Receipt Exhibit C - Affidavit of Non-Receipt - Board Office Exhibit D - Affidavit of Non-Receipt - Agency Clerk Motion to Assess Costs with Attachments Exhibit A - Affidavit of Fees & Costs Expended |

Florida Department of Health

Office of the General Counsel • Prosecution Services Unit
 4052 Bald Cypress Way, Bin C-65 • Tallahassee, FL 32399-1701
 Express mail address: 2585 Merchants Row - Suite 105
 PHONE: 850/245-4444 • FAX 850/245-4683

www.FloridasHealth.com

TWITTER: HealthyFLA
 FACEBOOK: FLDepartmentofHealth
 YOUTUBE: fldoh

Exhibit 1 – Complaint Cost Summary
Exhibit 2 – Itemized Cost by Complaint
Memorandum of Probable Cause
Final Investigative Report with Exhibits 1-2

GUIDELINES:

Count I: From a \$1,000 fine up Revocation.
Count II: From a \$1,000 fine up to Revocation.

PRELIMINARY CASE REMARKS

This is a two count administrative complaint which alleges that the Respondent entered a plea of guilty to one count of petit theft a crime which relates to the practice or the ability to practice pharmacy, and failed to report this conviction to the Board in writing within thirty days of the date the plea was entered.

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

**DEPARTMENT OF HEALTH,
Petitioner,**

v.

CASE NO. 2012-04848

**CHRISTOPHER THOMAS DUFFY, R.P.T.,
Respondent.**

**MOTION FOR DETERMINATION OF WAIVER AND FOR
FINAL ORDER BY HEARING NOT INVOLVING DISPUTED
ISSUES OF MATERIAL FACT**

Petitioner, Department of Health, by and through counsel, moves the Board of Pharmacy to find that Respondent has waived his/her right to elect a method of disposition of the pending Administrative Complaint, to determine that no material facts are in dispute, to conduct a hearing not involving disputed issues of material fact, and to enter a Final Order. As grounds therefore, Petitioner states:

1. An Administrative Complaint was filed against Respondent on June 20, 2013. A copy of said Administrative Complaint is attached hereto as Petitioner's Exhibit A.

2. Copies of the Administrative Complaint, Explanation of Rights form, and Election of Rights forms were sent to Respondent, via certified US mail delivery, on June 26, 2013 (7196 9008 9111 9326 3205). A signed

green receipt card was returned. A copy of the certified mail receipt is attached as Petitioner's Exhibit B.

3. Respondent has not filed with either the Department of Health or the Board of Pharmacy, an Election of Rights form or other responsive pleading in this case within the twenty-one (21) day period to dispute the allegations contained in the Administrative Complaint. Copies of affidavits supporting the same are attached hereto as Petitioner's Exhibits C and D.

4. Rule 28-106.111(2), Florida Administrative Code, provides in pertinent part that:

. . . persons seeking a hearing on an agency decision which does or may determine their substantial interests shall file a petition for hearing with the agency within 21 days of receipt of written notice of the decision.

5. Rule 28.106.111(4), Florida Administrative Code, provides in pertinent part that:

. . . any person who received written notice of an agency decision and who fails to file a written request for a hearing within 21 days waives the right to request a hearing on such matters.

6. Respondent has been advised, by a copy of this motion sent to his/her address of record, that a copy of the investigative file in this case

shall be furnished to the Board to establish a prima facie case regarding the violations as set forth in the Administrative Complaint.

7. The Department has determined that there are no material facts in dispute and has concluded that Respondent has waived his/her right to elect the method of resolution.

8. The Department requests that this Motion and a hearing be placed on the agenda for the next regularly scheduled meeting of the Board of Pharmacy.

WHEREFORE, Petitioner respectfully requests that the Board find that Respondent has waived his/her right to elect a method of resolution of this matter, find that there are no material facts in dispute, hold a hearing not involving material issues of disputed fact based on the information contained in the investigative file, find that Respondent violated Chapters 456 and 465, Florida Statutes, as alleged in the Administrative Complaint, impose discipline in accordance with the disciplinary guidelines, and enter a Final Order.

Respectfully submitted,



Matthew Witters
Assistant General Counsel
Florida Bar No. 91245
Department of Health
Prosecution Services Unit
4052 Bald Cypress Way Bin C-65
Tallahassee, Florida 32399-3265
Telephone: (850) 245-4444
Facsimile: (850) 245-4683
Email: matthew.witters@flhealth.gov

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Motion for Determination of Waiver and for Final Order by Hearing Not Involving Disputed Issues of Material Fact has been furnished via U.S. mail this 26 day of June, 2014, to Christopher Duffy, 4524 35th Avenue North, St Petersburg, FL 33713.



Matthew Witters
Assistant General Counsel

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO. 2012-04848

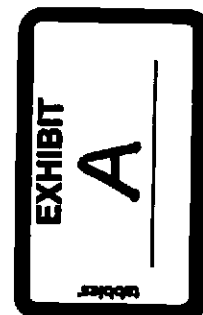
CHRISTOPHER THOMAS DUFFY, R.P.T.,

RESPONDENT.

ADMINISTRATIVE COMPLAINT

Petitioner Department of Health, by and through its undersigned counsel, files this Administrative Complaint before the Board of Pharmacy against Respondent, Christopher Thomas Duffy, R.P.T., and in support thereof alleges:

1. Petitioner is the state department charged with regulating the practice of pharmacy pursuant to Section 20.43, Florida Statutes; Chapter 456, Florida Statutes; and Chapter 465, Florida Statutes.
2. At all times material to this Order, Respondent was a licensed registered pharmacy technician (RPT) operating within the State of Florida, pursuant to Chapter 465, Florida Statutes, holding permit number RPT 26171.



3. Respondent's address of record is 4524 35th Avenue, North, St. Petersburg, Florida 33713.

4. On or about June 4, 2012, in the County Court for the Sixth Judicial Circuit, in and for Pinellas County, Florida, in case number 522012MM006377XXXNO-L, Respondent entered a plea of guilty to one (1) count of petit theft, a first degree misdemeanor in violation of Section 812.014(2)(e), Florida Statutes.

5. Petit theft, a first degree misdemeanor in violation of Section 812.014(2)(e), Florida Statutes, is a crime related to the practice of pharmacy.

6. Respondent failed to report the plea of guilty to the Board of Pharmacy in writing within thirty (30) days from the date that Respondent entered the plea.

COUNT I

7. Petitioner realleges and incorporates paragraphs one (1) through six (6), as if fully set forth herein.

8. Section 456.072(1)(c), Florida Statutes (2011), provides that being convicted or found guilty of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction which

relates to the practice of, or the ability to practice, a licensee's profession is grounds for disciplinary action.

9. Respondent entered a plea of guilty, to one (1) count of petit theft, a first degree misdemeanor in violation of Section 812.014(2)(e), Florida Statutes, a crime that relates to the practice of pharmacy, which is the licensee's profession.

10. Based on the foregoing, Respondent violated Section 456.072(1)(c), Florida Statutes (2011), by being convicted or found guilty of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the practice of, or the ability to practice, a licensee's profession.

COUNT II

11. Petitioner realleges and incorporates paragraphs one (1) through six (6), as if fully set forth herein.

12. Section 456.072(1)(x), Florida Statutes (2011), provides that failing to report to the board, or the department if there is no board, in writing within thirty (30) days after the licensee has been convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction is grounds for disciplinary action.

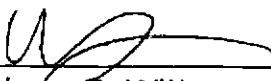
13. Respondent failed to report the plea of guilty one (1) count of petit theft, a first degree misdemeanor in violation of Section 812.014(2)(e), Florida Statutes, to the Board of Pharmacy in writing within thirty (30) days of the date Respondent entered the plea.

14. Based on the foregoing, Respondent violated Section 456.072(1)(x) Florida Statutes (2011), which provides that failing to report to the board, or the department if there is no board, in writing within thirty (30) days after the licensee has been convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction constitutes grounds for discipline.

WHEREFORE, the Petitioner respectfully requests that the Board of Pharmacy enter an order imposing one or more of the following penalties: permanent revocation or suspension of Respondent's license, restriction of practice, imposition of an administrative fine, issuance of a reprimand, placement of the Respondent on probation, corrective action, refund of fees billed or collected, remedial education and/or any other relief that the Board deems appropriate.

SIGNED this 20 **day of** June, **2013.**

John H. Armstrong, MD, FACS
State Surgeon General and
Secretary of Health



Matthew G. Witters
Assistant General Counsel
Fla. Bar No. 0091245
Florida Department of Health
Office of the General Counsel
4052 Bald Cypress Way, Bin #C65
Tallahassee, FL 32399-3265
Telephone: (850) 245-4444
Facsimile: (850) 245-4683
Email: matthew_witters@doh.state.fl.us

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK *Angel Sanders*
DATE **JUN 20 2013**

PCP: June 20, 2013
PCP Members: Mesaros and Risch

NOTICE OF RIGHTS

Respondent has the right to request a hearing to be conducted in accordance with Section 120.569 and 120.57, Florida Statutes, to be represented by counsel or other qualified representative, to present evidence and argument, to call and cross-examine witnesses and to have subpoena and subpoena duces tecum issued on his or her behalf if a hearing is requested.

NOTICE REGARDING ASSESSMENT OF COSTS

Respondent is placed on notice that Petitioner has incurred costs related to the investigation and prosecution of this matter. Pursuant to Section 456.072(4), Florida Statutes, the Board shall assess costs related to the investigation and prosecution of a disciplinary matter, which may include attorney hours and costs, on the Respondent in addition to any other discipline imposed.

7196 9008 9111 9326 3205

TO:

C DUFFY RPT

SENDER: CHRISTINE LILLICH
STIP PACK

REFERENCE: 2012-04848

PS Form 3800, January 2005

CHRISTOPHER THOMAS DUFFY RPT
4524 35TH AVE N
ST PETERSBURG FL 33713

| | | |
|------------------------------|----------------------|--|
| RETURN RECEIPT SERVICE | Postage | |
| | Certified Fee | |
| | Return Receipt Fee | |
| | Restricted Delivery | |
| | Total Postage & Fees | |

USPS®
Receipt for
Certified Mail™

No Insurance Coverage Provided
Do Not Use for International Mail

POSTMARK OR DATE

06/13
Lo

2. Article Number



7196 9008 9111 9326 3205

3. Service Type **CERTIFIED MAIL™**

4. Restricted Delivery? (Extra Fee) Yes

1. Article Addressed to:

CHRISTOPHER THOMAS DUFFY RPT
4524 35TH AVE N
ST PETERSBURG FL 33713

WITTERS/STIP PACK
DUFFY/12-04848

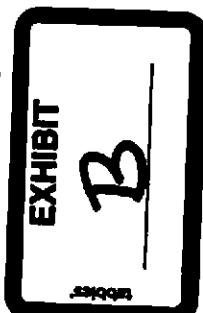
COMPLETE THIS SECTION ON DELIVERY

| | |
|--|--|
| A. Received by (Please Print Clearly) | B. Date of Delivery |
| <i>[Signature]</i> | |
| C. Signature | <input type="checkbox"/> Agent <input type="checkbox"/> Addressee |
| <i>X</i> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| D. Is delivery address different from item 1? If YES, enter delivery address below: | |

2013 JUL -2 AM 9:40

PS Form 3811, January 2005

Domestic Return Receipt



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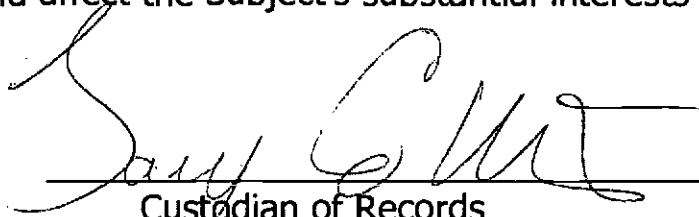


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Rick Scott
Governor

John H. Armstrong, MD, FACS
State Surgeon General & Secretary

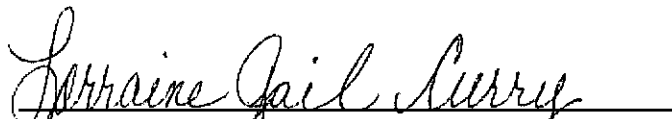
I, Tammy Collins, hereby certify in my official capacity as custodian for the Board of Pharmacy, licensure files that the Board of Pharmacy as of December 30, 2013, has no evidence of an Election of Rights form or other responsive pleading requesting a hearing prior to any agency action regarding **CHRISTOPHER THOMAS DUFFY, R.P.T., CASE NUMBER 2012-04848**, which would affect the Subject's substantial interests or rights.


Custodian of Records
Florida Board of Pharmacy

Before me, personally appeared Tammy Collins, whose identity is known to me personally (type of identification) and who, under oath, acknowledges that his/her signature appears above.

Sworn to and subscribed this 30th day of Dec, 2013.




Notary Public



Mission:

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Rick Scott
Governor

John H. Armstrong, MD, FACS
State Surgeon General & Secretary

Vision: To be the Healthiest State in the Nation

MEMORANDUM

Date: November 21, 2013
To: Lucy C. Gee, M.S., Division Director
Division of Medical Quality Assurance
From: Cassandra G. Pasley, BSN, JD, Chief
Bureau of Health Care Practitioner Regulation
Subject: Delegation of Authority

This is to advise you that until further notice, the following have delegated authority serve as Acting Executive Director for the Board of Pharmacy:

Daisy King, Program Operations Administrator, for EMT/Paramedic/Rad Tech. Daisy may be reached at 245-4549.

Tammy Collins, Program Operations Administrator, for Pharmacy. Tammy may be reached at 245-4614.

/vc

cc: Susan Love
Lola Pouncey
Lisa Eaton
Executive Directors

Florida Department of Health

Division of Medical Quality Assurance • Bureau of Health Care Practitioner Regulation
4052 Bald Cypress Way, Bin C-00 • Tallahassee, FL 32399-1700
PHONE: 850/245/4444 • FAX 850/414-8209

www.FloridasHealth.com

TWITTER: HealthyFLA
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YOUTUBE: fldoh

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Rick Scott
Governor

John H. Armstrong, MD, FACS
State Surgeon General & Secretary

Vision: To be the Healthiest State in the Nation

AFFIDAVIT

I, Angel Sanders, Deputy Clerk for the Department Clerk's Office, hereby certify in my official capacity as custodian for the Department Clerk's records, that the Department Clerk's Office has not received an Election of Rights form or other responsive pleading, which requests a hearing prior to any Department action regarding Christopher Thomas Duffy, R.P.T.; 2012-04848, which would affect the Respondent's substantial interests or rights.

Angel Sanders

Custodian of Record
Department Clerk's Office

Before me, personally appeared Angel Sanders, whose identity is known to me personally and who, under oath, acknowledges that his/her signature appears above.

Sworn to and subscribed before me this 16th day of June, 2014.

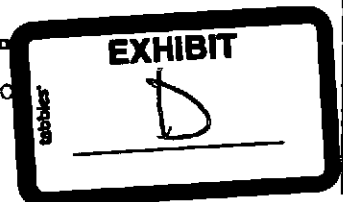
Amy L. Carraway

Notary Public

My Commission Expires:



AMY L. CARRAWAY
MY COMMISSION # FF 073892
EXPIRES: January 17, 2018
Bonded Thru Budget Notary Services



STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,
Petitioner,

v.

CASE NO. 2012-04848

CHRISTOPHER THOMAS DUFFY, R.P.T.,
Respondent.

MOTION TO ASSESS COSTS IN ACCORDANCE
WITH SECTION 456.072(4)

COMES NOW the Department of Health, by and through undersigned counsel, and moves the Board of Pharmacy for the entry of a Final Order assessing costs against the Respondent for the investigation and prosecution of this case in accordance with Section 456.072(4), Florida Statutes. As grounds therefore, the Petitioner states the following:

1. At its next regularly scheduled meeting, the Board of Pharmacy will take up for consideration the above-styled disciplinary action and will enter a Final Order therein.

2. Section 456.072(4), Florida Statutes, states as follows:

In addition to any other discipline imposed through final order, or citation, entered on or

after July 1, 2001, pursuant to this section or discipline imposed through final order, or citation, entered on or after July 1, 2001, for a violation of any practice act, the board, or the department when there is not board, shall assess costs related to the investigation and prosecution of the case. Such costs related to the investigation and prosecution include, but are not limited to, salaries and benefits of personnel, costs related to the time spent by the attorney and other personnel working on the case, and any other expenses incurred by the department for the case. The board, or the department when there is no board, shall determine the amount of costs to be assessed after its consideration of an affidavit of itemized costs and any written objections thereto.

3. The investigation and prosecution of this case has resulted in costs in the total amount of \$649.81, based on the following itemized statement of costs:

| ***** Cost to Date ***** | | |
|--------------------------|-------|----------|
| | Hours | Costs |
| Complaint: | 5.90 | \$332.07 |
| Investigation: | 2.40 | \$42.08 |
| Legal: | 2.60 | \$275.66 |
| Compliance: | 0.00 | \$0.00 |
| Sub Total: | 10.90 | \$649.81 |
| Expenses to Date: | | \$0.00 |
| Prior | | \$0.00 |

| | | |
|----------------------|--|----------|
| Amount: | | |
| Total Costs to Date: | | \$649.81 |

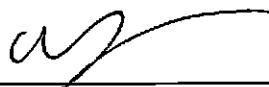
Therefore, the Petitioner seeks an assessment of costs against the Respondent in the amount of \$374.15 as evidenced in the attached affidavit. (Exhibit A).

4. Should the Respondent file written objections to the assessment of costs, within ten (10) days of the date of this motion, specifying the grounds for the objections and the specific elements of the costs to which the objections are made, the Petitioner requests that the Board determine the amount of costs to be assessed based upon its consideration of the affidavit attached as Exhibit A and any timely-filed written objections.

5. Petitioner requests that the Board grant this motion and assess costs in the amount of \$374.15 as supported by competent, substantial evidence. This assessment of costs is in addition to any other discipline imposed by the Board and is in accordance with Section 456.072(4), Florida Statutes.

WHEREFORE, the Department of Health requests that the Board of Pharmacy enter a Final Order assessing costs against the Respondent in the amount of \$374.15.

DATED this 26 day of June, 2014.



Matthew Witters
Assistant General Counsel
Fla. Bar No. 91245
Florida Department of Health
Office of the General Counsel
4052 Bald Cypress Way, Bin #C65
Tallahassee, FL 32399-3265
Telephone: (850) 245-4444
Facsimile: (850) 245-4683
Email: matthew.witters@flhealth.gov

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Motion to Assess Costs has been provided by U.S. Mail this 26 day of June, 2014, to Christopher Duffy, 4524 35th Avenue North, St Petersburg, FL 33713.



Matthew Witters
Assistant General Counsel

AFFIDAVIT OF FEES AND COSTS EXPENDED

STATE OF FLORIDA
COUNTY OF LEON:

BEFORE ME, the undersigned authority, personally appeared **SHANE WALTERS** who was sworn and states as follows:

- 1) My name is Shane Walters.
- 2) I am over the age of 18, competent to testify, and make this affidavit upon my own personal knowledge and after review of the records at the Florida Department of Health (DOH).
- 3) I am the Operations and Management Consultant Manager (OMCM) for the Consumer Services and Compliance Management Unit for DOH. The Consumer Services Unit is where all complaints against Florida health care licensees (e.g., medical doctors, dentists, nurses, respiratory therapists) are officially filed. I have been in my current job position for more than one year. My business address is 4052 Bald Cypress Way, Bin C-75 Tallahassee, Florida 32399-3275.
- 4) As OMCM of the Consumer Services and Compliance Management Unit, my job duties include reviewing data in the Time Tracking System and verifying that the amounts correspond. The Time Tracking System is a computer program which records and tracks DOH's costs regarding the investigation and prosecution of cases against Florida health care licensees.
- 5) As of today, DOH's total costs for investigating and prosecuting DOH case number(s) **2012-04848** (Department of Health v **CHRISTOPHER THOMAS DUFFY**) are **SIX HUNDRED FORTY-NINE DOLLARS AND EIGHTY-ONE CENTS (\$649.81)**.
- 6) The costs for DOH case number(s) **2012-04848** (Department of Health v **CHRISTOPHER THOMAS DUFFY**) are summarized in Exhibit 1 (Cost Summary Report), which is attached to this document.
- 7) The itemized costs and expenses for DOH case number(s) **2012-04848** (Department of Health v **CHRISTOPHER THOMAS DUFFY**) are detailed in Exhibit 2 (Itemized Cost Report and Itemized Expense Report and receipts), which is attached to this document.
- 8) The itemized costs as reflected in Exhibit 2 are determined by the following method: DOH employees who work on cases daily are to keep track of their time in six-minute increments (e.g., investigators

and lawyers). A designated DOH employee in the Consumer Services Unit, Legal Department, and in each area office, inputs the time worked and expenses spent into the Time Tracking System. Time and expenses are charged against a state health care Board (e.g., Florida Board of Medicine, Florida Board of Dentistry, Florida Board of Osteopathic Medicine), and/or a case. If no Board or case can be charged, then the time and expenses are charged as administrative time. The hourly rate of each employee is calculated by formulas established by the Department. (See the Itemized Cost Report)

- 9) Shane Walters, first being duly sworn, states that she has read the foregoing Affidavit and its attachments and the statements contained therein are true and correct to the best of her knowledge and belief.

FURTHER AFFIANT SAYETH NOT.

Shane Walters
Shane Walters, Affiant

State of Florida
County of Leon

Sworn to and subscribed before me this 9 day of June, 2014,
by Shane Walters, who is personally known to me.

Carrie Coons
Notary Signature

Carrie Coons
Name of Notary Printed

Stamp Commissioned Name of Notary Public:



Complaint Cost Summary

Complaint Number: 201204848

Subject's Name: DUFFY, CHRISTOPHER THOMAS

| | ***** Cost to Date ***** | |
|----------------------|--------------------------|----------|
| | Hours | Costs |
| Complaint: | 5.90 | \$332.07 |
| Investigation: | 2.40 | \$42.08 |
| Legal: | 2.60 | \$275.66 |
| Compliance: | 0.00 | \$0.00 |
| | ***** | ***** |
| Sub Total: | 10.90 | \$649.81 |
| Expenses to Date: | | \$0.00 |
| Prior Amount: | | \$0.00 |
| Total Costs to Date: | | \$649.81 |

**Time Tracking System
Itemized Cost by Complaint**

Complaint 201204848

Report Date 06/05/2014

Page 1 of 2

Staff Code Activity Hours Staff Rate Cost Activity Date Activity Code Activity Description

CONSUMER SERVICES UNIT

| | | | | | | |
|------------------|-------------|---------|-----------------|------------|----|--------------------|
| HA132 | 0.30 | \$57.62 | \$17.29 | 03/30/2012 | 25 | REVIEW CASE FILE |
| HA132 | 0.50 | \$57.62 | \$28.81 | 04/02/2012 | 25 | REVIEW CASE FILE |
| HA132 | 0.60 | \$57.62 | \$34.57 | 05/09/2012 | 25 | REVIEW CASE FILE |
| HA132 | 0.20 | \$57.62 | \$11.52 | 05/14/2012 | 25 | REVIEW CASE FILE |
| HA132 | 0.40 | \$57.62 | \$23.05 | 05/24/2012 | 25 | REVIEW CASE FILE |
| HA132 | 0.40 | \$57.62 | \$23.05 | 07/05/2012 | 25 | REVIEW CASE FILE |
| HA132 | 0.10 | \$57.62 | \$5.76 | 08/31/2012 | 25 | REVIEW CASE FILE |
| HA132 | 0.30 | \$57.62 | \$17.29 | 09/27/2012 | 25 | REVIEW CASE FILE |
| HA132 | 0.20 | \$57.62 | \$11.52 | 10/18/2012 | 25 | REVIEW CASE FILE |
| HA132 | 0.80 | \$54.90 | \$43.92 | 11/29/2012 | 25 | REVIEW CASE FILE |
| HA132 | 0.20 | \$54.90 | \$10.98 | 12/11/2012 | 25 | REVIEW CASE FILE |
| HA132 | 0.80 | \$54.90 | \$43.92 | 12/12/2012 | 25 | REVIEW CASE FILE |
| HA132 | 0.50 | \$54.90 | \$27.45 | 12/13/2012 | 25 | REVIEW CASE FILE |
| HA132 | 0.20 | \$54.90 | \$10.98 | 01/08/2013 | 25 | REVIEW CASE FILE |
| HA132 | 0.20 | \$54.90 | \$10.98 | 02/12/2013 | 25 | REVIEW CASE FILE |
| HA132 | 0.20 | \$54.90 | \$10.98 | 02/13/2013 | 25 | REVIEW CASE FILE |
| HA166 | 0.90 | \$17.53 | \$15.78 | 03/06/2013 | 76 | REPORT PREPARATION |
| HA166 | 1.50 | \$17.53 | \$26.30 | 03/07/2013 | 76 | REPORT PREPARATION |
| Sub Total | 8.30 | | \$374.15 | | | |

PROSECUTION SERVICES UNIT

| | | | | | | |
|--------|------|----------|---------|------------|----|---|
| HLL90B | 0.30 | \$106.35 | \$31.91 | 03/27/2013 | 25 | REVIEW CASE FILE |
| HLL90B | 0.30 | \$106.35 | \$31.91 | 03/27/2013 | 28 | PREPARE OR REVISE ADMINISTRATIVE COMPLAINT |
| HLL90B | 0.20 | \$106.35 | \$21.27 | 04/04/2013 | 89 | PROBABLE CAUSE PREPARATION |
| HLL90B | 0.20 | \$106.35 | \$21.27 | 05/21/2013 | 89 | PROBABLE CAUSE PREPARATION |
| HLL90B | 0.10 | \$106.35 | \$10.64 | 06/20/2013 | 63 | PRESENTATION OF CASES TO PROBABLE CAUSE PANEL |
| HLL90B | 0.20 | \$106.35 | \$21.27 | 06/20/2013 | 79 | STIPULATION |
| HLL90B | 0.10 | \$106.35 | \$10.64 | 06/20/2013 | 90 | POST PROBABLE CAUSE PROCESSING |

**Time Tracking System
Itemized Cost by Complaint**

Complaint 201204848

Report Date 06/05/2014

| Staff Code | Activity Hours | Staff Rate | Cost | Activity Date | Activity Code | Activity Description |
|-------------------|----------------|------------|-----------------|---------------|---------------|--|
| HLL90B | 0.30 | \$106.35 | \$31.91 | 06/25/2013 | 90 | POST PROBABLE CAUSE PROCESSING |
| HLL90B | 0.20 | \$106.35 | \$21.27 | 06/25/2013 | 40 | PREPARATION OF OR REVISION OF A PLEADING |
| HLL90B | 0.50 | \$106.35 | \$53.18 | 08/28/2013 | 91 | BOARD MEETING PREPARATION |
| HLL90B | 0.20 | \$101.95 | \$20.39 | 02/05/2014 | 91 | BOARD MEETING PREPARATION |
| Sub Total | 2.60 | | \$275.66 | | | |
| Total Cost | | | \$649.81 | | | |

***** CONFIDENTIAL *****
Time Tracking System
Itemized Expense by Complaint
Complaint

Report Date: 06/05/2014

| Staff Code | Expense Date | Expense Amount | Expense Code | Expense Code Description |
|------------|--------------|----------------|--------------|--------------------------|
|------------|--------------|----------------|--------------|--------------------------|

SubTotal

Total Expenses

MEMORANDUM OF PROBABLE CAUSE DETERMINATION

TO: Department of Health, Prosecution Services Unit
FROM: Chair, Probable Cause Panel, Florida Board of Pharmacy
RE: Christopher Thomas Duffy, R.P.T. (MGW)
Case Number: 2012-04848

MEMBERS: Gavin Meshad and Michele Weizer *Mesáros / Risch*

DATE OF PCP: June 20, 2013 **AGENDA ITEM:** A-3

.....
This matter came before the Probable Cause Panel on the above date. Having reviewed the complete investigative file, recommendations of the Department, and any information submitted by the Subject, and being otherwise fully advised in the premises, the panel finds that:

Probable cause exists and a formal complaint shall be filed for violation of statutes and rules, including but not limited to:

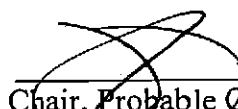
Section 456.072(1)(c), Florida Statutes (2011);

Section 456.072(1)(x), Florida Statutes (2011);

- Probable Cause was **not** found in this case
- In lieu of probable cause, issue **letter of guidance**
- Case requires **expert review**
- Case needs **further investigation**
 - a)
 - b)
 - c)

Upon **reconsideration**, dismiss

other _____



Chair, Probable Cause Panel
Board of Pharmacy

6/20/13

Date

2013 JUN -3 PM 2:23

PROBABLE CAUSE

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Rick Scott
Governor

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John H. Armstrong, MD, FACS

Surgeon General & Sec

Vision: To be the **Healthiest State** in the Nation

**STATE OF FLORIDA
BOARD OF PHARMACY**

DEPARTMENT OF HEALTH,
PETITIONER,

VS.

CASE NO. 201406794

NANCY ELIZABETH KEANE,
RESPONDENT.

NOTICE

TO: NANCY ELIZABETH KEANE
216 MONET DR.
NOKOMIS, FL 34275

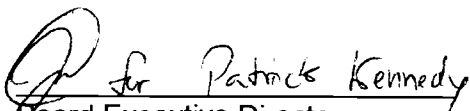
PLEASE TAKE NOTICE that a disciplinary hearing will be heard before the BOARD OF PHARMACY on Wednesday, August 13, 2014, commencing at 9 a.m. The Respondent is not required to be present at this meeting. This hearing will be held at DoubleTree by Hilton, 100 Fairway Drive, Deerfield Beach, FL 33441, 1(800) 624-3606..

The purpose of the hearing is to consider a motion for: Voluntary Relinquishment

Note: Cases shown on the agenda as "timed" items may be heard in a different order or may be heard earlier if all parties are present. Cases are scheduled beginning at 9 a.m.; therefore, it is imperative that you arrive promptly at 9 a.m. and be prepared to be at the meeting for several hours until your case is heard.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Hearing has been sent by U.S. Mail to the above address(es) this 10th day of July, 2014.



Board Executive Director
BOARD OF PHARMACY
Florida Department of Health
4052 Bald Cypress Way, Bin #
Tallahassee, FL 32399 -

Florida Department of Health

Division of Medical Quality Assurance
4052 Bald Cypress Way, Bin C10 • Tallahassee, FL 32399-3260
PHONE: (850) 245-4444 • FAX: (850) 245-4791

www.FloridasHealth.com

TWITTER:HealthyFLA
FACEBOOK:FLDepartmentofHealth
YOUTUBE: fldoh

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**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

**DEPARTMENT OF HEALTH,
Petitioner,**

CASE NO. 2014-06794

v.

**NANCY ELIZABETH KEANE, R.P.T.,
Respondent.**

**MOTION FOR FINAL ORDER
BASED UPON A VOLUNTARY RELINQUISHMENT OF LICENSE**

COMES NOW, the Petitioner, by and through its undersigned counsel, and moves the Board of Pharmacy for entry of a Final Order in the above-styled cause on a date and time that has been determined and noticed by the Board. As grounds therefore, the Petitioner would state the following:

1. On or about May 2, 2014, a Uniform Consumer Complaint was filed with the Department of Health, alleging that the Subject violated the provisions of Chapter 464 or Chapter 456, Florida Statutes.

2. In lieu of undergoing further disciplinary proceedings, the Respondent returned an executed Voluntary Relinquishment of her license.

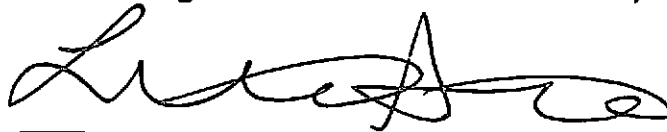
3. Respondent has been advised, by a copy of this Motion, that a copy of the investigative file in this case shall be furnished to the Board to

establish a prima facie case regarding the violations as set forth in the Uniform Consumer Complaint.

WHEREFORE the parties respectfully request the Board of Pharmacy enter a Final Order incorporating the terms of the Voluntary Relinquishment of Licensure.

Respectfully submitted,

John H. Armstrong, MD
State Surgeon General and Secretary of Health



Louise Wilhite-St Laurent
Assistant General Counsel
Florida Bar Number 0091244
Florida Department of Health
Office of the General Counsel
4052 Bald Cypress Way, Bin C-65
Tallahassee, Florida 32399-3265
Telephone: (850) 245-4444 x 8331
Facsimile: (850) 245-4662
Email: Louise.StLaurent@flhealth.gov

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing has been provided by U.S. mail this 27th day of May, 2014, to Nance Elizabeth Keane, R.P.T., 216 Monet Drive, Nokomis, Florida 34275.



Louise Wilhite-St.Laurent
Assistant General Counsel

STATE OF FLORIDA
DEPARTMENT OF HEALTH

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK ANGEL SANDERS
DATE MAY 19 2014

DEPARTMENT OF HEALTH,
Petitioner,

v.

DOH Case No. 201406794

NANCY ELIZABETH KEANE, RPT
Respondent.

VOLUNTARY RELINQUISHMENT OF LICENSE

Respondent, NANCY ELIZABETH KEANE, RPT license No. 45334, hereby voluntarily relinquishes Respondent's license to practice as a Registered Pharmacy Tech in the State of Florida and states as follows:

1. Respondent's purpose in executing this Voluntary Relinquishment is to avoid further administrative action with respect to this cause. Respondent understands that acceptance by the Board of Pharmacy (hereinafter the Board) of this Voluntary Relinquishment shall be construed as disciplinary action against Respondent's license pursuant to Section 456.072(1)(f), Florida Statutes. As with any disciplinary action, this relinquishment will be reported to the National Practitioner Data Bank as disciplinary action. Licensing authorities in other states may impose discipline in their jurisdiction based on discipline taken in Florida.

2. Respondent agrees to never reapply for licensure as a Registered Pharmacy Tech in the State of Florida.

3. Respondent agrees to voluntarily cease practicing Pharmacy immediately upon executing this Voluntary Relinquishment. Respondent further agrees to refrain from the practice of Pharmacy until such time as this Voluntary Relinquishment is presented to the Board and the Board issues a written final order in this matter.

4. In order to expedite consideration and resolution of this action by the Board in a public meeting, Respondent, being fully advised of the consequences of so doing, hereby waives the statutory privilege of confidentiality of Section 456.073(10), Florida Statutes, and waives a determination of probable cause, by the Probable Cause Panel, or the Department when appropriate, pursuant to Section 456.073(4), Florida Statutes, regarding the complaint, the investigative report of the Department of Health, and all other information obtained pursuant to the Department's investigation in the above-styled action. By signing this waiver, Respondent understands that the record and complaint become public record and remain public record and that information is immediately accessible to the public.

5. Upon the Board's acceptance of this Voluntary Relinquishment, Respondent agrees to waive all rights to seek judicial review of, or to otherwise challenge or contest the validity of, this Voluntary Relinquishment and of the Final Order of the Board incorporating this Voluntary Relinquishment.

6. Petitioner and Respondent hereby agree that upon the Board's acceptance of this Voluntary Relinquishment, each party shall bear its own attorney's fees and costs related to the prosecution or defense of this matter.

7. Respondent authorizes the Board to review and examine all investigative file materials concerning Respondent in connection with the Board's consideration of this

Voluntary Relinquishment. Respondent agrees that consideration of this Voluntary Relinquishment and other related materials by the Board shall not prejudice or preclude the Board, or any of its members, from further participation, consideration, or resolution of these proceedings if the terms of this Voluntary Relinquishment are not accepted by the Board.

DATED this 9 day of May, 2014.

Nancy Elizabeth Keane
NANCY ELIZABETH KEANE, RPT

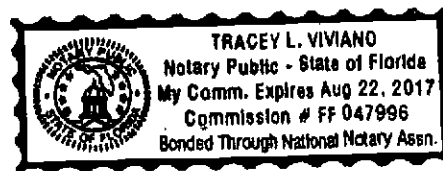
STATE OF Florida
COUNTY OF Sarasota

Before me, personally appeared Nancy Keane, whose identity is known to me or who produced FLDL (type of identification) and who, under oath, acknowledges that his signature appears above.

Sworn to and subscribed before me this 9 day of May, 2014.

Tracey L. Viviano
NOTARY PUBLIC

My Commission Expires: 8/22/17



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Rick Scott
Governor

John H. Armstrong, MD, FACS
State Surgeon General & Secretary

Vision: To be the Healthiest State in the Nation

May 23, 2014

VIA U.S. MAIL

Nancy Elizabeth Keane, R.P.T.
216 Monet Drive
Nokomis, Florida 34275

RE: DOH vs. Nancy Elizabeth Keane, R.P.T.
DOH Case Number: 2014-06794

Dear Ms. Keane:

We are in receipt of your executed Voluntary Relinquishment form. As you are aware by signing the Voluntary Relinquishment of License form, you agreed to the following:

- the Voluntary Relinquishment would be considered disciplinary action against your license, pursuant to Section 456.072(1)(f), Florida Statutes;
- you would never reapply for licensure as a Registered Pharmacy Technician in the State of Florida; and
- Voluntarily relinquishing your Florida Registered Pharmacy Technician license may have an effect on Registered Pharmacy Technician licenses that you may hold in other states.

If this is not what you understand, please contact me as soon as possible to discuss, at 850-245-4444, ext. 8331. Otherwise, this case will proceed as planned, and the Florida Board of Pharmacy will take up your request for Voluntary Relinquishment of License at their meeting scheduled for August 13, 2014 at the Double Tree by Hilton, 100 Fairway Drive, Deerfield Beach, FL 33441.

Sincerely,

A handwritten signature in black ink, appearing to read "Louise Wilhite-St. Laurent". The signature is fluid and cursive.

Louise Wilhite-St. Laurent
Assistant General Counsel

LSL/mla

Florida Department of Health

Office of the General Counsel • Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65 • Tallahassee, FL 32399-3256
Express mail address: 2585 Merchants Row – Suite 105
PHONE: 850/245-4444 • FAX 850/245-4662

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YOUTUBE: fldoh

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Surgeon General & Sec

Vision: To be the **Healthiest State** in the Nation

**STATE OF FLORIDA
BOARD OF PHARMACY**

DEPARTMENT OF HEALTH,
PETITIONER,

VS.

CASE NO. 201406354

RYAN MICHAEL HOGAN,
RESPONDENT.

NOTICE

TO: RYAN MICHAEL HOGAN
4411 N. DIXIE HWY.
BOCA RATON, FL 33431

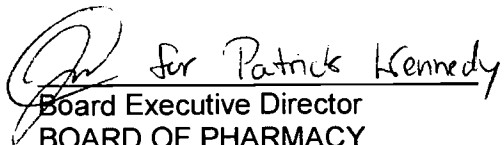
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Board Executive Director
BOARD OF PHARMACY

Florida Department of Health
4052 Bald Cypress Way, Bin #
Tallahassee, FL 32399 -

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DEPARTMENT OF HEALTH,
PETITIONER,

VS.

CASE NO. 201406354

RYAN MICHAEL HOGAN,
RESPONDENT.

NOTICE

AND: MARTIN DIX
106 EAST COLLEGE AVE, SUITE 1200
TALLAHASSEE, FL 32301


PLEASE TAKE NOTICE that a disciplinary hearing will be heard before the BOARD OF PHARMACY on Wednesday, August 13, 2014, commencing at 9 a.m. The Respondent is not required to be present at this meeting. This hearing will be held at DoubleTree by Hilton, 100 Fairway Drive, Deerfield Beach, FL 33441, 1(800) 624-3606..

The purpose of the hearing is to consider a motion for: Voluntary Relinquishment

Note: Cases shown on the agenda as "timed" items may be heard in a different order or may be heard earlier if all parties are present. Cases are scheduled beginning at 9 a.m.; therefore, it is imperative that you arrive promptly at 9 a.m. and be prepared to be at the meeting for several hours until your case is heard.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Hearing has been sent by U.S. Mail to the above address(es) this 10th day of July, 2014.


Board Executive Director
BOARD OF PHARMACY
Florida Department of Health
4052 Bald Cypress Way, Bin #
Tallahassee, FL 32399 -

Florida Department of Health
Division of Medical Quality Assurance • Bureau of HCPR
4052 Bald Cypress Way, Bin C-04 • Tallahassee, FL 32399-1701
PHONE: 850/245-4292 • FAX 850/413-6982

www.FloridasHealth.com
TWITTER:HealthyFLA
FACEBOOK:FLDepartmentofHealth
YOUTUBE: fldoh

Mission:

To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.

**Rick Scott**

Governor

John H. Armstrong, MD, FACS

Surgeon General & Secretary

Vision: To be the Healthiest State in the Nation**MEMORANDUM**

TO: Patrick W. Kennedy, M.A., Executive Director, Board of Pharmacy
FROM: Karine Giaella, Assistant General Counsel
RE: **Voluntary Relinquishment**
SUBJECT: DOH v. Ryan Michael Hogan, R.P.T.
 DOH Case Number 2014-06354
DATE: May 27, 2014

Enclosed you will find materials in the above-referenced case to be placed on the agenda for final agency action for the August 12-13, 2014 meeting of the board. The following information is provided in this regard.

Subject: Ryan Michael Hogan, R.P.T.

Subject's Address of Record: 4411 N. Dixie Hwy.
 Boca Raton, FL 33431
 5614871892 Telephone

Enforcement Address: 4411 N. Dixie Hwy.
 Boca Raton, FL 33431

Subject's License No: 30534 **Rank:** RPT

Licensure File No: 31368

Initial Licensure Date: 4/23/2010

Board Certification: No

Required to Appear: No

Current IPN/PRN Contract: No

Allegation(s):

Section 456.072(1)(k)(dd), Florida Statutes (2013)
 Section 456.016(1)(r), Florida Statutes (2013)
 Section 465.023(1)(c), Florida Statutes (2013)
 Rules 64B16-27.100, 64B16-27.104(5), 64B16-27.300,
 64B16-27.700, 64B16-27.797, 64B16-28.1081,
 64B16-27.140, Florida Administrative Code

Prior Discipline: None

Probable Cause Panel: PCP Waived

Florida Department of Health

Office of the General Counsel • Prosecution Services Unit
 4052 Bald Cypress Way, Bin C-65 • Tallahassee, FL 32399-1701
 Express mail address: 2585 Merchants Row • Suite 105
 PHONE: 850/245-4444 • FAX 850/245-4662

www.FloridasHealth.com

TWITTER:HealthyFLA

FACEBOOK:FLDepartmentofHealth

YOUTUBE: fldoh

Subject's Attorney:

Julie Gallagher, Esq.
Martin Dix, Esq.
Akerman Lip
106 East College Ave, Suite 1200
Tallahassee, FL 32301
(850) 224-9634 Telephone

Complainant/Address:

Department Of Health/Investigative Services
Unit-[Jupiter]

Materials Submitted:

Memorandum to the Board
Motion for Final Order Based Upon Voluntary
Relinquishment of License
Voluntary Relinquishment
Final Investigative Report with Exhibits 1-20

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

Petitioner,

CASE NO. 2014-06354

V.

RYAN MICHAEL HOGAN, R.PT.,

Respondent.

**MOTION FOR FINAL ORDER
BASED UPON A VOLUNTARY RELINQUISHMENT OF LICENSE**

COMES NOW, the Petitioner, by and through its undersigned counsel, and moves the Board of Pharmacy for entry of a Final Order in the above-styled cause on a date and time that has been determined and noticed by the Board. As grounds therefore, the Petitioner would state the following:

1. On or about **April 24, 2014**, a Uniform Consumer Complaint was filed with the Department of Health, alleging that the Subject violated the provisions of Chapter 456 or Chapter 465, Florida Statutes.


2. In lieu of undergoing further disciplinary proceedings, the Respondent returned an executed Voluntary Relinquishment of his/her license.

3. Respondent has been advised, by a copy of this Motion, that a copy of the investigative file in this case shall be furnished to the Board to establish a prima facie case regarding the violations as set forth in the **Uniform Consumer Complaint**.

WHEREFORE, the parties respectfully request the Board Pharmacy of enter a Final Order incorporating the terms of the Voluntary Relinquishment of Licensure.

Respectfully Submitted,


John H. Armstrong, MD, FACS
State Surgeon General and Secretary of Health



Karine Giaella
Assistant General Counsel
DOH Prosecution Services Unit
4052 Bald Cypress Way, Bin #C65
Tallahassee, FL 32399-3265
Florida Bar No. **0091101**
Telephone: (850) 245-4444
Facsimile: (850) 245-4662
Email: Karine.Giaella@flhealth.gov

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing has been provided by U.S. mail this 30th day of May, 2014, to Respondent's attorneys: Julie Gallagher and Martin Dix, Esq., 106 East College Avenue, Ste. 1200, Tallahassee, FL 32301.



Karine Galella
Assistant General Counsel

KG/as

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK Angel Sanders
DATE MAY 27 2014

STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,
Petitioner,

v.

DOH Case No. 2014-06354

RYAN MICHAEL HOGAN, R.P.T.
Respondent.

VOLUNTARY RELINQUISHMENT OF LICENSE

Respondent RYAN M. HOGAN, RPT license No.30534, hereby voluntarily relinquishes Respondent's license to practice as a Registered Pharmacy Technician In the State of Florida and states as follows:

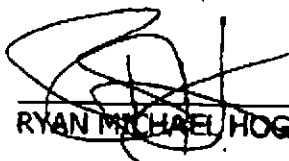
1. Respondent's purpose in executing this Voluntary Relinquishment is to avoid further administrative action with respect to this cause. Respondent understands that acceptance by the Board of Pharmacy (hereinafter the Board) of this Voluntary Relinquishment shall be construed as disciplinary action against Respondent's license pursuant to Section 456.072(1)(f), Florida Statutes. As with any disciplinary action, this relinquishment will be reported to the National Practitioner Data Bank as disciplinary action. Licensing authorities in other states may impose discipline in their jurisdiction based on discipline taken in Florida.

2. Respondent agrees to never reapply for licensure as a Registered Pharmacy Technician in the State of Florida.

3. Respondent agrees to voluntarily cease practicing as a Registered Pharmacy Technician immediately upon executing this Voluntary Relinquishment. Respondent further agrees to refrain from the practice of Pharmacy until such time as this Voluntary Relinquishment is presented to the Board and the Board issues a written final order in this matter.
4. In order to expedite consideration and resolution of this action by the Board in a public meeting, Respondent, being fully advised of the consequences of so doing, hereby waives the statutory privilege of confidentiality of Section 456.073(10), Florida Statutes, and waives a determination of probable cause, by the Probable Cause Panel, or the Department when appropriate, pursuant to Section 456.073(4), Florida Statutes, regarding the complaint, the investigative report of the Department of Health, and all other information obtained pursuant to the Department's investigation in the above-styled action. By signing this waiver, Respondent understands that the record and complaint become public record and remain public record and that information is immediately accessible to the public.
5. Upon the Board's acceptance of this Voluntary Relinquishment, Respondent agrees to waive all rights to seek judicial review of, or to otherwise challenge or contest the validity of, this Voluntary Relinquishment and of the Final Order of the Board incorporating this Voluntary Relinquishment.
6. Petitioner and Respondent hereby agree that upon the Board's acceptance of this Voluntary Relinquishment, each party shall bear its own attorney's fees and costs related to the prosecution or defense of this matter.

7. Respondent authorizes the Board to review and examine all investigative file materials concerning Respondent in connection with the Board's consideration of this Voluntary Relinquishment. Respondent agrees that consideration of this Voluntary Relinquishment and other related materials by the Board shall not prejudice or preclude the Board, or any of its members, from further participation, consideration, or resolution of these proceedings if the terms of this Voluntary Relinquishment are not accepted by the Board.

DATED this 3rd day of May, 2014.



RYAN MICHAEL HOGAN, RPT

STATE OF Florida
COUNTY OF Talm Ben

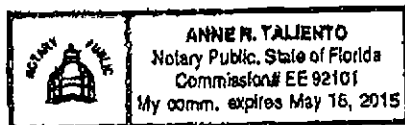
Before me, personally appeared Ryan Hogan, whose identity is known to me or who produced FL-DRIV-LIC (type of identification) and who, under oath, acknowledges that his signature appears above.

Sworn to and subscribed before me this 3 day of May 2014,
20 .



NOTARY PUBLIC

My Commission Expires:



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Rick Scott
Governor

Mission:

To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.

John H. Armstrong, MD, FACS

Surgeon General & Sec

Vision: To be the Healthiest State in the Nation

**STATE OF FLORIDA
BOARD OF PHARMACY**

DEPARTMENT OF HEALTH,
PETITIONER,

VS.

CASE NO. 201320511

JEFFREY L HUMERICK,
RESPONDENT.

NOTICE

TO: JEFFREY L HUMERICK
3305 WOODBURY CT
ST AUGUSTINE, FL 32086

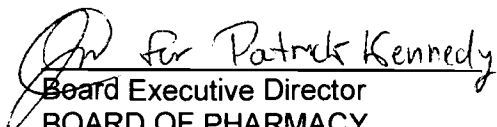
PLEASE TAKE NOTICE that a disciplinary hearing will be heard before the BOARD OF PHARMACY on Wednesday, August 13, 2014, commencing at 9 a.m. The Respondent is not required to be present at this meeting. This hearing will be held at DoubleTree by Hilton, 100 Fairway Drive, Deerfield Beach, FL 33441, 1(800) 624-3606..

The purpose of the hearing is to consider a motion for: Voluntary Relinquishment

Note: Cases shown on the agenda as "timed" items may be heard in a different order or may be heard earlier if all parties are present. Cases are scheduled beginning at 9 a.m.; therefore, it is imperative that you arrive promptly at 9 a.m. and be prepared to be at the meeting for several hours until your case is heard.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Hearing has been sent by U.S. Mail to the above address(es) this 10th day of July, 2014.


Board Executive Director
BOARD OF PHARMACY

Florida Department of Health
4052 Bald Cypress Way, Bin #
Tallahassee, FL 32399 -

Florida Department of Health

Division of Medical Quality Assurance
4052 Bald Cypress Way, Bin C10 • Tallahassee, FL 32399-3260
PHONE: (850) 245-4444 • FAX : (850) 245-4791

www.FloridasHealth.com

TWITTER:HealthyFLA
FACEBOOK:FLDepartmentofHealth
YOUTUBE: fldoh

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Vision: To be the Healthiest State in the Nation

Rick Scott
Governor

John H. Armstrong, MD, FACS
Surgeon General & Secretary

MEMORANDUM

TO: Patrick W. Kennedy, M.A., Executive Director, Board of Pharmacy
FROM: Christopher Jurich, Assistant General Counsel
RE: **Voluntary Relinquishment** *CJ 6-3-14/and*
SUBJECT: DOH v. Jeffrey L. Humerick, R. Ph.
DOH Case Number 2013-20511
DATE: April 30, 2014

Enclosed you will find materials in the above-referenced case to be placed on the agenda for final agency action for the **August 13, 2014** meeting of the board. The following information is provided in this regard.

Subject: Jeffrey L. Humerick, R. Ph.
Subject's Address of Record: 3305 Woodbury Court
St. Augustine, FL 32086

Enforcement Address: 3305 Woodbury Court
St. Augustine, FL 32086

Subject's License No: 21349 **Rank:** PS

Licensure File No: 10602

Initial Licensure Date: 3/11/1985

Board Certification: No

Required to Appear: No

Current IPN/PRN Contract: No

Allegation(s): None - No Administrative Complaint filed

Prior Discipline: None

Probable Cause Panel: None

Subject's Attorney: Pro Se

Complainant/Address: Professional Resource Network, Inc.

Materials Submitted: Memorandum to the Board
Motion for Final Order Based Upon a Voluntary Relinquishment of License
Voluntary Relinquishment
Supplemental Investigative Reports with Exhibits
Final Investigative Report with Exhibits

pkg_enf_rpt_psu.p_dxp018L: 04/30/2014 11:11:22

STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,
Petitioner,

v.

CASE NO. 2013-20511

JEFFREY L. HUMERICK, R. PH.,
Respondent.

MOTION FOR FINAL ORDER
BASED UPON A VOLUNTARY RELINQUISHMENT OF LICENSE

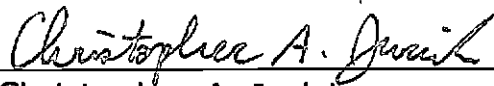
COMES NOW, the Petitioner, by and through its undersigned counsel, and moves the Board of Pharmacy for entry of a Final Order in the above-styled cause on a date and time that has been determined and noticed by the Board. As grounds therefore, the Petitioner would state the following:

1. On or about January 2, 2014, a Uniform Consumer Complaint was filed with the Department of Health, alleging that the Subject violated the provisions of Chapter 456 or Chapter 465, Florida Statutes.
2. In lieu of undergoing further disciplinary proceedings, the Respondent returned an executed Voluntary Relinquishment of his license.
3. Respondent has been advised, by a copy of this Motion, that a copy of the investigative file in this case shall be furnished to the Board to

establish a prima facie case regarding the violations as set forth in the
~~Uniform-Consumer-Complaint.~~

WHEREFORE the parties respectfully request the Board of Pharmacy
enter a Final Order incorporating the terms of the Voluntary
Relinquishment of Licensure.

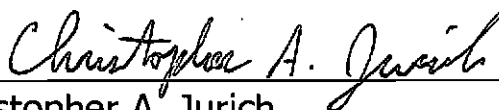
Respectfully Submitted,



Christopher A. Jurich
Assistant General Counsel
Fla. Bar No. 0099014
Florida Department of Health
Office of the General Counsel
4052 Bald Cypress Way, Bin #C65
Tallahassee, FL 32399-3265
Telephone: (850) 245-4444
Facsimile: (850) 245-4683
Email: christopher.jurich@flhealth.gov

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and
foregoing has been provided by U.S. certified mail this 2nd day of
June, 2014, to Jeffrey L. Humerick, 3305 Woodbury
Court, St. Augustine, FL 32086.



Christopher A. Jurich
Assistant General Counsel

FILED

DEPARTMENT OF HEALTH
DEPUTY CLERK

CLERK: *Orge Soides*

DATE: APR 24 2014

STATE OF FLORIDA
DEPARTMENT OF HEALTH

PRACTITIONER REGULATION
LEGAL

2014 APR 15 AM 11:33

DEPARTMENT OF HEALTH,
Petitioner,

v.

DOH Case No. 2013-20511

JEFFREY L. HUMERICK, R.PH.,
Respondent.

VOLUNTARY RELINQUISHMENT OF LICENSE

Respondent Jeffrey L. Humerick, R.Ph. license No. PS21349, hereby voluntarily relinquishes Respondent's license to practice pharmacy in the State of Florida and states as follows:

1. Respondent's purpose in executing this Voluntary Relinquishment is to avoid further administrative action with respect to this cause. Respondent understands that acceptance by the Board of Pharmacy (hereinafter the Board) of this Voluntary Relinquishment shall be construed as disciplinary action against Respondent's license pursuant to Section 456.072(1)(f), Florida Statutes.

2. Respondent agrees to never reapply for licensure as a pharmacist in the State of Florida.

3. Respondent agrees to voluntarily cease practicing pharmacy immediately upon executing this Voluntary Relinquishment. Respondent further agrees to refrain from the practice of pharmacy until such time as this Voluntary Relinquishment is presented to the Board and the Board issues a written final order in this matter.

4. In order to expedite consideration and resolution of this action by the Board in a public meeting, Respondent, being fully advised of the consequences of so doing, hereby

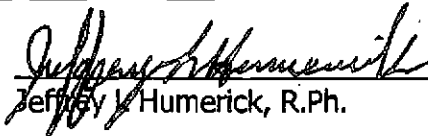
waives the statutory privilege of confidentiality of Section 456.073(10), Florida Statutes, and waives a determination of probable cause, by the Probable Cause Panel, or the Department when appropriate, pursuant to Section 456.073(4), Florida Statutes, regarding the complaint, the investigative report of the Department of Health, and all other information obtained pursuant to the Department's investigation in the above-styled action. By signing this waiver, Respondent understands that the record and complaint become public record and remain public record and that information is immediately accessible to the public. Section 456.073(10) Florida Statutes.

5. Upon the Board's acceptance of this Voluntary Relinquishment, Respondent agrees to waive all rights to seek judicial review of, or to otherwise challenge or contest the validity of, this Voluntary Relinquishment and of the Final Order of the Board incorporating this Voluntary Relinquishment.

6. Petitioner and Respondent hereby agree that upon the Board's acceptance of this Voluntary Relinquishment, each party shall bear its own attorney's fees and costs related to the prosecution or defense of this matter.

7. Respondent authorizes the Board to review and examine all investigative file materials concerning Respondent in connection with the Board's consideration of this Voluntary Relinquishment. Respondent agrees that consideration of this Voluntary Relinquishment and other related materials by the Board shall not prejudice or preclude the Board, or any of its members, from further participation, consideration, or resolution of these proceedings if the terms of this Voluntary Relinquishment are not accepted by the Board.

DATED this 11 day of April, 2014.


Jeffrey L. Humerick, R.Ph.

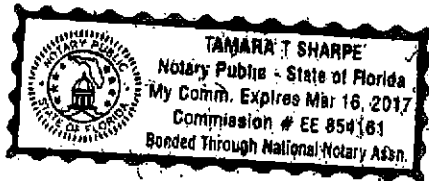
STATE OF FLORIDA

COUNTY OF:

Before me, personally appeared Jeffrey L. Humerick, whose identity is known to me by FL DL (identification) and who, under oath, acknowledges that his signature appears above. Sworn to and subscribed before me this 11th day of April, 2014.


NOTARY PUBLIC

My Commission Expires:



7196 9008 9111 2484 2387

TO:
Jeffrey L. Humerick, R.Ph.
3305 Woodbury Ct.
St. Augustine, FL 32086

VR
Humerick 2013-20511

SENDER:

REFERENCE:

PS Form 3800, January 2005

| | | |
|------------------------------|----------------------|--|
| RETURN RECEIPT SERVICE | Postage | |
| | Certified Fee | |
| | Return Receipt Fee | |
| | Restricted Delivery | |
| | Total Postage & Fees | |

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POSTMARK OR DATE

4/1/14

2. Article Number



7196 9008 9111 2484 2387

3. Service Type **CERTIFIED MAIL™**

4. Restricted Delivery? (Extra Fee) Yes

1. Article Addressed to:

Jeffrey L. Humerick, R.Ph.
3305 Woodbury Ct.
St. Augustine, FL 32086

COMPLETE THIS SECTION ON DELIVERY

| | |
|--|---|
| A. Received by (Please Print Clearly) <i>Jeffrey L. Humerick</i> | B. Date of Delivery 4/1/14 |
| C. Signature <i>Jeffrey L. Humerick</i> | <input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee |
| D. Is delivery address different from Item 1? If YES, enter delivery address below: | <input type="checkbox"/> Yes <input type="checkbox"/> No |

2013-20511
Humerick

K. Galella 4/1/2014 VR

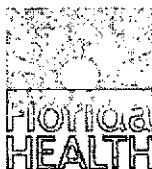
PS Form 3811, January 2005

Domestic Return Receipt

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PRATTI ONEN REGISTRATION
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Rick Scott
Governor

John H. Armstrong, MD, FACS
State Surgeon General & Secretary

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June 2, 2014

CERTIFIED MAIL

Jeffrey L. Humerick, R. Ph.
3305 Woodbury Court
St. Augustine, FL 32086

Re: DOH vs. Jeffrey L. Humerick, R. Ph.
DOH Case Number: 2013-20511

Dear Mr. Humerick:

We are in receipt of your executed Voluntary Relinquishment form. As you are aware, by signing the Voluntary Relinquishment of License form, you agreed to the following:

- the Voluntary Relinquishment would be considered disciplinary action against your license, pursuant to Florida Statutes;
- Voluntarily relinquishing your Florida pharmacist license may have an effect on pharmacist licenses you may hold in other states.

If this is not what you understood, please contact me as soon as possible to discuss, at 850-245-4444, ext. 8174. Otherwise, this case will proceed as planned, and the Florida Board of Pharmacy will take up your request for Voluntary Relinquishment of License at their next regularly scheduled meeting, August 12-13, 2014. You are not required to attend the meeting.

Sincerely,

A handwritten signature in black ink that reads "Christopher A. Jurich".

Christopher A. Jurich
Assistant General Counsel

CAJ/aed

Florida Department of Health

Office of the General Counsel • Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65 • Tallahassee, FL 32399-1701
Express mail address: 2585 Merchants Row - Suite 105
PHONE: 850/245-4444 • FAX 850/245-4683

www.FloridasHealth.com

TWITTER: HealthyFLA
FACEBOOK: FLDepartmentofHealth
YOUTUBE: fldoh

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April 1, 2014

Jeffrey L. Humerick, R.Ph.
3305 Woodbury Ct.
St. Augustine, FL 32086



RE: Department of Health vs. Jeffrey L. Humerick, R.Ph.; Case No. 2013-20511

Dear Jeffrey L. Humerick,

Enclosed is a proposed Voluntary Relinquishment of License. The Voluntary Relinquishment is an offer to resolve this matter without the necessity of further proceedings and the added expenses accompanying further proceedings.

Please be aware that by signing the Voluntary Relinquishment of License form you agree to all conditions stated therein, including the following:

- the Voluntary Relinquishment, if accepted by the Board of Pharmacy, will be construed as disciplinary action against your pharmacy license, pursuant to Section 456.072(1)f), Florida Statutes;
- you will never reapply for licensure as a pharmacist in the State of Florida; and
- voluntarily relinquishing your Florida pharmacy license may have an effect on pharmacy licenses you may hold in other states.

Please note paragraph six (6) of the proposed Voluntary Relinquishment. If you agree to the terms, you and the Department of Health will bear its own costs in resolving this matter. If further proceedings are required, you may be assessed fines, costs, and fees. If you choose to accept the Voluntary Relinquishment, please execute it by signing it, having your signature notarized, and returning it to me within twenty-one (21) days of receipt of this letter. Once we receive the executed Voluntary Relinquishment, you will be notified of the date and time that the case is scheduled before the Board of Pharmacy for review.

Sincerely,

Karine Giaella
Assistant General Counsel

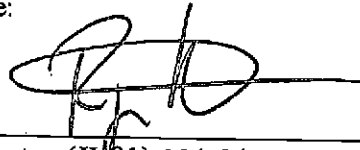
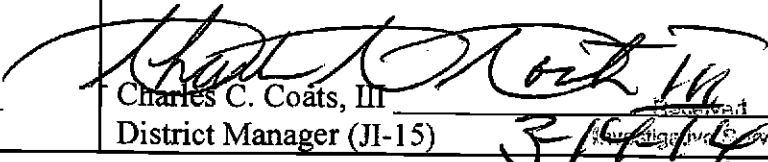
KG/as

Enclosures: as listed



STATE OF FLORIDA
DEPARTMENT OF HEALTH

INVESTIGATIVE REPORT

| | | | | | |
|---|---------------------|--------------------------------------|---|----------------------------|--|
| Office: Jacksonville | | Date of Case: 12/30/13 | | Case Number: PS 2013-20511 | |
| Subject: JEFFREY L. HUMERICK, RPH 3305 Woodbury Ct. St. Augustine, FL 32086 (B) (904) 797-9474 | | | Source: PROFESSIONAL RESOURCE NETWORK, INC. | | |
| Prefix: PS | License #: 21349 | Profession: Registered Pharmacist | Board: Pharmacy | Report Date: 03/13/14 | |
| Period of Investigation: 03/11/14—03/13/14 | | | Type of Report: SUPPLEMENTAL | | |
| Alleged Violation: F.S. 456.072 "Grounds for discipline; penalties; enforcement.— (1) The following acts... (z) Being unable to practice with reasonable skill and safety... (dd) Violating any provision... (hh) Being terminated from a treatment program..." F.S. 465.016 "Disciplinary actions.— (1) The following acts... (d) Being unfit or incompetent to practice... (m) Being unable to practice... (r) Violating..." | | | | | |
| <p>Synopsis:</p> <p>This supplemental report is predicated upon the receipt of a request from PSU for this office to hand serve the attached Order Completing Examination to HUMERICK, (Exhibit S-1).</p> <p>On 03/13/14, this Investigator presented to HUMERICK's place of residence at the address noted above, and did hand-serve the Order to HUMERICK at that time., (Exhibit S-2).</p> <p>Attachments:</p> <p>S-1. PSU request and attached Order Compelling Examination.....2-18</p> <p>S-2. Affidavit of Service.....19</p> | | | | | |
| Related Complaint: None | | | | | |
| Investigator/Date: Ryan F. Heal MQA Investigator (JI-81) 03/13/14 | | | Approved By/Date: Charles C. Coats, III District Manager (JI-15) | | |
| Distribution: HQ/ISU | | |   <small>Professional Services</small> | | |

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456.057 - Ownership and control of patient records; report or copies of records to be
furnished.—

10)(a)All patient records obtained by the department and any other documents
maintained by the department which identify the patient by name are confidential and exempt
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Rick Scott
Governor

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John H. Armstrong, MD, FACS

Surgeon General & Sec

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STATE OF FLORIDA
BOARD OF PHARMACY

DEPARTMENT OF HEALTH,
PETITIONER,

VS.

CASE NO. 201405937

NOHELIA PENA,
RESPONDENT.

NOTICE

TO: NOHELIA PENA
2048 CYPRESS BAY BLVD
KISSIMMEE, FL 34743

PLEASE TAKE NOTICE that a disciplinary hearing will be heard before the BOARD OF PHARMACY on Wednesday, August 13, 2014, commencing at 9 a.m. The Respondent is not required to be present at this meeting. This hearing will be held at DoubleTree by Hilton, 100 Fairway Drive, Deerfield Beach, FL 33441, 1(800) 624-3606..

The purpose of the hearing is to consider a motion for: Voluntary Relinquishment

Note: Cases shown on the agenda as "timed" items may be heard in a different order or may be heard earlier if all parties are present. Cases are scheduled beginning at 9 a.m.; therefore, it is imperative that you arrive promptly at 9 a.m. and be prepared to be at the meeting for several hours until your case is heard.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Hearing has been sent by U.S. Mail to the above address(es) this 10th day of July, 2014.

Board Executive Director
BOARD OF PHARMACY
Florida Department of Health
4052 Bald Cypress Way, Bin #
Tallahassee, FL 32399 -

Florida Department of Health

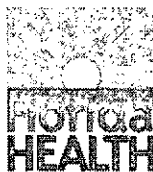
Division of Medical Quality Assurance
4052 Bald Cypress Way, Bin C10 • Tallahassee, FL 32399-3260
PHONE: (850) 245-4444 • FAX : (850) 245-4791

www.FloridasHealth.com

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FACEBOOK:FLDepartmentofHealth
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Rick Scott
Governor

John H. Armstrong, MD, FACS
Surgeon General & Secretary

Vision: To be the Healthiest State in the Nation

MEMORANDUM

TO: Patrick W. Kennedy, M.A., Executive Director, Board of Pharmacy
FROM: Christopher Jurich, Assistant General Counsel *CJ 5-30-14*
RE: **Voluntary Relinquishment**
SUBJECT: DOH v. Nohelia Pena, RPT
DOH Case Number 2014-05937
DATE: May 13, 2014

Enclosed you will find materials in the above-referenced case to be placed on the agenda for final agency action for the **August 12-13, 2014** meeting of the board. The following information is provided in this regard.

Subject: Nohelia Pena, RPT
Subject's Address of Record: 2048 Cypress Bay Blvd.
Kissimmee, FL 34743

Enforcement Address: 2048 Cypress Bay Blvd.
Kissimmee, FL 34743

Subject's License No: 30775 **Rank:** RPT
Licensure File No: 31585
Initial Licensure Date: 5/5/2010
Board Certification: None
Required to Appear: No
Current IPN/PRN Contract: None
Allegation(s): None - No Administrative Complaint
Prior Discipline: 4010, 12/26/2013, DOH-13-2419-FOI
Probable Cause Panel: None
Subject's Attorney: Pro Se

Complainant/Address: Professional Resource Network, Inc.
Post Office Box 16510
Fernandina, FL 32035

Materials Submitted: Memorandum to the Board
Motion for Voluntary Relinquishment of License
Voluntary Relinquishment
Final Investigative Report with Exhibits 1-3

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STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,
Petitioner,

v.

CASE NO. 2014-05937

NOHELIA PENA, R. PT.,
Respondent.

MOTION FOR FINAL ORDER
BASED UPON A VOLUNTARY RELINQUISHMENT OF LICENSE

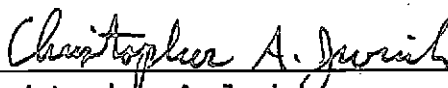
COMES NOW, the Petitioner, by and through its undersigned counsel, and moves the Board of Pharmacy for entry of a Final Order in the above-styled cause on a date and time that has been determined and noticed by the Board. As grounds therefore, the Petitioner would state the following:

1. On or about April 22, 2014, a Uniform Consumer Complaint was filed with the Department of Health, alleging that the Subject violated the provisions of Chapter 456 or Chapter 465, Florida Statutes.
2. In lieu of undergoing further disciplinary proceedings, the Respondent returned an executed Voluntary Relinquishment of his/her license.
3. Respondent has been advised, by a copy of this Motion, that a copy of the investigative file in this case shall be furnished to the Board to

establish a prima facie case regarding the violations as set forth in the
~~Uniform Consumer Complaint.~~

WHEREFORE the parties respectfully request the Board of Pharmacy
enter a Final Order incorporating the terms of the Voluntary
Relinquishment of Licensure.

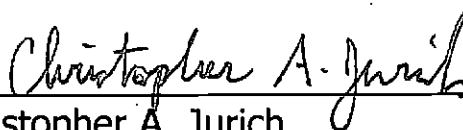
Respectfully Submitted,



Christopher A. Jurich
Assistant General Counsel
Fla. Bar No. 0099014
Florida Department of Health
Office of the General Counsel
4052 Bald Cypress Way, Bin #C65
Tallahassee, FL 32399-3265
Telephone: (850) 245-4444, ext. 8174
Facsimile: (850) 245-4683
Email: christopher.jurich@flhealth.gov

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and
foregoing has been provided by U.S. certified mail this 2nd day of
June, 2014, to Nohelia Pena, R.P.T., 2048 Cypress
Bay Blvd., Kissimmee, FL 34743.



Christopher A. Jurich
Assistant General Counsel

FILED

DEPARTMENT OF HEALTH
DEPUTY CLERK

STATE OF FLORIDA
DEPARTMENT OF HEALTH

CLERK: Angela S. S. S. S.
DATE: MAY 13 2014

DEPARTMENT OF HEALTH,
Petitioner,

v.

DOH Case No. 2014-05937

NOHELIA PENA, RPT
Respondent.

VOLUNTARY RELINQUISHMENT OF LICENSE

Respondent NOHELIA PENA, RPT license No. 30775, hereby voluntarily relinquishes Respondent's license to practice as a Registered Pharmacy Technician In the State of Florida and states as follows:

1. Respondent's purpose in executing this Voluntary Relinquishment is to avoid further administrative action with respect to this cause. Respondent understands that acceptance by the Board of Pharmacy (hereinafter the Board) of this Voluntary Relinquishment shall be construed as disciplinary action against Respondent's license pursuant to Section 456.072(1)(f), Florida Statutes. As with any disciplinary action, this relinquishment will be reported to the National Practitioner Data Bank as disciplinary action. Licensing authorities in other states may impose discipline in their jurisdiction based on discipline taken in Florida.

2. Respondent agrees to never reapply for licensure as a Registered Pharmacy Technician in the State of Florida.

3. ~~Respondent agrees to voluntarily cease practicing as a Registered Pharmacy Technician immediately upon executing this Voluntary Relinquishment.~~ Respondent further agrees to refrain from the practice of a Registered Pharmacy Technician until such time as this Voluntary Relinquishment is presented to the Board and the Board issues a written final order in this matter.

4. In order to expedite consideration and resolution of this action by the Board in a public meeting, Respondent, being fully advised of the consequences of so doing, hereby waives the statutory privilege of confidentiality of Section 456.073(10), Florida Statutes, and waives a determination of probable cause, by the Probable Cause Panel, or the Department when appropriate, pursuant to Section 456.073(4), Florida Statutes, regarding the complaint, the investigative report of the Department of Health, and all other information obtained pursuant to the Department's investigation in the above-styled action. By signing this waiver, Respondent understands that the record and complaint become public record and remain public record and that information is immediately accessible to the public.

5. Upon the Board's acceptance of this Voluntary Relinquishment, Respondent agrees to waive all rights to seek judicial review of, or to otherwise challenge or contest the validity of, this Voluntary Relinquishment and of the Final Order of the Board incorporating this Voluntary Relinquishment.

6. Petitioner and Respondent hereby agree that upon the Board's acceptance of this Voluntary Relinquishment, each party shall bear its own attorney's fees and costs related to the prosecution or defense of this matter.

~~7. Respondent authorizes the Board to review and examine all investigative file~~
materials concerning Respondent in connection with the Board's consideration of this
Voluntary Relinquishment. Respondent agrees that consideration of this Voluntary
Relinquishment and other related materials by the Board shall not prejudice or preclude the
Board, or any of its members, from further participation, consideration, or resolution of these
proceedings if the terms of this Voluntary Relinquishment are not accepted by the Board.

DATED this 28th day of April, 2014.

Nohelia

NOHELIA PENA, RPT

STATE OF FLORIDA
COUNTY OF ORANGE

Before me, personally appeared NOHELIA PENA, whose identity is known to me or
Colombian IP
who produced # and who, under oath, acknowledges that
her signature appears above.

Sworn to and subscribed before me this 28th day of April, 2014.



NOTARY PUBLIC

My Commission Expires:

STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,
Petitioner,

v.

DOH Case No. 2014-05937

NOHELIA PENA, RPT
Respondent.

VOLUNTARY RELINQUISHMENT OF LICENSE

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2. Respondent agrees to never reapply for licensure as a Registered Pharmacy Technician in the State of Florida.

3. Respondent agrees to voluntarily cease practicing as a Registered Pharmacy

Technician immediately upon executing this Voluntary Relinquishment. Respondent further agrees to refrain from the practice of a Registered Pharmacy Technician until such time as this Voluntary Relinquishment is presented to the Board and the Board issues a written final order in this matter.


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6. Petitioner and Respondent hereby agree that upon the Board's acceptance of this Voluntary Relinquishment, each party shall bear its own attorney's fees and costs related to the prosecution or defense of this matter.

7. Respondent authorizes the Board to review and examine all investigative file materials concerning Respondent in connection with the Board's consideration of this Voluntary Relinquishment. Respondent agrees that consideration of this Voluntary Relinquishment and other related materials by the Board shall not prejudice or preclude the Board, or any of its members, from further participation, consideration, or resolution of these proceedings if the terms of this Voluntary Relinquishment are not accepted by the Board.

DATED this 28th day of April, 2014.



NOHELIA PENA, RPT

STATE OF FLORIDA
COUNTY OF ORANGE

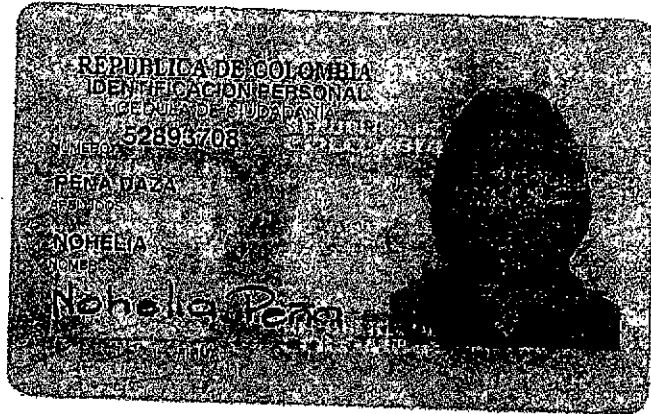
Before me, personally appeared NOHELIA PENA, whose identity is known to me or who produced Colombian I.D. # 58893708 and who, under oath, acknowledges that her signature appears above.

Sworn to and subscribed before me this 28th day of April, 2014.



NOTARY PUBLIC

My Commission Expires:



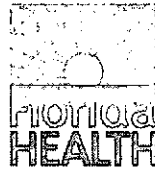
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15-OCT-2000 BOGOTÁ D.C.
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INDICE DERECHO REGISTRADO NACIONAL
ESTATA EN UN REGISTRO

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Rick Scott
Governor

John H. Armstrong, MD, FACS
State Surgeon General & Secretary

Vision: To be the Healthiest State in the Nation

May 30, 2014

CERTIFIED MAIL

Nohelia Peña, R.P.T.
2048 Cypress Bay Blvd.
Kissimmee, FL 34743

Re: DOH vs. Nohelia Peña, R.P.T.
DOH Case Number: 2014-05937

Dear Ms. Peña:

We are in receipt of your executed Voluntary Relinquishment form. As you are aware, by signing the Voluntary Relinquishment of License form you agreed to the following:

- the Voluntary Relinquishment would be considered disciplinary action against your license;
- Voluntarily relinquishing your Florida pharmacist license may have an effect on pharmacy licenses you may hold in other states.

If this is not what you understood, please contact me as soon as possible to discuss, at 850-245-4444, ext. 8224. Otherwise, this case will proceed as planned, and the Florida Board of Pharmacy will take up your request for Voluntary Relinquishment of License at their next regularly scheduled meeting August 12-13, 2014. You are not required to attend the meeting.

Sincerely,

A handwritten signature in cursive script that reads "Christopher A. Jurich".

Christopher A. Jurich
Assistant General Counsel

CAJ/aed

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456.057 - Ownership and control of patient records; report or copies of records to be
furnished.—

10)(a)All patient records obtained by the department and any other documents
maintained by the department which identify the patient by name are confidential and exempt
from s. 119.07(1) and shall be used solely for the purpose of the department and the appropriate
regulatory board in its investigation, prosecution, and appeal of disciplinary proceedings. The
records shall not be available to the public as part of the record of investigation for and
prosecution in disciplinary proceedings made available to the public by the department or the
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Governor

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John H. Armstrong, MD, FACS
Surgeon General & Sec

Vision: To be the Healthiest State in the Nation

STATE OF FLORIDA
BOARD OF PHARMACY

DEPARTMENT OF HEALTH,
PETITIONER,

VS.

CASE NO. 201403603

AAZ PHARMACY,
RESPONDENT.

NOTICE

TO: AAZ PHARMACY
7209 CORAL WAY
MIAMI, FL 33155

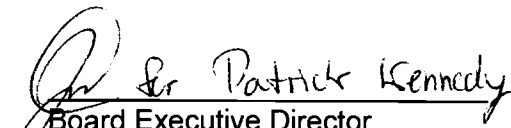
PLEASE TAKE NOTICE that a disciplinary hearing will be heard before the BOARD OF PHARMACY on Wednesday, August 13, 2014, commencing at 9 a.m. The Respondent is not required to be present at this meeting. This hearing will be held at DoubleTree by Hilton, 100 Fairway Drive, Deerfield Beach, FL 33441, 1(800) 624-3606..

The purpose of the hearing is to consider a motion for: Voluntary Relinquishment

Note: Cases shown on the agenda as "timed" items may be heard in a different order or may be heard earlier if all parties are present. Cases are scheduled beginning at 9 a.m.; therefore, it is imperative that you arrive promptly at 9 a.m. and be prepared to be at the meeting for several hours until your case is heard.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Hearing has been sent by U.S. Mail to the above address(es) this 10th day of July, 2014.


Board Executive Director
BOARD OF PHARMACY

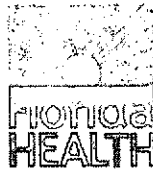
Florida Department of Health
4052 Bald Cypress Way, Bin #
Tallahassee, FL 32399 -

Florida Department of Health
Division of Medical Quality Assurance
4052 Bald Cypress Way, Bin C10 • Tallahassee, FL 32399-3260
PHONE: (850) 245-4444 • FAX : (850) 245-4791

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State Surgeon General & Secretary

Vision: To be the Healthiest State in the Nation

MEMORANDUM

TO: Patrick W. Kennedy, M.A., Executive Director, Board of Pharmacy
FROM: Matthew Witters, Assistant General Counsel *MW*
RE: **Voluntary Relinquishment**
SUBJECT: DOH v. AAZ Pharmacy
DOH Case Number 2014-03603
DATE: June 19, 2014 *AB*

Enclosed you will find materials in the above-referenced case to be placed on the agenda for final agency action for the **August 13, 2014**, meeting of the board. The following information is provided in this regard.

Subject: AAZ Pharmacy
Subject's Address of Record: 7209 Coral Way
Miami, FL 33155
Enforcement Address: 7209 Coral Way
Miami, FL 33155
Subject's License No: 27157 **Rank:** PH
Licensure File No: 20340
Initial Licensure Date: 10/21/2013
Board Certification: No
Required to Appear: No
Current IPN/PRN Contract: No
Allegation(s): 456.072(1)(k)(dd), FS
465.023(1)(c), FS
64B16-28.1081, FAC
Prior Discipline: None
Probable Cause Panel: Waived
Subject's Attorney: Pro Se
Complainant/Address: DOH/Investigative Services Unit-Miami
Materials Submitted: Memorandum to the Board
Motion For Final Order
Voluntary Relinquishment
Notification Letter
Final Investigative Report with Exhibits 1-9

STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,
Petitioner,

v.

CASE NO. 2014-03603

AAZ PHARMACY,
Respondent.

MOTION FOR FINAL ORDER
BASED UPON A VOLUNTARY RELINQUISHMENT OF LICENSE

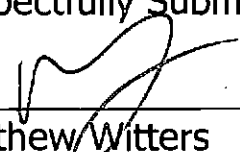
COMES NOW, the Petitioner, by and through its undersigned counsel, and moves the Board of Pharmacy for entry of a Final Order in the above-styled cause on a date and time that has been determined and noticed by the Board. As grounds therefore, the Petitioner would state the following:

1. On or about March 6, 2014, a Uniform Consumer Complaint was filed with the Department of Health, alleging that the Subject violated the provisions of Chapter 456 or Chapter 465, Florida Statutes.
2. In lieu of undergoing further disciplinary proceedings, the Respondent returned an executed Voluntary Relinquishment of his/her license.
3. Respondent has been advised, by a copy of this Motion, that a copy of the investigative file in this case shall be furnished to the Board to

establish a prima facie case regarding the violations as set forth in the Uniform Consumer Complaint.

WHEREFORE the parties respectfully request the Board of Pharmacy enter a Final Order incorporating the terms of the Voluntary Relinquishment of Licensure.

Respectfully Submitted,



Matthew Witters
Assistant General Counsel
Fla. Bar No. 91245
Florida Department of Health
Office of the General Counsel
4052 Bald Cypress Way, Bin #C65
Tallahassee, FL 32399-3265
Telephone: (850) 245-4444
Facsimile: (850) 245-4683
Email: matthew.witters@flhealth.gov

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing has been provided by U.S. certified mail this 20 day of June, 2014, to AAZ Pharmacy, 7209 Coral Way, Miami, FL 33155.



Matthew Witters
Assistant General Counsel

STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,
Petitioner,

v.

DOH Case No. 2014-03603

AAZ PHARMACY
Respondent.

VOLUNTARY RELINQUISHMENT OF LICENSE

Respondent, AAZ PHARMACY, license No. PH27157, by through owner/officer ZULEMA SERBERA hereby voluntarily relinquishes Respondent's license to practice a Special Closed Pharmacy in the State of Florida and states as follows:

1. Respondent's purpose in executing this Voluntary Relinquishment is to avoid further administrative action with respect to this cause. Respondent understands that acceptance by the Board of Pharmacy of this Voluntary Relinquishment shall be construed as disciplinary action against Respondent's license pursuant to Section 456.072(1)(f), Florida Statutes. As with any disciplinary action, this relinquishment will be reported to the National Practitioner Data Bank as disciplinary action. Licensing authorities in other states may impose discipline in their jurisdiction based on discipline taken in Florida.
2. Respondent and its owner/officer, ZULEMA SERBERA agrees to never reapply for licensure as a Special Closed Pharmacy in the State of Florida.
3. Respondent by and through its owner/officer ZULEMA SERBERA, agrees to voluntarily cease practicing as a Special Closed Pharmacy immediately upon executing this

Voluntary Relinquishment. Respondent, by and through its owner/officer ZULEMA SERBERA, further agrees to refrain from the practice of the Special Closed Pharmacy until such time as this Voluntary Relinquishment is presented to the Board and the Board issues a written final order in this matter.

4. In order to expedite consideration and resolution of this action by the Board in a public meeting, Respondent by and through its owner/officer, ZULEMA SERBERA, being fully advised of the consequences of so doing, hereby waives the statutory privilege of confidentiality of Section 456.073(10), Florida Statutes, and waives a determination of probable cause, by the Probable Cause Panel, or the Department when appropriate, pursuant to Section 456.073(4), Florida Statutes, regarding the complaint, the investigative report of the Department of Health, and all other information obtained pursuant to the Department's investigation in the above-styled action. By signing this waiver, Respondent by and through its owner/officer, ZULEMA SERBERA, understands that the record and complaint become public record and remain public record and that information is immediately accessible to the public.

5. Upon the Board's acceptance of this Voluntary Relinquishment, Respondent through its owner/officer ZULEMA SERBERA, agrees to waive all rights to seek judicial review of, or to otherwise challenge or contest the validity of, this Voluntary Relinquishment and of the Final Order of the Board Incorporating this Voluntary Relinquishment.

6. Petitioner and Respondent, by through its owner/officer, ZULEMA SERBERA, hereby agree that upon the Board's acceptance of this Voluntary Relinquishment, each party

shall bear its own attorney's fees and costs related to the prosecution or defense of this matter.

7. Respondent, by through its owner/officer, ZULEMA SERBERA, authorizes the Board to review and examine all investigative file materials concerning Respondent in connection with the Board's consideration of this Voluntary Relinquishment. Respondent, by through its owner/officer, ZULEMA SERBERA, agrees that consideration of this Voluntary Relinquishment and other related materials by the Board shall not prejudice or preclude the Board, or any of its members, from further participation, consideration, or resolution of these proceedings if the terms of this Voluntary Relinquishment are not accepted by the Board.

DATED this 28 day of April, 2014.

Zulema

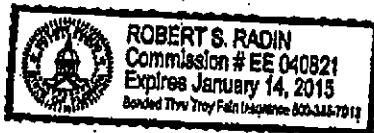
ZULEMA SERBERA

STATE OF Florida
COUNTY OF Miami Dade

Before me, personally appeared ZULEMA SERBERA, whose identity is known to me or who produced Florida Drivers License (type of identification) and who, under oath, acknowledges that his signature appears above.

Sworn to and subscribed before me this 28 day of April,

2014.



R. Radin

NOTARY PUBLIC

My Commission Expires:

Mission:

To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.



Rick Scott
Governor

John H. Armstrong, MD, FACS
State Surgeon General & Secretary

Vision: To be the Healthiest State in the Nation

June 20, 2014

AAZ Pharmacy
7209 Coral Way
Miami, FL 33155

Re: DOH vs. AAZ Pharmacy
DOH Case Number: 2014-03603

Dear Sir/Madam:

We are in receipt of your executed Voluntary Relinquishment form. As you are aware by signing the Voluntary Relinquishment of License form you agreed to the following:

- the Voluntary Relinquishment would be considered disciplinary action against your license, pursuant to Section 456.072(1)(f), Florida Statutes;
- Voluntarily relinquishing your Florida pharmacy license may have an effect on pharmacy licenses you may hold in other states.

If this is not what you understood, please contact me as soon as possible to discuss, at 850-245-4444. Otherwise, this case will proceed as planned, and the Florida Board of Pharmacy will take up your request for Voluntary Relinquishment of License at their next regularly scheduled meeting. You are not required to attend the meeting.

Sincerely,

Matthew Witters
Assistant General Counsel

MW/ab

Florida Department of Health

Office of the General Counsel • Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65 • Tallahassee, FL 32399-1701
Express mail address: 2585 Merchants Row – Suite 105
PHONE: 850/245-4444 • FAX 850/245-4683

www.FloridasHealth.com

TWITTER:HealthyFLA
FACEBOOK:FLDepartmentofHealth
YOUTUBE: fldoh

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regulatory board in its investigation, prosecution, and appeal of disciplinary proceedings. The
records shall not be available to the public as part of the record of investigation for and
prosecution in disciplinary proceedings made available to the public by the department or the
appropriate board.

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Vision: To be the Healthiest State in the Nation

STATE OF FLORIDA
BOARD OF PHARMACY

DEPARTMENT OF HEALTH,
PETITIONER,

VS.

CASE NO. 201403605

AAZ PHARMACY INC,
RESPONDENT.

NOTICE

TO: AAZ PHARMACY INC
7209 CORAL WAY
MIAMI, FL 33155

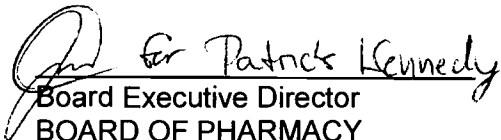
PLEASE TAKE NOTICE that a disciplinary hearing will be heard before the BOARD OF PHARMACY on Wednesday, August 13, 2014, commencing at 9 a.m. The Respondent is not required to be present at this meeting. This hearing will be held at DoubleTree by Hilton, 100 Fairway Drive, Deerfield Beach, FL 33441, 1(800) 624-3606..

The purpose of the hearing is to consider a motion for: Voluntary Relinquishment

Note: Cases shown on the agenda as "timed" items may be heard in a different order or may be heard earlier if all parties are present. Cases are scheduled beginning at 9 a.m.; therefore, it is imperative that you arrive promptly at 9 a.m. and be prepared to be at the meeting for several hours until your case is heard.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Hearing has been sent by U.S. Mail to the above address(es) this 10th day of July, 2014.


Board Executive Director
BOARD OF PHARMACY

Florida Department of Health
4052 Bald Cypress Way, Bin #
Tallahassee, FL 32399 -

Florida Department of Health

Division of Medical Quality Assurance
4052 Bald Cypress Way, Bin C10 • Tallahassee, FL 32399-3260
PHONE: (850) 245-4444 • FAX : (850) 245-4791

www.FloridasHealth.com

TWITTER:HealthyFLA
FACEBOOK:FLDepartmentofHealth
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MEMORANDUM

TO: Patrick W. Kennedy, M.A., Executive Director, Board of Pharmacy
FROM: Matthew Witters, Assistant General Counsel *(MW)*
RE: **Voluntary Relinquishment**
SUBJECT: DOH v. AAZ Pharmacy Inc
 DOH Case Number 2014-03605
DATE: June 20, 2014 *AB*

Enclosed you will find materials in the above-referenced case to be placed on the agenda for final agency action for the **August 13, 2014**, meeting of the board. The following information is provided in this regard.

| | | |
|-------------------------------------|--|-----------------|
| Subject: | AAZ Pharmacy Inc | |
| Subject's Address of Record: | 7209 Coral Way Miami, FL 33155 | |
| Enforcement Address: | 7209 Coral Way Miami, FL 33155 | |
| Subject's License No: | 27158 | Rank: PH |
| Licensure File No: | 20341 | |
| Initial Licensure Date: | 10/21/2013 | |
| Board Certification: | Community Pharmacy | |
| Required to Appear: | No | |
| Current IPN/PRN Contract: | No | |
| Allegation(s): | 456.072(1)(k)(dd), FS 465.023(1)(c), FS 64B16-28.1081, FAC | |
| Prior Discipline: | None | |
| Probable Cause Panel: | Waived | |
| Subject's Attorney: | Pro Se | |
| Complainant/Address: | DOH/Investigative Services Unit-Miami | |
| Materials Submitted: | Memorandum to the Board Motion For Final Order Voluntary Relinquishment Notification Letter Final Investigative Report with Exhibits 1-9 | |

Florida Department of Health

Office of the General Counsel • Prosecution Services Unit
 4052 Bald Cypress Way, Bin C-65 • Tallahassee, FL 32399-1701
 Express mail address: 2585 Merchants Row - Suite 105
 PHONE: 850/245-4444 • FAX 850/245-4683

www.FloridasHealth.com

TWITTER: HealthyFLA

FACEBOOK: FLDepartmentofHealth

YOUTUBE: fldoh

STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,
Petitioner,

v.

CASE NO. 2014-03605

AAZ Pharmacy, Inc.,
Respondent.

MOTION FOR FINAL ORDER
BASED UPON A VOLUNTARY RELINQUISHMENT OF LICENSE

COMES NOW, the Petitioner, by and through its undersigned counsel, and moves the Board of Pharmacy for entry of a Final Order in the above-styled cause on a date and time that has been determined and noticed by the Board. As grounds therefore, the Petitioner would state the following:

1. On or about March 6, 2014, a Uniform Consumer Complaint was filed with the Department of Health, alleging that the Subject violated the provisions of Chapter 456 or Chapter 465, Florida Statutes.
2. In lieu of undergoing further disciplinary proceedings, the Respondent returned an executed Voluntary Relinquishment of his/her license.
3. Respondent has been advised, by a copy of this Motion, that a copy of the investigative file in this case shall be furnished to the Board to

establish a prima facie case regarding the violations as set forth in the
(Administrative Complaint OR Uniform Consumer Complaint).

WHEREFORE the parties respectfully request the Board of Pharmacy
enter a Final Order incorporating the terms of the Voluntary
Relinquishment of Licensure.

Respectfully Submitted,



Matthew Witters
Assistant General Counsel
Fla. Bar No. 2014-03605
Florida Department of Health
Office of the General Counsel
4052 Bald Cypress Way, Bin #C65
Tallahassee, FL 32399-3265
Telephone: (850) 245-4444
Facsimile: (850) 245-4683
Email: matthew.witters@flhealth.gov

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and
foregoing has been provided by U.S. certified mail this 20 day of
June, 2014, to AAZ Pharmacy, 7209 Coral Way,
Miami, FL 33155.



Matthew Witters
Assistant General Counsel

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK ANGEL SANDERS
DATE JUN 20 2014

STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,
Petitioner,

v.

DOH Case No. 2014-03220

MED SOLUTION PHARMACY DISCOUNT & EQUIPMENT
Respondent.

VOLUNTARY RELINQUISHMENT OF LICENSE

Respondent, MED SOLUTION PHARMACY DISCOUNT & EQUIPMENT, License no PH25611 by through owner/officer NOEMI DIAZ hereby voluntarily relinquishes Respondent's license to practice a Community Pharmacy in the State of Florida and states as follows:

1. Respondent's purpose in executing this Voluntary Relinquishment is to avoid further administrative action with respect to this cause. Respondent understands that acceptance by the Board of Pharmacy of this Voluntary Relinquishment shall be construed as disciplinary action against Respondent's license pursuant to Section 456.072(1)(f), Florida Statutes. As with any disciplinary action, this relinquishment will be reported to the National Practitioner Data Bank as disciplinary action. Licensing authorities in other states may impose discipline in their jurisdiction based on discipline taken in Florida.

2. Respondent agrees to never reapply for licensure as a Community Pharmacy in the State of Florida.

3. Respondent agrees to voluntarily cease practicing as a Community Pharmacy immediately upon executing this Voluntary Relinquishment. Respondent further agrees to refrain from the practice of Community Pharmacy until such time as this Voluntary Relinquishment is presented to the Board and the Board issues a written final order in this matter.

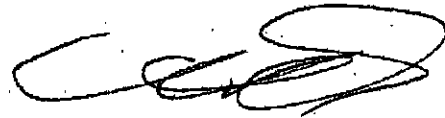
4. In order to expedite consideration and resolution of this action by the Board in a public meeting, Respondent, being fully advised of the consequences of so doing, hereby waives the statutory privilege of confidentiality of Section 456.073(10), Florida Statutes, and waives a determination of probable cause, by the Probable Cause Panel, or the Department when appropriate, pursuant to Section 456.073(4), Florida Statutes, regarding the complaint, the investigative report of the Department of Health, and all other information obtained pursuant to the Department's investigation in the above-styled action. By signing this waiver, Respondent, understands that the record and complaint become public record and remain public record and that information is immediately accessible to the public.

5. Upon the Board's acceptance of this Voluntary Relinquishment, Respondent agrees to waive all rights to seek judicial review of, or to otherwise challenge or contest the validity of, this Voluntary Relinquishment and of the Final Order of the Board incorporating this Voluntary Relinquishment.

6. Petitioner and Respondent, hereby agree that upon the Board's acceptance of this Voluntary Relinquishment, each party shall bear its own attorney's fees and costs related to the prosecution or defense of this matter.

7. Respondent authorizes the Board to review and examine all investigative file materials concerning Respondent in connection with the Board's consideration of this Voluntary Relinquishment. Respondent agrees that consideration of this Voluntary Relinquishment and other related materials by the Board shall not prejudice or preclude the Board, or any of its members, from further participation, consideration, or resolution of these proceedings if the terms of this Voluntary Relinquishment are not accepted by the Board.

DATED this 06 day of June, 2014.

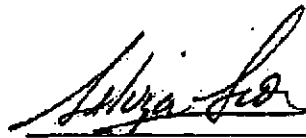


NOEMI DIAZ

STATE OF Florida
COUNTY OF Miami Dade

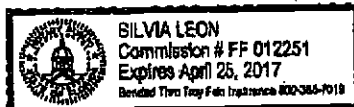
Before me, personally appeared NOEMI DIAZ, whose identity is known to me or who produced F.D.L. (type of Identification) and who, under oath, acknowledges that his signature appears above.

Sworn to and subscribed before me this 06 day of June, 2014.



NOTARY PUBLIC

My Commission Expires:



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Governor

John H. Armstrong, MD, FACS
State Surgeon General & Secretary

Vision: To be the Healthiest State in the Nation

June 20, 2014

AAZ Pharmacy
7209 Coral Way
Miami, FL 33155

Re: DOH vs. AAZ Pharmacy, Inc.
DOH Case Number: 2014-03605

Dear Sir/Madam:

We are in receipt of your executed Voluntary Relinquishment form. As you are aware by signing the Voluntary Relinquishment of License form you agreed to the following:

- the Voluntary Relinquishment would be considered disciplinary action against your license, pursuant to Section 456.072(1)(f), Florida Statutes;
- Voluntarily relinquishing your Florida pharmacy license may have an effect on pharmacy licenses you may hold in other states.

If this is not what you understood, please contact me as soon as possible to discuss, at 850-245-4444. Otherwise, this case will proceed as planned, and the Florida Board of Pharmacy will take up your request for Voluntary Relinquishment of License at their next regularly scheduled meeting. You are not required to attend the meeting.

Sincerely,

Matthew Witters
Assistant General Counsel

MW/ab

Florida Department of Health

Office of the General Counsel • Prosecution Services Unit
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BOARD OF PHARMACY

DEPARTMENT OF HEALTH,
PETITIONER,

VS.

CASE NO. 201405849

SIXTYSEVEN PHARMACY DISCOUNT, INC,
RESPONDENT.

NOTICE

TO: SIXTYSEVEN PHARMACY DISCOUNT, INC
2205 SW 67 AVE
MIAMI, FL 33155

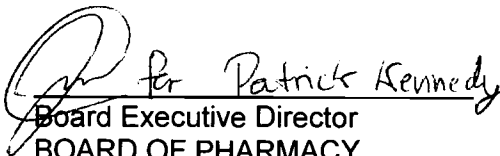
PLEASE TAKE NOTICE that a disciplinary hearing will be heard before the BOARD OF PHARMACY on Wednesday, August 13, 2014, commencing at 9 a.m. The Respondent is not required to be present at this meeting. This hearing will be held at DoubleTree by Hilton, 100 Fairway Drive, Deerfield Beach, FL 33441, 1(800) 624-3606..

The purpose of the hearing is to consider a motion for: Voluntary Relinquishment

Note: Cases shown on the agenda as "timed" items may be heard in a different order or may be heard earlier if all parties are present. Cases are scheduled beginning at 9 a.m.; therefore, it is imperative that you arrive promptly at 9 a.m. and be prepared to be at the meeting for several hours until your case is heard.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Hearing has been sent by U.S. Mail to the above address(es) this 10th day of July, 2014.


Board Executive Director
BOARD OF PHARMACY

Florida Department of Health
4052 Bald Cypress Way, Bin #
Tallahassee, FL 32399 -

Florida Department of Health
Division of Medical Quality Assurance
4052 Bald Cypress Way, Bin C10 • Tallahassee, FL 32399-3260
PHONE: (850) 245-4444 • FAX : (850) 245-4791

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Rick Scott
Governor

John H. Armstrong, MD, FACS
State Surgeon General & Secretary

Vision: To be the Healthiest State in the Nation

MEMORANDUM

TO: Patrick W. Kennedy, M.A., Executive Director, Board of Pharmacy
FROM: Marc Taupier, Assistant General Counsel *MT*
RE: **Voluntary Relinquishment**
SUBJECT: DOH v. Sixtyseven Pharmacy Discount, Inc
 DOH Case Number 2014-05849
DATE: June 19, 2014 *AB*

Enclosed you will find materials in the above-referenced case to be placed on the agenda for final agency action for the **August 13, 2014**, meeting of the board. The following information is provided in this regard.

| | | |
|-------------------------------------|--|-----------------|
| Subject: | Sixtyseven Pharmacy Discount, Inc | |
| Subject's Address of Record: | 2205 SW 67 Ave Miami, FL 33155 | |
| Enforcement Address: | 2205 SW 67 Ave Miami, FL 33155 | |
| Subject's License No: | 26470 | Rank: PH |
| Licensure File No: | 19331 | |
| Initial Licensure Date: | 11/2/2012 | |
| Board Certification: | Community Pharmacy | |
| Required to Appear: | No | |
| Current IPN/PRN Contract: | No | |
| Allegation(s): | 456.072(1)(k)(dd), FS 465.023(1)(c), FS 64B16-28.1081, FAC | |
| Prior Discipline: | None | |
| Probable Cause Panel: | Waived | |
| Subject's Attorney: | Pro Se | |
| Complainant/Address: | DOH/Investigative Services Unit-Miami | |
| Materials Submitted: | Memorandum to the Board Motion For Final Order Voluntary Relinquishment Notification Letter Final Investigative Report with Exhibits 1-5 | |

Florida Department of Health

Office of the General Counsel • Prosecution Services Unit
 4052 Bald Cypress Way, Bin C-65 • Tallahassee, FL 32399-1701
 Express mail address: 2585 Merchants Row – Suite 105
 PHONE: 850/245-4444 • FAX 850/245-4683

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STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,
Petitioner,

v.

CASE NO. 2014-05849

SIXTYSEVEN PHARMACY & DISCOUNT, INC.,
Respondent.

MOTION FOR FINAL ORDER
BASED UPON A VOLUNTARY RELINQUISHMENT OF LICENSE

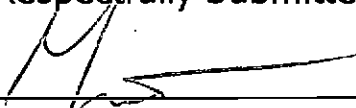
COMES NOW, the Petitioner, by and through its undersigned counsel, and moves the Board of Pharmacy for entry of a Final Order in the above-styled cause on a date and time that has been determined and noticed by the Board. As grounds therefore, the Petitioner would state the following:

1. On or about April 16, 2014, a Uniform Consumer Complaint was filed with the Department of Health, alleging that the Subject violated the provisions of Chapter 456 or Chapter 465, Florida Statutes.
2. In lieu of undergoing further disciplinary proceedings, the Respondent returned an executed Voluntary Relinquishment of his/her license.
3. Respondent has been advised, by a copy of this Motion, that a copy of the investigative file in this case shall be furnished to the Board to

establish a prima facie case regarding the violations as set forth in the Uniform Consumer Complaint.

WHEREFORE the parties respectfully request the Board of Pharmacy enter a Final Order incorporating the terms of the Voluntary Relinquishment of Licensure.

Respectfully Submitted,



Marc Taupier
Assistant General Counsel
Fla. Bar No. 106732
Florida Department of Health
Office of the General Counsel
4052 Bald Cypress Way, Bin #C65
Tallahassee, FL 32399-3265
Telephone: (850) 245-4444
Facsimile: (850) 245-4683
Email: marc.taupier@flhealth.gov

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing has been provided by U.S. certified mail this ____ day of _____, 2014, to Sixtyseven Pharmacy Discount, 2205 SW 67 Avenue, Miami, FL 33155.



Marc Taupier
Assistant General Counsel

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK

STATE OF FLORIDA
DEPARTMENT OF HEALTH

CLERK ANGEL SANDERS
DATE JUN 17 2014

DEPARTMENT OF HEALTH,
Petitioner,

v.

DOH Case No. 2014-05849

SIXTYSEVEN PHARMACY DISCOUNT, INC

Respondent.

VOLUNTARY RELINQUISHMENT OF LICENSE

Respondent, SIXTYSEVEN PHARMACY DISCOUNT, INC, License Number PH 26470, by and through its owner/officer, MARIA MERCEDES MATEO, hereby voluntarily relinquishes Respondent's permit to operate a community pharmacy in the State of Florida and states as follows:

1. Respondent's purpose in executing this Voluntary Relinquishment is to avoid further administrative action with respect to this cause. Respondent, by and through its owner/officer, MARIA MERCEDES MATEO, understands that acceptance by the Board of Pharmacy (hereinafter the Board) of this Voluntary Relinquishment shall be construed as disciplinary action against Respondent's permit pursuant to Section 456.072(1)(f), Florida Statutes. As with any disciplinary action, this relinquishment will be reported to the National Practitioner Data Bank as disciplinary action. Licensing authorities in other states may impose discipline in their jurisdiction based on discipline taken in Florida.

2. Respondent and its owner/officer, MARIA MERCEDES MATEO, agrees to never reapply for a pharmacy permit in the State of Florida.

3. Respondent, by and through its owner/officer, MARIA MERCEDES MATEO, agrees to voluntarily cease operating as a community pharmacy immediately upon executing this Voluntary Relinquishment. Respondent, by and through its owner/officer, MARIA MERCEDES

MATEO, further agrees to refrain from operating as a community pharmacy until such time as this Voluntary Relinquishment is presented to the Board and the Board issues a written final order in this matter.

4. In order to expedite consideration and resolution of this action by the Board in a public meeting, Respondent, by and through its owner/officer, MARIA MERCEDES MATEO, being fully advised of the consequences of so doing, hereby waives the statutory privilege of confidentiality of Section 456.073(10), Florida Statutes, and waives a determination of probable cause, by the Probable Cause Panel, or the Department when appropriate, pursuant to Section 456.073(4), Florida Statutes, regarding the complaint, the investigative report of the Department of Health, and all other information obtained pursuant to the Department's investigation in the above-styled action. By signing this waiver, Respondent, by and through its owner/officer, MARIA MERCEDES MATEO, understands that the record and complaint become public record and remain public record and that information is immediately accessible to the public. Section 456.073(10), Florida Statutes.


5. Upon the Board's acceptance of this Voluntary Relinquishment, Respondent, by and through its owner/officer, MARIA MERCEDES MATEO, agrees to waive all rights to seek judicial review of, or to otherwise challenge or contest the validity of, this Voluntary Relinquishment and of the Final Order of the Board incorporating this Voluntary Relinquishment.

6. Petitioner and Respondent, by through its owner/officer, MARIA MERCEDES MATEO, hereby agree that upon the Board's acceptance of this Voluntary Relinquishment, each party shall bear its own attorney's fees and costs related to the prosecution or defense of this matter.

7. Respondent, by and through its owner/officer, MARIA MERCEDES MATEO, authorizes the Board to review and examine all investigative file materials concerning Respondent in connection with the Board's consideration of this Voluntary Relinquishment. Respondent, by and through its owner/officer, MARIA MERCEDES MATEO agrees that consideration of this Voluntary Relinquishment and other related materials by the Board shall not prejudice or preclude the Board or

any of its members, from further participation, consideration, or resolution of these proceedings if the terms of this Voluntary Relinquishment are not accepted by the Board.

DATED this 4 day of June, 2014.


SIXTYSEVEN PHARMACY DISCOUNT, INC

By and through its Owner/Officer, MARIA MERCEDES MATEO

STATE OF FLORIDA }

COUNTY OF DADE }

Before me, personally appeared, MARIA MERCEDES MATEO, whose identity is known to me by dit (name of Identification) and who, under oath, acknowledges that his/her signature appears above.

Sworn to and subscribed before me this 4 day of June, 2014.


NOTARY PUBLIC

My Commission Expires:



Mission:

To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.



Rick Scott
Governor

John H. Armstrong, MD, FACS
State Surgeon General & Secretary

Vision: To be the Healthiest State in the Nation

June 19, 2014

Sixtyseven Pharmacy Discount, Inc.
2205 SW 67 Avenue
Miami, FL 33155

Re: DOH vs. Sixtyseven Pharmacy Discount, Inc.
DOH Case Number: 2014-05849

Dear Sirs/Madam:

We are in receipt of your executed Voluntary Relinquishment form. As you are aware by signing the Voluntary Relinquishment of License form you agreed to the following:

- the Voluntary Relinquishment would be considered disciplinary action against your license, pursuant to Section 456.072(1)(f), Florida Statutes;
- Voluntarily relinquishing your Florida pharmacy license may have an effect on pharmacy licenses you may hold in other states.

If this is not what you understood, please contact me as soon as possible to discuss, at 850-245-4444. Otherwise, this case will proceed as planned, and the Florida Board of Pharmacy will take up your request for Voluntary Relinquishment of License at their next regularly scheduled meeting. You are not required to attend the meeting.

Sincerely,



Marc Taupier
Assistant General Counsel

MT/ab

Florida Department of Health

Office of the General Counsel • Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65 • Tallahassee, FL 32399-1701
Express mail address: 2585 Merchants Row – Suite 105
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456.057 - Ownership and control of patient records; report or copies of records to be furnished.—

10)(a)All patient records obtained by the department and any other documents maintained by the department which identify the patient by name are confidential and exempt from s. 119.07(1) and shall be used solely for the purpose of the department and the appropriate regulatory board in its investigation, prosecution, and appeal of disciplinary proceedings. The records shall not be available to the public as part of the record of investigation for and prosecution in disciplinary proceedings made available to the public by the department or the appropriate board.

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Rick Scott
Governor

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state, county & community efforts.

John H. Armstrong, MD, FACS

Surgeon General & Sec

Vision: To be the **Healthiest State** in the Nation

STATE OF FLORIDA
BOARD OF PHARMACY

DEPARTMENT OF HEALTH,
PETITIONER,

VS.

CASE NO. 201406543

READY SCRIPTS, INC,
RESPONDENT.

NOTICE

TO: READY SCRIPTS, INC
9783 SW 72ND ST
MIAMI, FL 33173

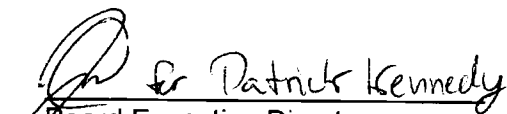
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The purpose of the hearing is to consider a motion for: Voluntary Relinquishment

Note: Cases shown on the agenda as "timed" items may be heard in a different order or may be heard earlier if all parties are present. Cases are scheduled beginning at 9 a.m.; therefore, it is imperative that you arrive promptly at 9 a.m. and be prepared to be at the meeting for several hours until your case is heard.

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Board Executive Director
BOARD OF PHARMACY

Florida Department of Health
4052 Bald Cypress Way, Bin #
Tallahassee, FL 32399 -

Florida Department of Health

Division of Medical Quality Assurance
4052 Bald Cypress Way, Bin C10 • Tallahassee, FL 32399-3260
PHONE: (850) 245-4444 • FAX : (850) 245-4791

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MEMORANDUM

TO: Patrick W. Kennedy, M.A., Executive Director, Board of Pharmacy
FROM: Shaffer Claridge, Assistant General Counsel *NSC*
RE: **Voluntary Relinquishment**
SUBJECT: DOH v. Ready Scripts, Inc.
DOH Case Number 2014-06543
DATE: June 18, 2014

Enclosed you will find materials in the above-referenced case to be placed on the agenda for final agency action for the August 12-13, 2014 meeting of the board. The following information is provided in this regard.

Subject: Ready Scripts, Inc.
Subject's Address of Record: 9783 Sw 72nd St
Miami, FL 33173
Enforcement Address: 9783 Sw 72nd St
Miami, FL 33173
Subject's License No: 25590 **Rank:** PH
Licensure File No: 18474
Initial Licensure Date: 7/15/2011
Board Certification: None
Required to Appear: No
Current IPN/PRN Contract: None
Allegation(s): Sections 456.072(1)(k)(dd); 465.016(1)(r); 465.023(1)(c),
Florida Statutes; Rules 64B16-28.102; 64B 16N- 1.012(3),
Florida Administrative Code
Prior Discipline: None
Probable Cause Panel: Waived
Subject's Attorney: Pro Se

Complainant/Address:

Department Of Health/Investigative Services

Unit-Miami

Materials Submitted:

Memorandum to the Board

Motion for Final Order Based Upon A Voluntary
Relinquishment of License

Voluntary Relinquishment of License

Supplemental Investigative Report with Exhibits S1-S2 dated
June 6, 2014

Board Notification

Final Investigative Report with Exhibits 1-7 dated April 30,
2014

Preliminary Case Remarks: Determination of Waiver

The Department investigated Respondent for several potential statutory and regulatory violations. During the course of the investigation, on or about June 3, 2014, Respondent executed a voluntary relinquishment of its license.

Recommended Penalty: Voluntary Relinquishment

Florida Department of Health

Office of the General Counsel • Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65 • Tallahassee, FL 32399-1701
Express mail address: 2585 Merchants Row - Suite 105
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YOUTUBE: fldoh

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

Petitioner,

CASE NO. 2014-06543

V.

READY SCRIPTS, INC.,

Respondent.

**MOTION FOR FINAL ORDER
BASED UPON A VOLUNTARY RELINQUISHMENT OF LICENSE**

COMES NOW, the Petitioner, by and through its undersigned counsel, and moves the Board of Pharmacy for entry of a Final Order in the above-styled cause on a date and time that has been determined and noticed by the Board. As grounds therefore, the Petitioner would state the following:

1. On or about April 28, 2014, the Department filed a complaint alleging that the Subject violated the provisions of Chapter 456 or Chapter 465, Florida Statutes.

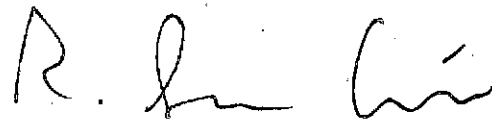
2. In lieu of undergoing further disciplinary proceedings, the Respondent returned an executed Voluntary Relinquishment of his/her license.

3. Respondent has been advised, by a copy of this Motion, that a copy of the investigative file in this case shall be furnished to the Board to establish a prima facie case regarding the violations as set forth in the Healthcare Practitioner Complaint Form.

WHEREFORE, the parties respectfully request the Board Pharmacy of enter a Final Order incorporating the terms of the Voluntary Relinquishment of Licensure.

Respectfully Submitted,

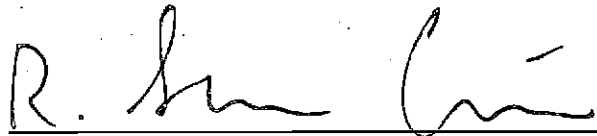
John H. Armstrong, MD, FACS
State Surgeon General and Secretary of Health



R. Shaffer Claridge
Assistant General Counsel
DOH Prosecution Services Unit
4052 Bald Cypress Way, Bin #C65
Tallahassee, FL 32399-3265
Florida Bar No. 0095549
Telephone: (850) 245-4444X8166
Facsimile: (850) 245-4662
Email: Shaffer.Claridge@flhealth.gov

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing has been provided by U.S. mail this 17th day of Jun, 2014, to Respondent at 9783 SW 72nd Street, Miami, Florida 33174.



R. Shaffer Claridge
Assistant General Counsel

RSC/cab

STATE OF FLORIDA
DEPARTMENT OF HEALTH

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK ANGEL SANDERS
DATE JUN 17 2014

DEPARTMENT OF HEALTH,
Petitioner,

v.

DOH Case No. 2014-06543

READY SCRIPTS, INC
Respondent

VOLUNTARY RELINQUISHMENT OF LICENSE

Respondent READY SCRIPTS, INC license No. 25590 hereby voluntarily relinquishes Respondent's license to practice pharmacy in the State of Florida and states as follows:

1. Respondent's purpose in executing this Voluntary Relinquishment is to avoid further administrative action with respect to this cause. Respondent understands that acceptance by the Board of PHARMACY (hereinafter the Board) of this Voluntary Relinquishment shall be construed as disciplinary action against Respondent's license pursuant to Section 456.072(1)(f), Florida Statutes. As with any disciplinary action, this relinquishment will be reported to the National Practitioner Data Bank as disciplinary action. Licensing authorities in other states may impose discipline in their jurisdiction based on discipline taken in Florida.

2. Respondent agrees to never reapply for licensure as a PHARMACY in the State of Florida.

3. Respondent agrees to voluntarily cease practicing PHARMACY immediately upon executing this Voluntary Relinquishment. Respondent further agrees to refrain from

INV FORM 425, Revised 04-13, Created 02-10

Exhibit

S 2

4

the practice of PHARMACY until such time as this Voluntary Relinquishment is presented to the Board and the Board issues a written final order in this matter..

4. In order to expedite consideration and resolution of this action by the Board in a public meeting, Respondent, being fully advised of the consequences of so doing, hereby waives the statutory privilege of confidentiality of Section 456.073(10), Florida Statutes, and waives a determination of probable cause, by the Probable Cause Panel, or the Department when appropriate, pursuant to Section 456.073(4), Florida Statutes, regarding the complaint, the investigative report of the Department of Health, and all other information obtained pursuant to the Department's investigation in the above-styled action. By signing this waiver, Respondent understands that the record and complaint become public record and remain public record and that information is immediately accessible to the public.

5. Upon the Board's acceptance of this Voluntary Relinquishment, Respondent agrees to waive all rights to seek judicial review of, or to otherwise challenge or contest the validity of, this Voluntary Relinquishment and of the Final Order of the Board incorporating this Voluntary Relinquishment.

6. Petitioner and Respondent hereby agree that upon the Board's acceptance of this Voluntary Relinquishment, each party shall bear its own attorney's fees and costs related to the prosecution or defense of this matter.

7. Respondent authorizes the Board to review and examine all investigative file materials concerning Respondent in connection with the Board's consideration of this Voluntary Relinquishment. Respondent agrees that consideration of this Voluntary Relinquishment and other related materials by the Board shall not prejudice or preclude the

Board, or any of its members, from further participation, consideration, or resolution of these proceedings if the terms of this Voluntary Relinquishment are not accepted by the Board.

DATED this 3RD day of JUNE, 2014.

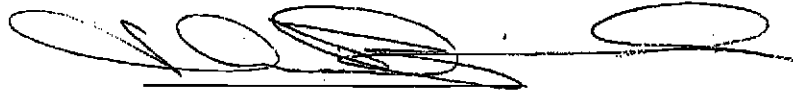


READY SCRIPTS, INC

STATE OF FLORIDA
COUNTY OF MIAMI DADE

Before me, personally appeared NADYS MARTINE Z, whose identity is known to me or who produced FL LIC# [REDACTED] (type of identification) and who, under oath, acknowledges that his signature appears above.

Sworn to and subscribed before me this 3RD day of JUNE, 2014.



NOTARY PUBLIC

My Commission Expires:



ABRAHAM B. CARDENAS
NOTARY PUBLIC
STATE OF FLORIDA
Comm# FF086677
Expires 10/23/2017

C

Mission:

To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.



Rick Scott
Governor

John H. Armstrong, MD, FACS
State Surgeon General & Secretary

Vision: To be the Healthiest State in the Nation

June 17, 2014

Nadys Martinez
Ready Scripts, Inc.
9783 SW 72nd Street
Miami, Florida 33174

Re: Florida Department of Health v. Ready Scripts, Inc.
DOH Case Number: 2014-06543

Dear Ms. Martinez:

I am in receipt of and thank you for the Voluntary Relinquishment executed by you on June 3, 2014, concerning the above referenced case.

Our office is now making preparation for this Voluntary Relinquishment to be presented at the next meeting of the Florida Board of Pharmacy, scheduled for August 12-13, 2014, in Deerfield Beach, Florida. Please be advised your case will be set at the convenience of the Department and/or the Florida Board of Pharmacy and you will be notified of the date and time approximately two weeks prior to the meeting.

Thank for your attention and cooperation in this matter. Should you have any questions, please feel free to contact this office.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Shaffer Claridge".

Shaffer Claridge
Assistant General Counsel

RSC/cab

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456.057 - Ownership and control of patient records; report or copies of records to be
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Rick Scott
Governor

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To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.

John H. Armstrong, MD, FACS
Surgeon General & Sec

Vision: To be the Healthiest State in the Nation

STATE OF FLORIDA
BOARD OF PHARMACY

DEPARTMENT OF HEALTH,
PETITIONER,

VS.

CASE NO. 201402898

SAMANTHA LYNN STUMLER,
RESPONDENT.

NOTICE

TO: SAMANTHA LYNN STUMLER
5165 DEE GEE DRIVE
JACKSONVILLE, FL 32210

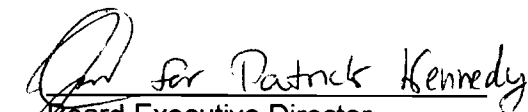
PLEASE TAKE NOTICE that a disciplinary hearing will be heard before the BOARD OF PHARMACY on Wednesday, August 13, 2014, commencing at 9 a.m. The Respondent is not required to be present at this meeting. This hearing will be held at DoubleTree by Hilton, 100 Fairway Drive, Deerfield Beach, FL 33441, 1(800) 624-3606..

The purpose of the hearing is to consider a motion for: Voluntary Relinquishment

Note: Cases shown on the agenda as "timed" items may be heard in a different order or may be heard earlier if all parties are present. Cases are scheduled beginning at 9 a.m.; therefore, it is imperative that you arrive promptly at 9 a.m. and be prepared to be at the meeting for several hours until your case is heard.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Hearing has been sent by U.S. Mail to the above address(es) this 10th day of July, 2014.


Board Executive Director
BOARD OF PHARMACY

Florida Department of Health
4052 Bald Cypress Way, Bin #
Tallahassee, FL 32399 -

Florida Department of Health

Division of Medical Quality Assurance
4052 Bald Cypress Way, Bin C10 • Tallahassee, FL 32399-3260
PHONE: (850) 245-4444 • FAX: (850) 245-4791

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TWITTER: HealthyFLA
FACEBOOK: FLDepartmentofHealth
YOUTUBE: fldoh

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**Rick Scott**

Governor

John H. Armstrong, MD, FACS

State Surgeon General & Secretary

Vision: To be the Healthiest State in the Nation**MEMORANDUM**

TO: Patrick W. Kennedy, M.A., Executive Director, Board of Pharmacy
FROM: Jamie Royal, Assistant General Counsel
RE: **Voluntary Relinquishment**
SUBJECT: DOH v. Samantha Lynn Stumler, R.P.T.
 DOH Case Number 2014-02898
DATE: May 13, 2014

Enclosed you will find materials in the above-referenced case to be placed on the agenda for final agency action for the **August 13, 2014**, meeting of the board. The following information is provided in this regard.

Subject: Samantha Lynn Stumler
Subject's Address of Record: 5165 Dee Gee Drive
 Jacksonville, FL 32210
Enforcement Address: 5165 Dee Gee Drive
 Jacksonville, FL 32210
Subject's License No: 43458 **Rank:** RPT
Licensure File No: 45027
Initial Licensure Date: 6/27/2012
Board Certification: No
Required to Appear: No
Current IPN/PRN Contract: No
Allegation(s): 465.016(1)(e), FS (2013)
Prior Discipline: None
Probable Cause Panel: March 27, 2014; Fallon & Garcia
Subject's Attorney: Pro Se
Complainant/Address: DOH/ISU-Jacksonville
Materials Submitted: Memorandum to the Board
 Voluntary Relinquishment
 Administrative Complaint
 Notification Letter
 Probable Cause Panel Memorandum
 Emergency Suspension Order
 Final Investigative Report with Exhibits 1-4

Florida Department of Health

Office of the General Counsel • Prosecution Services Unit
 4052 Bald Cypress Way, Bin C-65 • Tallahassee, FL 32399-1701
 Express mail address: 2585 Merchants Row – Suite 105
 PHONE: 850/245-4444 • FAX 850/245-4683

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STATE OF FLORIDA
DEPARTMENT OF HEALTH

FILED

DEPARTMENT OF HEALTH
DEPUTY CLERK

CLERK: *Angel Sauter*

DATE: APR 29 2014

DEPARTMENT OF HEALTH,

Petitioner,

v.

DOH Case Number: 2014-02898

Samantha Lynn Stumler RPT

Respondent.

VOLUNTARY RELINQUISHMENT OF LICENSE

Respondent Samantha Lynn Stumler RPT, license number 43458, hereby voluntarily relinquishes Respondent's license to practice as a registered pharmacy technician in the State of Florida and states as follows:

1. Respondent's purpose in executing this Voluntary Relinquishment is to avoid further administrative action with respect to this cause. Respondent understands that acceptance by the Board of Pharmacy (hereinafter the Board) of this Voluntary Relinquishment shall be construed as disciplinary action against Respondent's license pursuant to section 456.072 (1) (f), Florida Statutes.

2. Respondent agrees to never reapply for licensure as a Registered Pharmacy Technician in the State of Florida..

3. Respondent agrees to voluntarily cease practicing as a Registered Pharmacy Technician immediately upon executing the Voluntary Relinquishment.

4. In order to expedite consideration and resolution of this action by the Board in a public meeting, Respondent, being fully advised of the consequences of so doing, hereby waives the statutory privilege of confidentiality of Section 456.073(10), Florida Statutes, and waives a

EXHIBIT # S-2 PAGE # 16

determination of probable cause, by the Probable Cause Panel, or the Department when appropriate, pursuant to Section 456.073(4), Florida Statutes, regarding the case, the investigative report of the Department of Health, and all other information obtained pursuant to the Department's investigation in the above-styled action. By signing this waiver, Respondent understands that the record and case become public record and remain public record and that information is immediately accessible to the public, pursuant to Section 456.073 (10) Florida Statutes.

5. Upon the Board's acceptance of this Voluntary Relinquishment, Respondent agrees to waive all rights to seek judicial review of, or to otherwise challenge or contest the validity of, this Voluntary Relinquishment and of the Final Order of the Board incorporating this Voluntary Relinquishment.

6. Petitioner and Respondent hereby agree that upon the Board's acceptance of this Voluntary Relinquishment, each party shall bear its own attorney's fees and costs related to the prosecution or defense of this matter.

7. Respondent authorizes the Board to review and examine all investigative file materials concerning Respondent in connection with the Board's consideration of this Voluntary Relinquishment. Respondent agrees that consideration of this Voluntary Relinquishment and other related materials by the Board shall not prejudice or preclude the Board, or any of its members, from further participation, consideration, or resolution of these proceedings if the terms of this Voluntary Relinquishment are not accepted by the Board.

DATED this 14th day of March, 20014.


Samantha Lynn Stumler RPT

STATE OF FLORIDA

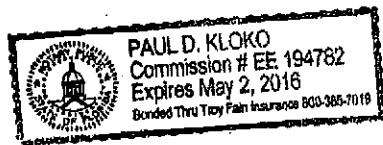
COUNTY OF:

Before me, personally appeared Samantha Lynn Stunker RPT, whose identity is known to me by personal knowledge (type of identification) and who, under oath, acknowledges that his signature appears above. Sworn to and subscribed before me this 14th day of March, 2014.



NOTARY PUBLIC

My Commission Expires:



**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO.: 2014-02898

SAMANTHA LYNN STUMLER, R.P.T.,

RESPONDENT.

ADMINISTRATIVE COMPLAINT

Petitioner, Department of Health, by and through the undersigned counsel, files this Administrative Complaint before the Board of Pharmacy against Respondent, Samantha Lynn Stumler, R.P.T., and in support thereof alleges:

1. Petitioner is the state department charged with regulating the practice of pharmacy and registered pharmacy technicians, pursuant to Chapters 20.43, Florida Statutes (2013), Chapter 456, Florida Statutes (2013) and Chapter 465, Florida Statutes (2013).

2. At all times material to this Administrative Complaint, Respondent was a registered pharmacy technician, pursuant to Chapter

465, Florida Statutes (2013), having been issued license number RPT 43458.

3. Respondent's address of record is 5165 Dee Gee Drive, Jacksonville, Florida 32210. Respondent's current location is at the Duval County Pre-Trial Detention Facility, 500 East Adams Street, Jacksonville, Florida 32202.

4. Respondent worked at Saint Vincent's Hospital Pharmacy in Jacksonville, Florida.

5. On or about and between October 1, 2013, and February 12, 2014, Respondent stole between 247 and 600 hydrocodone/APAP tablets from Saint Vincent's Hospital Pharmacy.

6. Hydrocodone/APAP contains hydrocodone and acetaminophen or Tylenol and is prescribed to treat pain. According to Section 893.03(3), Florida Statutes (2013), hydrocodone, in the dosages found in hydrocodone/APAP is a Schedule III controlled substance that has a potential for abuse less than the substances in Schedules I and II and has a currently accepted medical use in treatment in the United States.

7. On or about and between October 1, 2013, and February 12, 2014, Respondent stole between 44 and 50 tablets of Diazepam from Saint Vincent's Hospital Pharmacy.

8. Diazepam commonly known by the brand name Valium, is prescribed to treat anxiety. According to Section 893.03(4), Florida Statutes (2013), diazepam is a Schedule IV controlled substance that has a low potential for abuse relative to the substances in Schedule III and has a currently accepted medical use in treatment in the United States.

9. On or about and between October 1, 2013, and February 12, 2014, Respondent stole between 97 and 200 tablets of Xanax from Saint Vincent's Hospital Pharmacy.

10. Xanax is the brand name for alprazolam and is prescribed to treat anxiety. According to Section 893.03(4), Florida Statutes (2013), alprazolam is a Schedule IV controlled substance that has a low potential for abuse relative to the substances in Schedule III and has a currently accepted medical use in treatment in the United States.

11. Respondent ingested some of the stolen medication herself, without a valid prescription.

12. Respondent gave some of the stolen medication to at least one other individual, who did not have a valid prescription.

13. On or about February 12, 2014, Respondent unlawfully possessed of hydrocodone/APAP, Diazepam and Xanax.

14. Section 465.016(1)(e), Florida Statutes (2013), subjects registered pharmacy technicians to discipline for violating Chapter 893, Florida Statutes (2013).

15. Chapter 893.13, Florida Statutes (2013), states in pertinent part:

(6)(a) It is unlawful for any person to be in actual or constructive possession of a controlled substance unless such controlled substance was lawfully obtained from a practitioner or pursuant to a valid prescription or order of a practitioner while acting in the course of his or her professional practice or to be in actual or constructive possession of a controlled substance except as authorized by this chapter....

(7)(a) A person may not:

1. Distribute or dispense a controlled substance in violation of this chapter....

[or]

9. Acquire or obtain, or attempt to acquire or obtain, possession of a controlled substance by misrepresentation, fraud, forgery, deception or subterfuge.

16. Respondent violated Section 465.016(1)(e), Florida Statutes (2013), in one or more of the following ways:

- a. By possessing oxycodone and/or Roxicodone in violation of Chapter 893.13(6)(a), Florida Statutes (2013);
- b. By distributing or dispensing hydrocodone/APAP to an individual in violation of Chapter 893.13(7)(a)(1), Florida Statutes (2013); and/or
- c. By acquiring possession of oxycodone and/or Roxicodone by misrepresentation, fraud, forgery, deception or subterfuge in violation of Chapter 893.13(7)(a)(9), Florida Statutes (2013).

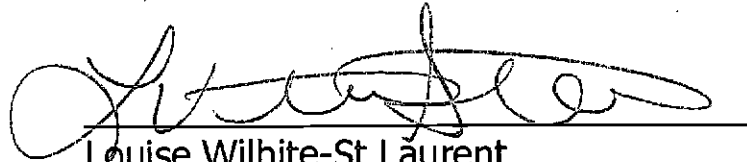
17. Based on the foregoing, Respondent violated Section 465.016(1)(e), Florida Statutes (2013), by violating Chapter 893, Florida Statutes (2013).

WHEREFORE, the Petitioner respectfully requests that the Board of Pharmacy enter an order imposing one or more of the following penalties: permanent revocation or suspension of Respondent's license, restriction of practice, imposition of an administrative fine, issuance of a reprimand, placement of the Respondent on probation, corrective action, refund of

fees billed or collected, remedial education and/or any other relief that the Board of Pharmacy deems appropriate.

SIGNED this 27th day of March, 2014.

John H. Armstrong, MD, FACS
State Surgeon General and
Secretary of Health



Louise Wilhite-St Laurent
Assistant General Counsel
Florida Bar Number 0091244
Florida Department of Health
Office of the General Counsel
4052 Bald Cypress Way, Bin C-65
Tallahassee, Florida 32399-3265
Telephone: (850) 245-4444 x 8331
Facsimile: (850) 245-4662
Email: Louise.StLaurent@flhealth.gov

PCP: March 27, 2014

PCP Members: Leo Fallon, Albert Garcia

NOTICE OF RIGHTS

Respondent has the right to request a hearing to be conducted in accordance with Section 120.569 and 120.57, Florida Statutes, to be represented by counsel or other qualified representative, to present evidence and argument, to call and cross-examine witnesses and to have subpoena and subpoena duces tecum issued on his or her behalf if a hearing is requested.

NOTICE REGARDING ASSESSMENT OF COSTS

Respondent is placed on notice that Petitioner has incurred costs related to the investigation and prosecution of this matter. Pursuant to Section 456.072(4), Florida Statutes, the Board shall assess costs related to the investigation and prosecution of a disciplinary matter, which may include attorney hours and costs, on the Respondent in addition to any other discipline imposed.

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**Rick Scott**

Governor

John H. Armstrong, MD, FACS

State Surgeon General & Secretary

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May 13, 2014

Samantha Stumler
5165 Dee Gee Drive
Jacksonville, FL 32210

Re: DOH vs. Samantha Lynn Stumler, R.P.T.
DOH Case Number: 2014-02898

Dear Ms. Stumler:

We are in receipt of your executed Voluntary Relinquishment form. As you are aware by signing the Voluntary Relinquishment of License form you agreed to the following:

- the Voluntary Relinquishment would be considered disciplinary action against your license, pursuant to Section 456.072(1)(f), Florida Statutes;
- Voluntarily relinquishing your Florida pharmacy license may have an effect on pharmacy licenses you may hold in other states.

If this is not what you understood, please contact me as soon as possible to discuss, at 850-245-4444. Otherwise, this case will proceed as planned, and the Florida Board of Pharmacy will take up your request for Voluntary Relinquishment of License at their next regularly scheduled meeting. You are not required to attend the meeting.

Sincerely,

A handwritten signature in cursive script that reads "Jamie Royal".

Jamie Royal
Assistant General Counsel

JR/ab

Florida Department of Health

Office of the General Counsel • Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65 • Tallahassee, FL 32399-1701
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PHONE: 850/245-4444 • FAX 850/245-4683

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TWITTER: HealthyFLA

FACEBOOK: FLDepartmentofHealth

YOUTUBE: fldoh

7196 9008 9111 5772 7491

TO: Samantha L. Stumler, RPT
5165 Dee Gee Drive
Jacksonville, FL 32210

SENDER:

REFERENCE: ERO
Samantha L. Stumler
2014-02898

PS Form 3800, January 2005

RETURN
RECEIPT
SERVICE

Certified Article Number

7196 9008 9111 5772 7491

SENDER'S RECORD

US Postal Service®
Receipt for
Certified Mail™

No Insurance Coverage Provided
Do Not Use for International Mail

POSTMARK OR DATE

03/13/2014

2. Article Number



7196 9008 9111 5772 7491

3. Service Type CERTIFIED MAIL™

4. Restricted Delivery? (Extra Fee) Yes

1. Article Addressed to:

Samantha L. Stumler, RPT
5165 Dee Gee Drive
Jacksonville, FL 32210

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly)

B. Date of Delivery

C. Signature

X *Samantha Stumler*

Agent
 Addressee

D. Is delivery address different from item 1? Yes
If YES, enter delivery address below: No

Nursing / Stumler
2014-02898
03/13/2014

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Surgeon General & Secretary

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March 13, 2014

Samantha Lynn Stumler, RPT
5165 Dee Gee Drive
Jacksonville, FL 32210

RE: Department of Health vs. Samantha Lynn Stumler, RPT
Case Number: 2014-02898

Dear Samantha Lynn Stumler:

Enclosed please find an Order of Emergency **Suspension** of Registration filed March 13, 2014, against your registration to practice as a registered pharmacy technician in the State of Florida. You should immediately cease the practice as a registered pharmacy technician according to the enclosed Order of Emergency **Suspension** of Registration.

If you have any questions, please do not hesitate to contact Louise St. Laurent, Assistant General Counsel at (850) 245-4444.

Sincerely,

A handwritten signature in black ink that reads "Justin Boynton". The signature is fluid and cursive.

Justin Boynton
Regulatory Specialist II
Prosecution Services Unit

/jb
Enclosure

Florida Department of Health

Office of the General Counsel - Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65 - Tallahassee, FL 32399-1701
Express mail address: 2585 Merchants Row - Suite 105
PHONE: 850/245-4444 - FAX 850/245-4662

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YOUTUBE: fldoh

FILED DATE MAR 13 2014

Department of Health

By:

Angel Sanchez
Deputy Agency Clerk

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

In Re: Emergency Suspension of the Registration of
 Samantha Lynn Stumler, R.P.T.
 Registration Number RPT 43458
 Case Number 2014-02898

ORDER OF EMERGENCY SUSPENSION OF LICENSE

John H. Armstrong, MD, FACS, State Surgeon General and Secretary of Health, ORDERS the emergency suspension of the registration of Samantha Lynn Stumler, R.P.T., ("Ms. Stumler") to practice as a registered pharmacy technician in the State of Florida. Ms. Stumler holds registration number RPT 43458. Her address of record is 5165 Dee Gee Drive, Jacksonville, Florida 32210. Ms. Stumler's current location is at the Duval County Pre-Trial Detention Facility, 500 East Adams Street, Jacksonville, Florida 32202. The following Findings of Fact and Conclusions of Law support the emergency suspension of Ms. Stumler's registration to practice as a pharmacy technician in the State of Florida.

FINDINGS OF FACT

1. The Department of Health ("Department") is the state agency charged with regulating the practice of pharmacy pursuant to Chapters 20, 456, and 465, Florida Statutes (2013). Section 456.073(8), Florida

Statutes (2013), authorizes the State Surgeon General to summarily suspend Ms. Stumler's registration to practice as a registered pharmacy technician in the State of Florida in accordance with Section 120.60(6), Florida Statutes (2013).

2. At all times material to this order, Ms. Stumler was a registered pharmacy technician in the State of Florida, pursuant to Chapter 465, Florida Statutes (2013), and worked at both Saint Vincent's Hospital Pharmacy locations: 1 Shircliff Way and 4205 Belfort Road, Jacksonville, Florida.

3. In January 2014, Ms. T.M., director of risk management for Saint Vincent's Hospital Pharmacies, initiated an internal investigation into missing bottles of hydrocodone. Director of Pharmacy, Ms. C.J., conducted an inventory audit of the Shircliff Way location for the dates of January 3, through January 22, 2014. Ms. C.J. discovered that 200 tablets of hydrocodone/APAP were missing from the Shircliff Way pharmacy inventory.

4. Hydrocodone/APAP contains hydrocodone and acetaminophen or Tylenol and is prescribed to treat pain. According to Section 893.03(3), Florida Statutes (2013), hydrocodone, in the dosages found in

hydrocodone/APAP is a Schedule III controlled substance that has a potential for abuse less than the substances in Schedules I and II and has a currently accepted medical use in treatment in the United States. Abuse of the substance may lead to moderate or low physical dependence or high psychological dependence.

5. On or about January 29, 2014, Ms. Stumler worked at the Shircliff Way location of Saint Vincent's Hospital Pharmacy.

6. A pharmacist conducted an inventory of hydrocodone/APAP tablets at the Shircliff Way location of the pharmacy prior to opening the pharmacy and another inventory after close of business. The pharmacy was missing 100 hydrocodone/APAP tablets at the close of business on January 29, 2014.

7. On or about February 11, 2014, Ms. C.G., a pharmacist at the Belfort Road location, inventoried the hydrocodone/APAP tablets prior to the opening of the pharmacy.

8. Ms. Stumler was the only employee, aside from Ms. C.G., that worked at the Belfort Road location of the pharmacy on February 11, 2014.

9. On or about February 12, 2014, Ms. C.G. conducted an inventory of the hydrocodone/APAP prior to opening the Belfort Road

location and discovered that 100 tablets were missing.

10. On or about February 12, 2014, Deputies with the Jacksonville Sheriff's Office responded to the Shircliff Way location of Saint Vincent's pharmacy to speak with Ms. Stumler. Ms. Stumler waived her right to have an attorney present for the interview and agreed to speak with the Sheriff's Deputies. Ms. Stumler admitted that she stole multiple 100-count bottles of hydrocodone/APAP from both Saint Vincent's Hospital pharmacies. Ms. Stumler told the deputies that she began stealing the pills from the pharmacies in late October or early November 2013. Ms. Stumler estimated that she stole approximately six 100-count bottles of hydrocodone/APAP between that time and the time of the interview.

11. Ms. Stumler also admitted to stealing one bottle of Diazepam containing approximately 50 tablets and two 100-count bottles of Xanax, one of which Ms. Stumler reported was only half-full.

12. Diazepam, commonly known by the brand name Valium, is prescribed to treat anxiety. According to Section 893.03(4), Florida Statutes (2013), diazepam is a Schedule IV controlled substance that has a low potential for abuse relative to the substances in Schedule III and has a currently accepted medical use in treatment in the United States. Abuse of

diazepam may lead to limited physical or psychological dependence relative to the substances in Schedule III.

13. Xanax is the brand name for alprazolam and is prescribed to treat anxiety. According to Section 893.03(4), Florida Statutes (2013), alprazolam is a Schedule IV controlled substance that has a low potential for abuse relative to the substances in Schedule III and has a currently accepted medical use in treatment in the United States. Abuse of alprazolam may lead to limited physical or psychological dependence relative to the substances in Schedule III.

14. Ms. Stumler specifically admitted to stealing the 100-count bottle of hydrocodone/APAP from the Belfort Road pharmacy the previous day, February 11, 2014. Ms. Stumler stated that the stolen pills were located in her vehicle and at her home. Ms. Stumler agreed to let the deputies search her vehicle and her home.

15. Deputies found an unopened bottle containing 100 tablets of hydrocodone/APAP and an unopened bottle of Xanax inside Ms. Stumler's vehicle.

16. Deputies found an unopened bottle containing 100 tablets of hydrocodone/APAP in Ms. Stumler's home. Deputies also found 44

Diazepam tablets; 97 Xanax tablets; 14 Famotidine tablets; 24 Penicillin tablets; 74 Lisinopril tablets; and 47 hydrocodone/APAP tablets inside a plastic bag in Ms. Stumler's home. Ms. Stumler admitted that all of the drugs were stolen from the Saint Vincent's pharmacies.

17. Famotidine is a histamine-2 blocker used to treat heartburn. It is a legend drug but not a controlled substance.

18. Penicillin is an antibiotic used to treat bacteria in the body. It is a legend drug but not a controlled substance.

19. Lisinopril is an angiotensin converting enzyme ("ACE") inhibitor used to treat high blood pressure and congestive heart failure. It is a legend drug but not a controlled substance.

20. Ms. Stumler told the deputies that she used some of the stolen narcotics herself and also provided some of the narcotics to a man she could only identify as being called "Heavy," as payment to prevent "Heavy" from harming her.

21. On or about February 12, 2014, Jacksonville Sheriff's Deputies arrested Ms. Stumler for theft of controlled substances and charged her in Duval County Case 2014CF1320. The charge against Ms. Stumler is currently pending resolution.

22. Registered pharmacy technicians assist pharmacists in data entry, and the counting, weighing, measuring, pouring and mixing of prescription medication or stock legend drugs and controlled substances, among various other tasks. Because registered pharmacy technicians are entrusted with such important tasks which include the handling, counting, and reporting of the drugs in the pharmacy, it is imperative that a registered pharmacy technician have good judgment and moral character while working in a pharmacy.

23. Ms. Stumler's behavior in stealing approximately 600 tablets of hydrocodone/APAP and other drugs from her employer for personal use and for distribution to at least one other person clearly demonstrates that she is lacking the judgment and moral character needed to practice as a registered pharmacy technician.

24. As a result of her employment as a registered pharmacy technician, Ms. Stumler was aware that prescription medications and controlled substances may only be dispensed to patients who have valid prescriptions and need the medications for a legitimate health reason. Despite this, Ms. Stumler illegally diverted controlled substances for herself and at least one other person when neither had a valid prescription for the

drugs.

25. Ms. Stumler's lack of good judgment and moral character, her theft of large quantities of controlled substances from her employer, and her disregard for the laws and rules governing the practice of pharmacy in the State of Florida represent a significant likelihood that Ms. Stumler will continue her illegal behavior. Although Ms. Stumler is currently incarcerated, she was given a monetary bond by the first appearance judge and, as a result, she is capable of bonding out and returning to work as a registered pharmacy technician at any time. This probability constitutes an immediate serious danger to the health, safety, and welfare of the citizens of the State of Florida.

26. Restricting Ms. Stumler's registration would not adequately protect the public because the very nature of practicing as a registered pharmacy technician puts Ms. Stumler in contact with legend drugs and controlled substances, which creates the risk for further theft of drugs. Additionally, given that law enforcement recovered only 247 of the 600 stolen hydrocodone tablets, Ms. Stumler may be ingesting significant quantities of hydrocodone/APAP in short time periods. As a result, nothing short of the immediate suspension of Ms. Stumler's registration to practice

as a registered pharmacy technician will protect the public from the danger posed by Ms. Stumler's continued practice as a pharmacy technician.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the State Surgeon General concludes as follows:

1. The Department of Health has jurisdiction over this matter pursuant to Sections 20.43 and 456.073(8), Florida Statutes (2013), and Chapter 465, Florida Statutes (2013), as set forth above.

2. Section 465.016(1)(e), Florida Statutes (2013), subjects registered pharmacy technicians to discipline, including suspension, for violating Chapter 893, Florida Statutes (2013).

3. Chapter 893.13, Florida Statutes (2013), states in pertinent part:

(6)(a) It is unlawful for any person to be in actual or constructive possession of a controlled substance unless such controlled substance was lawfully obtained from a practitioner or pursuant to a valid prescription or order of a practitioner while acting in the course of his or her professional practice or to be in actual or constructive possession of a controlled substance except as authorized by this chapter....

(7)(a) A person may not:

1. Distribute or dispense a controlled substance in violation of this chapter....

[or]

9. Acquire or obtain, or attempt to acquire or obtain, possession of a controlled substance by misrepresentation, fraud, forgery, deception or subterfuge.

4. Ms. Stumler violated Section 465.016(1)(e), Florida Statutes (2013), in one or more of the following ways:

- a. By possessing oxycodone and/or Roxicodone in violation of Chapter 893.13(6)(a), Florida Statutes (2013);
- b. By distributing or dispensing hydrocodone/APAP to an individual in violation of Chapter 893.13(7)(a)(1), Florida Statutes (2013); and/or
- c. By acquiring possession of oxycodone and/or Roxicodone by misrepresentation, fraud, forgery, deception or subterfuge in violation of Chapter 893.13(7)(a)(9), Florida Statutes (2013).

5. Section 120.60(6), Florida Statutes (2013), authorizes the Department to suspend a registered pharmacy technician's registration upon a finding that the registered pharmacy technician presents an immediate, serious danger to the public health, safety or welfare.

6. Ms. Stumler's continued ability to practice as a registered pharmacy technician constitutes an immediate serious danger to the health, safety, or welfare of the public and this summary procedure is fair under the circumstances to adequately protect the public.

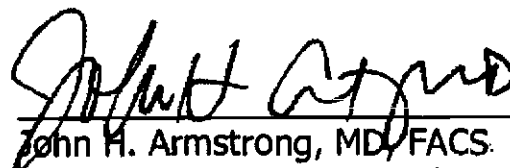
In accordance with Section 120.60(6), Florida Statutes (2013), it is

ORDERED THAT:

1. The registration of Samantha Lynn Stumler, registration number RPT 43458, is Immediately suspended.

2. A proceeding seeking formal discipline of the registration of Ms. Stumler to practice as a registered pharmacy technician will be promptly instituted and acted upon in compliance with Sections 120.569 and 120.60(6), Florida Statutes (2013).

DONE and ORDERED this 13th day of March, 2014.



John H. Armstrong, MD, FACS.
State Surgeon General and
Secretary of Health

In Re: Emergency Suspension of the Registration of
Samantha Lynn Stumler, R.P.T.
Registration Number RPT 43458
Case Number 2014-02898

PREPARED BY:

Louise Wilhite-St Laurent
Assistant General Counsel
Fla. Bar No. 0091244
Florida Department of Health
Office of the General Counsel
4052 Bald Cypress Way, Bin C-65
Tallahassee, Florida 32399-3265
Telephone: (850) 245-4444 x8331
Facsimile: (850) 245-4662
Email: Louise.StLaurent@flhealth.gov

In Re: Emergency Suspension of the Registration of
Samantha Lynn Stumler, R.P.T.
Registration Number RPT 43458
Case Number 2014-02698

NOTICE OF RIGHT TO JUDICIAL REVIEW

Pursuant to Sections 120.60(6) and 120.68, Florida Statutes, this Order is judicially reviewable. Review proceedings are governed by the Florida Rules of Appellate Procedure. Review proceedings are commenced by filing a Petition for Review, in accordance with Florida Rule of Appellate Procedure 9.100, with the District Court of Appeal, accompanied by a filing fee prescribed by law, and a copy of the Petition with the Agency Clerk of the Department within 30 days of the date this Order is filed.

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Rick Scott
Governor

John H. Armstrong, MD, FACS
State Surgeon General & Secretary

Vision: To be the Healthiest State in the Nation

PSU REQUEST FORM

| | |
|---|--|
| FROM: Justin Boynton, RSII for Louise Wilhite-St. Laurent, Esq. | TO: Wendy Foy, Investigator Supervisor |
| Date: 03/13/2014 | TO: CSU |
| Phone #: 850-245-4444 x 8200 | CC: |

| | |
|---|---|
| Case Number: 2014-02898 | Board: Pharmacy |
| Subject: Samantha Lynn Stumler | HL Code: HLL101B Status: 90 |
| Requested Completion Date: As soon as possible | |

(PSU) TYPE OF REQUEST: (describe details below)

Process Service* (Activity Code 160)

Additional Information Requested (Activity Code 145)

Deficiency in Investigative Work (Activity Code 150)

Details: Please hand serve the attached ERO. Thank you for your assistance.

*The following additional information is needed for each service request:

Last Known Address: 5165 Dee Gee Drive, Jacksonville, FL 32210 Last Known Name & Phone Number: Samantha Lynn Stumler, 904-442-1506

Last Known Place of Employment & Address if Known:

Has Contact Been Made With This Individual? YES No ; If Yes, When?

Was this case originally worked by CSU or in an area office different from where this service request is being sent? YES ** No NOTE: All process service requests need to be sent to appropriate field office.

****IF YES, please send a copy of the original Investigative Report without attachments.**

(ISU/CSU) RESPONSE:

Process Service Completed (Activity Code 161) Process Service NOT Completed (Activity Code 162)

Additional Info Sent to Legal (Activity Code 156)

Supp. Investigation Request Cancelled (Activity Code 157)

Email to:

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|-----------------|------------------|--------------|------------------|-------------|-------------|---------------|--------------|-------------|-------------------|-------------|
| <u>Pensacol</u> | <u>Tallahass</u> | <u>Alach</u> | <u>Jacksonvi</u> | <u>St.</u> | <u>Tamp</u> | <u>Orland</u> | <u>Ft.</u> | <u>West</u> | <u>Ft.</u> | <u>Miam</u> |
| <u>a</u> | <u>ee</u> | <u>ua</u> | <u>lle</u> | <u>Pete</u> | <u>a</u> | <u>o</u> | <u>Myers</u> | <u>Palm</u> | <u>Lauderdale</u> | <u>i</u> |
| | <u>Consume</u> | | | | | | | | | |
| | <u>r</u> | | | | | | | | | |
| | <u>Services</u> | <u>ULA</u> | | | | | | | | |

Boynton, Justin

From: Microsoft Outlook
<MicrosoftExchange329e71ec88ae4615bbc36ab6ce41109e@FloridaHealth.onmicrosoft.com>
Sent: Thursday, March 13, 2014 2:07 PM
To: Boynton, Justin
Subject: Delivered: Emergency Action
Attachments: ATT10889396.txt; Emergency Action

Your message has been delivered to the following recipients:

Wendy.Foy@flhealth.gov

Subject: Emergency Action

-----Original Message-----

From: FL-Rules@dos.state.fl.us [mailto:FL-Rules@dos.state.fl.us]

Sent: Thursday, March 13, 2014 2:21 PM

To: Motes, Alyson

Subject: Submit Notice in FAR

You have successfully submitted a notice for publication in the Florida Administrative Register on 3/13/2014 2:21:01 PM.

Department: Department of Health

Organization: Board of Pharmacy

Notice type: Miscellaneous

Issue: 40/S1

Once this notice is published you will be able to view it by clicking the following link:

http://www.FLRules.org/gateway/View_Notice.asp?id=14325365

You may contact the Florida Administrative Register office at (850)245-6270 for additional information.

@ItsWorkingFL: <https://twitter.com/ItsWorkingFL> The Department of State is leading the commemoration of Florida's 500th anniversary in 2013. For more information, please go to www.fla500.com.

The Department of State is committed to excellence. Please take our Customer Satisfaction Survey: <http://survey.dos.state.fl.us/index.aspx?email=fl.rules@dos.myflorida.com>

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Rick Scott
Governor

John H. Armstrong, MD, FACS
State Surgeon General & Secretary

Vision: To be the Healthiest State in the Nation

MEMORANDUM

TO: Florida Administrative Weekly, Liz Cloud
FROM: Justin Boynton, Regulatory Specialist II
RE: Samantha Lynn Stumler, RPT, License No. RPT 43458
CASE NO(S): 2014-02898
DATE: March 13, 2014

ID # 14325365

Attached please find notice of the issuance of an Emergency **Restriction Order** for notice in the next issue of the Florida Administrative Registry.

On March 13, 2014, State Surgeon General issued an Order of Emergency Restriction of License with regard to the license of Samantha Lynn Stumler, RPT, License No. RPT 43458. This Emergency Restriction Order was predicated upon the State Surgeon General's findings of an immediate and serious danger to the public health, safety and welfare pursuant to Sections 456.073(8) and 120.60(6) Florida Statutes. (2012-2013). The State Surgeon General determined that this summary procedure was fair under the circumstances, in that there was no other method available to adequately protect the public.

**** Transmit Conf. Report ****

P.1

Mar 13 2014 02:36pm

| Fax/Phone Number | Mode | Start | Time | Page | Result | Note |
|------------------|--------|------------|-------|------|--------|------|
| 99216847 | Normal | 13:02:35pm | 0'29" | 1 | * O K | |

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Governor

John H. Armstrong, MD, FACS
Surgeon General & Secretary

March 13, 2014

The Honorable Robert S. Cohen
Chief Administrative Law Judge
Division of Administrative Hearings
1230 Apalachee Parkway
Tallahassee, FL 32301

RE: Department of Health vs. Samantha Lynn Stumler, RPT
Case Number: 2014-02898

Dear Judge Cohen:

This letter is to advise you that the Department has issued an Emergency Suspension Order concerning the registration of **Samantha Lynn Stumler** to practice as a registered pharmacy technician in the State of Florida. An Administrative Complaint has not been issued in the above case. Therefore, this is not a request for a formal hearing.

This letter is sent to advise you of the action taken by the Department and to advise you of the possibility that the respondent may request an expedited hearing. The Department shall keep you advised of any developments. If you need additional information, please contact Louise St. Laurent, Assistant General Counsel at (850) 245-4444.

Sincerely,

A handwritten signature in black ink, appearing to read "Justin Boynton".

Justin Boynton
Regulatory Specialist II
Prosecution Services Unit

/jb

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Rick Scott

Governor

John H. Armstrong, MD, FACS

Surgeon General & Secretary

Vision: To be the Healthiest State in the Nation

March 13, 2014

The Honorable Robert S. Cohen
Chief Administrative Law Judge
Division of Administrative Hearings
1230 Apalachee Parkway
Tallahassee, FL 32301

RE: Department of Health vs. Samantha Lynn Stumler, RPT
Case Number: 2014-02898

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This letter is to advise you that the Department has issued an Emergency Suspension Order concerning the registration of **Samantha Lynn Stumler** to practice as a registered pharmacy technician in the State of Florida. An Administrative Complaint has not been issued in the above case. Therefore, this is not a request for a formal hearing.

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Sincerely,

A handwritten signature in black ink that reads "Justin Boynton".

Justin Boynton
Regulatory Specialist II
Prosecution Services Unit

/jb

Florida Department of Health

Office of the General Counsel • Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65 • Tallahassee, FL 32399-1701
Express mail address: 2585 Merchants Row • Suite 105
PHONE: 850/245-4444 • FAX 850/245-4662


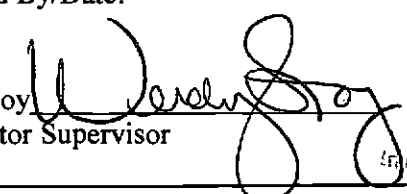
www.FloridasHealth.com

TWITTER: HealthyFLA
FACEBOOK: FL Department of Health
YOUTUBE: fldoh



**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

INVESTIGATIVE REPORT

| | | | | | |
|--|-----------------|--|--|----------------------------|--|
| Office: Jacksonville | | Date of Case: 02/24/2014 | | Case Number: 2014-02898 | |
| Subject: SAMANTHA LYNN STUMLER RPT 5165 Dee Gee Drive Jacksonville Fl. 32210 (904) 442-1506 | | | Source: Department of Health Investigative Services Unit 1912 Hamilton Street Unit 1912 Jacksonville Fl. 32210 (904) 381-6022 | | |
| Prefix: RPT | License # 43458 | Profession: Registered Pharmacy Technician | Board: Pharmacy | Report Date: 03/21/2014 | |
| Period of Investigation: 03/14/2014 through 03/21/2014 | | | Type of Report Supplemental | | |
| Alleged Violation: 456.072 Grounds for discipline; penalties; enforcement. — (1) The following acts shall constitute grounds... (k) Failing to perform any statutory or legal obligation placed upon a licensee... (dd) Violating any provision of this chapter, the applicable practice act... 465.016 Disciplinary actions. — (d) Being unfit or incompetent to practice pharmacy by reason of... (i) Compounding, dispensing, or distributing a legend drug... (m) Being unable to practice pharmacy with reasonable skill... (r) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto. | | | | | |
| <p>Synopsis:</p> <p>This Supplemental Investigation is predicated receipt of a PSU Request Form received on 03/13/2014 via email from LOUISE WILHITE ST LAURENT Esq. of the Department of Health's Legal Department, requesting hand delivery of an Order of Emergency Suspension of License to SAMANTHA LYNN STUMLER RPT, (S-1).</p> <p>On 03/14/2014 travel was conducted to the Duval County Jail located in Jacksonville Florida where STUMLER is currently an inmate. She was provided with the Order of Emergency Suspension of license via hand delivery. STUMLER further advised that she wished to voluntarily relinquish her license as an RPT. A Voluntary Relinquishment Order was subsequently signed by STUMLER in the presence of this Investigator and notarized by this investigator as well, (S-2).</p> <p>STUMLER also indicated that she has a court hearing on or about 03/26/2014 and she plans on pleading guilty to all of her drug related charges in exchange for a 90 day sentence with one year probation to follow.</p> <p>The Affidavit of Diligent Search was completed on 03/21/2014, (S-3).</p> | | | | | |
| <p>Exhibits:</p> <p>(S-1) PSU Supplemental Request pgs. 2-15 (S-2) Voluntary Relinquishment of License pgs. 16-18 (S-3) Affidavit of Diligent Search pg. 19</p> | | | | | |
| Related Case: None | | | | | |
| <p>Investigator/Date:</p> <p>Paul D. Kloko  Investigative Specialist II (JI-93) 03/21/2014</p> | | | <p>Approved By/Date:</p> <p>Wendy Foy  Investigator Supervisor</p> | | |
| Distribution: HQ/ISU | | | | | |

14 MAR 27 PM 12:48
RECEIVED-LEGAL

Received
Investigative Services

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KLOKO
3-13-14

Rick Scott
Governor

John H. Armstrong, MD, FACS
State Surgeon General & Secretary

PSU REQUEST FORM

| | |
|---|--|
| FROM: Justin Boynton, RSII for Louise Wilhite-St. Laurent, Esq. | TO: Wendy Foy, Investigator Supervisor |
| Date: 03/13/2014 | TO: CSU. |
| Phone #: 850-245-4444 x 8200 | CC: |

| | |
|---|---|
| Case Number: 2014-02898 | Board: Pharmacy |
| Subject: Samantha Lynn Stumler | HL Code: HLL101B Status: 90 |
| Requested Completion Date: As soon as possible | |

(PSU) TYPE OF REQUEST: (describe details below)

- Process Service* (Activity Code 160)
- Additional Information Requested (Activity Code 145)
- Deficiency in Investigative Work (Activity Code 150)

RECEIVED
16 MAR 27 PM 12:48

Details: Please hand serve the attached ERO. Thank you for your assistance.

*The following additional information is needed for each service request:

Last Known Address: 5165 Dee Gee Drive, Jacksonville, FL 32210 Last Known Name & Phone Number:
 Samantha Lynn Stumler, 904-442-1506
 Last Known Place of Employment & Address if Known:
 Has Contact Been Made With This Individual? YES No ; If Yes, When?

Was this case originally worked by CSU or in an area office different from where this service request is being sent?
 YES No NOTE: All process service requests need to be sent to appropriate field office.
 *IF YES, please send a copy of the original Investigative Report without attachments.

(ISU/CSU) RESPONSE:

- Process Service Completed (Activity Code 161) Process Service NOT Completed (Activity Code 162)
- Additional Info Sent to Legal (Activity Code 156)
- Supp. Investigation Request Cancelled (Activity Code 157)

Email to:

| | | | | | | | | | | |
|------------------|--------------------|----------------|---------------------|-----------------|--------------|----------------|------------------|------------------|-----------------------|--------------|
| <u>Pensacola</u> | <u>Tallahassee</u> | <u>Alachua</u> | <u>Jacksonville</u> | <u>St. Pete</u> | <u>Tampa</u> | <u>Orlando</u> | <u>Ft. Myers</u> | <u>West Palm</u> | <u>Ft. Lauderdale</u> | <u>Miami</u> |
| | <u>Consume</u> | | | | | | | | | |
| | <u>Services</u> | <u>ULA</u> | | | | | | | | |

Statutes (2013), authorizes the State Surgeon General to summarily suspend Ms. Stumler's registration to practice as a registered pharmacy technician in the State of Florida in accordance with Section 120.60(6), Florida Statutes (2013).

2. At all times material to this order, Ms. Stumler was a registered pharmacy technician in the State of Florida, pursuant to Chapter 465, Florida Statutes (2013), and worked at both Saint Vincent's Hospital Pharmacy locations: 1 Shircliff Way and 4205 Belfort Road, Jacksonville, Florida.

3. In January 2014, Ms. T.M., director of risk management for Saint Vincent's Hospital Pharmacies, initiated an internal investigation into missing bottles of hydrocodone. Director of Pharmacy, Ms. C.J., conducted an inventory audit of the Shircliff Way location for the dates of January 3, through January 22, 2014. Ms. C.J. discovered that 200 tablets of hydrocodone/APAP were missing from the Shircliff Way pharmacy inventory.

4. Hydrocodone/APAP contains hydrocodone and acetaminophen or Tylenol and is prescribed to treat pain. According to Section 893.03(3), Florida Statutes (2013), hydrocodone, in the dosages found in

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5. On or about January 29, 2014, Ms. Stumler worked at the Shircliff Way location of Saint Vincent's Hospital Pharmacy.

6. A pharmacist conducted an inventory of hydrocodone/APAP tablets at the Shircliff Way location of the pharmacy prior to opening the pharmacy and another inventory after close of business. The pharmacy was missing 100 hydrocodone/APAP tablets at the close of business on January 29, 2014.

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8. Ms. Stumler was the only employee, aside from Ms. C.G., that worked at the Belfort Road location of the pharmacy on February 11, 2014.

9. On or about February 12, 2014, Ms. C.G. conducted an inventory of the hydrocodone/APAP prior to opening the Belfort Road

location and discovered that 100 tablets were missing.

10. On or about February 12, 2014, Deputies with the Jacksonville Sheriff's Office responded to the Shircliff Way location of Saint Vincent's pharmacy to speak with Ms. Stumler. Ms. Stumler waived her right to have an attorney present for the interview and agreed to speak with the Sheriff's Deputies. Ms. Stumler admitted that she stole multiple 100-count bottles of hydrocodone/APAP from both Saint Vincent's Hospital pharmacies. Ms. Stumler told the deputies that she began stealing the pills from the pharmacies in late October or early November 2013. Ms. Stumler estimated that she stole approximately six 100-count bottles of hydrocodone/APAP between that time and the time of the interview.

11. Ms. Stumler also admitted to stealing one bottle of Diazepam containing approximately 50 tablets and two 100-count bottles of Xanax, one of which Ms. Stumler reported was only half-full.

12. Diazepam, commonly known by the brand name Valium, is prescribed to treat anxiety. According to Section 893.03(4), Florida Statutes (2013), diazepam is a Schedule IV controlled substance that has a low potential for abuse relative to the substances in Schedule III and has a currently accepted medical use in treatment in the United States. Abuse of

diazepam may lead to limited physical or psychological dependence relative to the substances in Schedule III.

13. Xanax is the brand name for alprazolam and is prescribed to treat anxiety. According to Section 893.03(4), Florida Statutes (2013), alprazolam is a Schedule IV controlled substance that has a low potential for abuse relative to the substances in Schedule III and has a currently accepted medical use in treatment in the United States. Abuse of alprazolam may lead to limited physical or psychological dependence relative to the substances in Schedule III.

14. Ms. Stumler specifically admitted to stealing the 100-count bottle of hydrocodone/APAP from the Belfort Road pharmacy the previous day, February 11, 2014. Ms. Stumler stated that the stolen pills were located in her vehicle and at her home. Ms. Stumler agreed to let the deputies search her vehicle and her home.

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16. Deputies found an unopened bottle containing 100 tablets of hydrocodone/APAP in Ms. Stumler's home. Deputies also found 44

Diazepam tablets; 97 Xanax tablets; 14 Famotidine tablets; 24 Penicillin tablets; 74 Lisinopril tablets; and 47 hydrocodone/APAP tablets inside a plastic bag in Ms. Stumler's home. Ms. Stumler admitted that all of the drugs were stolen from the Saint Vincent's pharmacies.

17. Famotidine is a histamine-2 blocker used to treat heartburn. It is a legend drug but not a controlled substance.

18. Penicillin is an antibiotic used to treat bacteria in the body. It is a legend drug but not a controlled substance.

19. Lisinopril is an angiotensin converting enzyme ("ACE") inhibitor used to treat high blood pressure and congestive heart failure. It is a legend drug but not a controlled substance.

20. Ms. Stumler told the deputies that she used some of the stolen narcotics herself and also provided some of the narcotics to a man she could only identify as being called "Heavy," as payment to prevent "Heavy" from harming her.

21. On or about February 12, 2014, Jacksonville Sheriff's Deputies arrested Ms. Stumler for theft of controlled substances and charged her in Duval County Case 2014CF1320. The charge against Ms. Stumler is currently pending resolution.

22. Registered pharmacy technicians assist pharmacists in data entry, and the counting, weighing, measuring, pouring and mixing of prescription medication or stock legend drugs and controlled substances, among various other tasks. Because registered pharmacy technicians are entrusted with such important tasks which include the handling, counting, and reporting of the drugs in the pharmacy, it is imperative that a registered pharmacy technician have good judgment and moral character while working in a pharmacy.

23. Ms. Stumler's behavior in stealing approximately 600 tablets of hydrocodone/APAP and other drugs from her employer for personal use and for distribution to at least one other person clearly demonstrates that she is lacking the judgment and moral character needed to practice as a registered pharmacy technician.

24. As a result of her employment as a registered pharmacy technician, Ms. Stumler was aware that prescription medications and controlled substances may only be dispensed to patients who have valid prescriptions and need the medications for a legitimate health reason. Despite this, Ms. Stumler illegally diverted controlled substances for herself and at least one other person when neither had a valid prescription for the

drugs.

25. Ms. Stumler's lack of good judgment and moral character, her theft of large quantities of controlled substances from her employer, and her disregard for the laws and rules governing the practice of pharmacy in the State of Florida represent a significant likelihood that Ms. Stumler will continue her illegal behavior. Although Ms. Stumler is currently incarcerated, she was given a monetary bond by the first appearance judge and, as a result, she is capable of bonding out and returning to work as a registered pharmacy technician at any time. This probability constitutes an immediate serious danger to the health, safety, and welfare of the citizens of the State of Florida.

26. Restricting Ms. Stumler's registration would not adequately protect the public because the very nature of practicing as a registered pharmacy technician puts Ms. Stumler in contact with legend drugs and controlled substances, which creates the risk for further theft of drugs. Additionally, given that law enforcement recovered only 247 of the 600 stolen hydrocodone tablets, Ms. Stumler may be ingesting significant quantities of hydrocodone/APAP in short time periods. As a result, nothing short of the immediate suspension of Ms. Stumler's registration to practice

as a registered pharmacy technician will protect the public from the danger posed by Ms. Stumler's continued practice as a pharmacy technician.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the State Surgeon General concludes as follows:

1. The Department of Health has jurisdiction over this matter pursuant to Sections 20.43 and 456.073(8), Florida Statutes (2013), and Chapter 465, Florida Statutes (2013), as set forth above.

2. Section 465.016(1)(e), Florida Statutes (2013), subjects registered pharmacy technicians to discipline, including suspension, for violating Chapter 893, Florida Statutes (2013).

3. Chapter 893.13, Florida Statutes (2013), states in pertinent part:

(6)(a) It is unlawful for any person to be in actual or constructive possession of a controlled substance unless such controlled substance was lawfully obtained from a practitioner or pursuant to a valid prescription or order of a practitioner while acting in the course of his or her professional practice or to be in actual or constructive possession of a controlled substance except as authorized by this chapter....

(7)(a) A person may not:

1. Distribute or dispense a controlled substance in violation of this chapter....

[or]

9. Acquire or obtain, or attempt to acquire or obtain, possession of a controlled substance by misrepresentation, fraud, forgery, deception or subterfuge.

4. Ms. Stumler violated Section 465.016(1)(e), Florida Statutes (2013), in one or more of the following ways:

a. By possessing oxycodone and/or Roxicodone in violation of Chapter 893.13(6)(a), Florida Statutes (2013);

b. By distributing or dispensing hydrocodone/APAP to an individual in violation of Chapter 893.13(7)(a)(1), Florida Statutes (2013);
and/or

c. By acquiring possession of oxycodone and/or Roxicodone by misrepresentation, fraud, forgery, deception or subterfuge in violation of Chapter 893.13(7)(a)(9), Florida Statutes (2013).

5. Section 120.60(6), Florida Statutes (2013), authorizes the Department to suspend a registered pharmacy technician's registration upon a finding that the registered pharmacy technician presents an immediate, serious danger to the public health, safety or welfare.

6. Ms. Stumler's continued ability to practice as a registered pharmacy technician constitutes an immediate serious danger to the health, safety, or welfare of the public and this summary procedure is fair under the circumstances to adequately protect the public.

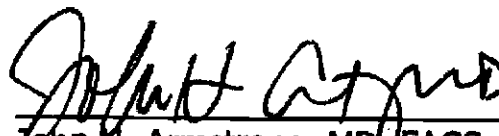
In accordance with Section 120.60(6), Florida Statutes (2013), it is

ORDERED THAT:

1. The registration of Samantha Lynn Stumler, registration number RPT 43458, is immediately suspended.

2. A proceeding seeking formal discipline of the registration of Ms. Stumler to practice as a registered pharmacy technician will be promptly instituted and acted upon in compliance with Sections 120.569 and 120.60(6), Florida Statutes (2013).

DONE and ORDERED this 13th day of March, 2014.



John H. Armstrong, MD, FACS
State Surgeon General and
Secretary of Health

In Re: Emergency Suspension of the Registration of
Samantha Lynn Stumler, R.P.T.
Registration Number RPT 43458
Case Number 2014-02898

PREPARED BY:
Louise Wilhite-St Laurent
Assistant General Counsel
Fla. Bar No. 0091244
Florida Department of Health
Office of the General Counsel
4052 Bald Cypress Way, Bin C-65
Tallahassee, Florida 32399-3265
Telephone: (850) 245-4444 x8331
Facsimile: (850) 245-4662
Email: Louise.StLaurent@flhealth.gov

In Re: Emergency Suspension of the Registration of
Samantha Lynn Stumler, R.P.T.
Registration Number RPT 43458
Case Number 2014-02898

NOTICE OF RIGHT TO JUDICIAL REVIEW

Pursuant to Sections 120.60(6) and 120.68, Florida Statutes, this Order is judicially reviewable. Review proceedings are governed by the Florida Rules of Appellate Procedure. Review proceedings are commenced by filing a Petition for Review, in accordance with Florida Rule of Appellate Procedure 9.100, with the District Court of Appeal, accompanied by a filing fee prescribed by law, and a copy of the Petition with the Agency Clerk of the Department within 30 days of the date this Order is filed.

FILED DATE: MAR 13 2014

Department of Health

By: *Angel Sanchez*
Deputy Agency Clerk**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

In Re: Emergency Suspension of the Registration of
Samantha Lynn Stumler, R.P.T.
Registration Number RPT 43458
Case Number 2014-02898

ORDER OF EMERGENCY SUSPENSION OF LICENSE

John H. Armstrong, MD, FACS, State Surgeon General and Secretary of Health, ORDERS the emergency suspension of the registration of Samantha Lynn Stumler, R.P.T., ("Ms. Stumler") to practice as a registered pharmacy technician in the State of Florida. Ms. Stumler holds registration number RPT 43458. Her address of record is 5165 Dee Gee Drive, Jacksonville, Florida 32210. Ms. Stumler's current location is at the Duval County Pre-Trial Detention Facility, 500 East Adams Street, Jacksonville, Florida 32202. The following Findings of Fact and Conclusions of Law support the emergency suspension of Ms. Stumler's registration to practice as a pharmacy technician in the State of Florida.

FINDINGS OF FACT

1. The Department of Health ("Department") is the state agency charged with regulating the practice of pharmacy pursuant to Chapters 20, 456, and 465, Florida Statutes (2013). Section 456.073(8), Florida

STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,

Petitioner,

v.

DOH Case Number: 2014-02898

Samantha Lynn Stumler RPT

Respondent.

VOLUNTARY RELINQUISHMENT OF LICENSE

Respondent Samantha Lynn Stumler RPT, license number 43458, hereby voluntarily relinquishes Respondent's license to practice as a registered pharmacy technician in the State of Florida and states as follows:

1. Respondent's purpose in executing this Voluntary Relinquishment is to avoid further administrative action with respect to this cause. Respondent understands that acceptance by the Board of Pharmacy (hereinafter the Board) of this Voluntary Relinquishment shall be construed as disciplinary action against Respondent's license pursuant to section 456.072 (1) (f), Florida Statutes.

2. Respondent agrees to never reapply for licensure as a Registered Pharmacy Technician in the State of Florida..

3. Respondent agrees to voluntarily cease practicing as a Registered Pharmacy Technician immediately upon executing the Voluntary Relinquishment.

4. In order to expedite consideration and resolution of this action by the Board in a public meeting, Respondent, being fully advised of the consequences of so doing, hereby waives the statutory privilege of confidentiality of Section 456.073(10), Florida Statutes, and waives a

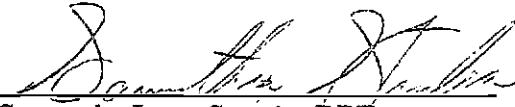
determination of probable cause, by the Probable Cause Panel, or the Department when appropriate, pursuant to Section 456.073(4), Florida Statutes, regarding the case, the investigative report of the Department of Health, and all other information obtained pursuant to the Department's investigation in the above-styled action. By signing this waiver, Respondent understands that the record and case become public record and remain public record and that information is immediately accessible to the public, pursuant to Section 456.073 (10) Florida Statutes.

5. Upon the Board's acceptance of this Voluntary Relinquishment, Respondent agrees to waive all rights to seek judicial review of, or to otherwise challenge or contest the validity of, this Voluntary Relinquishment and of the Final Order of the Board incorporating this Voluntary Relinquishment.

6. Petitioner and Respondent hereby agree that upon the Board's acceptance of this Voluntary Relinquishment, each party shall bear its own attorney's fees and costs related to the prosecution or defense of this matter.

7. Respondent authorizes the Board to review and examine all investigative file materials concerning Respondent in connection with the Board's consideration of this Voluntary Relinquishment. Respondent agrees that consideration of this Voluntary Relinquishment and other related materials by the Board shall not prejudice or preclude the Board, or any of its members, from further participation, consideration, or resolution of these proceedings if the terms of this Voluntary Relinquishment are not accepted by the Board.

DATED this 14th day of March, 20014.


Samantha Lynn Stumler RPT

STATE OF FLORIDA

COUNTY OF:

Before me, personally appeared Samantha Lynn Sountor RPT, whose identity is known to me by personal knowledge (type of identification) and who, under oath, acknowledges that his signature appears above. Sworn to and subscribed before me this 14th day of March, 2014.



NOTARY PUBLIC

My Commission Expires:



Mission:

To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.



Rick Scott
Governor

John H. Armstrong, MD, FACS
State Surgeon General & Secretary

Vision: To be the Healthiest State in the Nation

AFFIDAVIT OF SERVICE OR DILIGENT SEARCH

Department of Health

Petitioner

vs

Case No. 2014-02898

Samantha Lynn Stumler RPT

Respondent

COMES NOW, the affiant, who first being duly sworn, deposes and states:

- 1) Affiant is an Investigator/Inspector employed by the DEPARTMENT OF HEALTH, State of Florida.
- 2) That on 03/14/2014, Affiant made a diligent effort to locate Respondent, to serve Administrative Complaint and related papers; Order compelling examination(s); Subpoena(s); Final order; Notice to cease and desist; ESO/ERO and related papers.
- 3) Check applicable answer below:

Affiant made personal service on Respondent, at the Duval County Jail located at 501 East Bay Street Jacksonville FL 32202 where Stumler is currently an inmate, on 03/14/2014..

 Affiant was unable to make service after searching for Respondent at: (a) all addresses for Respondent shown in the DOH investigation of the case; (b) all official addresses for Respondent shown in his licensing records on the computer terminal or Board office; (c) Local telephone company for the last area Respondent was known to frequent; (d) Division of Drivers Licenses; and (e) Utilities (electric, cable, etc.); any others:

[Signature]
Affiant

State Of Florida

County Of Duval

Before me, personally appeared Paul D Kloko whose identity is known to me by Personal Knowledge (type of identification) and who, acknowledges that his/her signature appears above.

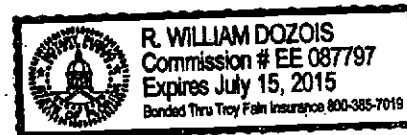
Sworn to or affirmed by Affiant before me this 21st day of March 2014.

Notary Public-State of Florida

R. William Dozois

Type or Print Name

My Commission Expires



MEMORANDUM OF PROBABLE CAUSE DETERMINATION

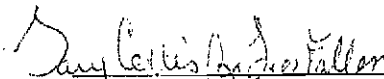
TO: Department of Health, Prosecution Services Unit
FROM: Chair, Probable Cause Panel, Florida Board of Pharmacy
RE: Samantha Lynn Stumler, R.P.T.
Case Number: 2014-02898
MEMBERS: Leo J. "Lee" Fallon, BPharm, PhD; Albert Garcia, BPharm, MHL

DATE OF PCP: March 27, 2014 **AGENDA ITEM:** A-5 (LSL)
.....
This matter came before the Probable Cause Panel on the above date. Having reviewed the complete investigative file, recommendations of the Department, and any information submitted by the Subject, and being otherwise fully advised in the premises, the panel finds that:

Probable cause exists and a formal complaint shall be filed for violation of statutes and rules, including but not limited to:

465.016(1)(c), Florida Statutes (2013)

- Probable Cause was **not** found in this case
- In lieu of probable cause, issue letter of guidance
- Case requires expert review
- Case needs further investigation
- a)
- b)
- Upon reconsideration, dismiss
- Amended Administrative Complaint

 10 April 2014
Chair, Probable Cause Panel /Date
Board of Pharmacy

CONFIDENTIAL AND EXEMPT MATERIALS

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AND/OR DOCUMENTS THAT IDENTIFY THE PATIENT BY NAME AND ARE
EXEMPT FROM PUBLIC RECORDS LAWS.

456.057 - Ownership and control of patient records; report or copies of records to be
furnished.—

10)(a)All patient records obtained by the department and any other documents
maintained by the department which identify the patient by name are confidential and exempt
from s. 119.07(1) and shall be used solely for the purpose of the department and the appropriate
regulatory board in its investigation, prosecution, and appeal of disciplinary proceedings. The
records shall not be available to the public as part of the record of investigation for and
prosecution in disciplinary proceedings made available to the public by the department or the
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Rick Scott
Governor

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John H. Armstrong, MD, FACS
Surgeon General & Sec

Vision: To be the Healthiest State in the Nation

STATE OF FLORIDA
BOARD OF PHARMACY

DEPARTMENT OF HEALTH,
PETITIONER,

VS.

CASE NO. 201306703

CHARLES S EBY, MD PA,
RESPONDENT.

NOTICE

TO: CHARLES S EBY, MD PA
2668 SWAMP CABBAGE CT
FORT MYERS, FL 33901-9332

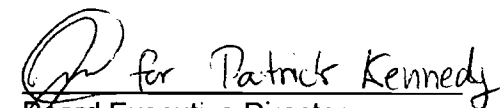
PLEASE TAKE NOTICE that a disciplinary hearing will be heard before the BOARD OF PHARMACY on Wednesday, August 13, 2014, commencing at 9 a.m. The Respondent is not required to be present at this meeting. This hearing will be held at DoubleTree by Hilton, 100 Fairway Drive, Deerfield Beach, FL 33441, 1(800) 624-3606..

The purpose of the hearing is to consider a motion for: Voluntary Relinquishment

Note: Cases shown on the agenda as "timed" items may be heard in a different order or may be heard earlier if all parties are present. Cases are scheduled beginning at 9 a.m.; therefore, it is imperative that you arrive promptly at 9 a.m. and be prepared to be at the meeting for several hours until your case is heard.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Hearing has been sent by U.S. Mail to the above address(es) this 10th day of July, 2014.

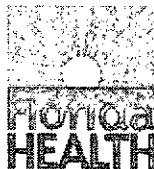

Board Executive Director
BOARD OF PHARMACY
Florida Department of Health
4052 Bald Cypress Way, Bin #
Tallahassee, FL 32399 -

Florida Department of Health
Division of Medical Quality Assurance
4052 Bald Cypress Way, Bin C10 • Tallahassee, FL 32399-3260
PHONE: (850) 245-4444 • FAX : (850) 245-4791

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YOUTUBE: fldoh

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John H. Armstrong, MD, FACS
Surgeon General & Secretary

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MEMORANDUM

TO: Patrick W. Kennedy, M.A., Executive Director, Board of Pharmacy
FROM: Christopher Jurich, Assistant General Counsel *cy 5-30-14/aj*
RE: **Voluntary Relinquishment**
SUBJECT: DOH v. Charles S. Eby, M.D., P.A.
DOH Case Number: 2013-06703
DATE: April 30, 2014

Enclosed you will find materials in the above-referenced case to be placed on the agenda for final agency action for the **August 13, 2014** meeting of the board. The following information is provided in this regard.

Subject: Charles S. Eby, M.D., P.A.
Subject's Address of Record: 2668 Swamp Cabbage Court
Fort Myers, FL 33901-9332
Enforcement Address: 2668 Swamp Cabbage Court
Fort Myers, FL 33901-9332
Subject's License No: 10330 **Rank:** PH
Licensure File No: 2067
Initial Licensure Date: 7/7/1988
Board Certification: Dermatology and Cosmetic Surgery
Required to Appear: No
Current IPN/PRN Contract: None
Allegation(s):
Count 1: Section 465.023(1)(c), F.S. (2012), by and through a violation of Rule 64B16-27.797(5)(a), F.A.C.
Count 2: Section 465.023(1)(c), F.S. (2012), by and through a violation of Rule 64B16-27.797(5)(b)1., F.A.C.
Count 3: Section 465.023(1)(c), F.S. (2012), by and through a violation of Rule 64B16-27.797(1)(n)4., F.A.C.
Count 4: Section 465.023(1)(c), F.S. (2012), by and through a violation of Rule 64B16-27.797(4), F.A.C.
Count 5: Section 465.023(1)(c), F. S. (2012), by and through a violation of Rule 64B16-28.140(4), F.A.C., under the provisions of Rule 64B16-27.700, F.A.C.
Count 6: Section 465.023(1)(c), F.S. (2012), by and through a violation of Rule 64B16-27.797(7), F.A.C.
Count 7: Section 465.023(1)(c), F.S. (2012), by and through a violation of Rule 64B16-27.797(1)(n)6., F.A.C.
Count 8: Section 465.023(1)(c), F.S. (2012), by and through a violation of Rule 64B16-28.202(3), F.A.C.

Prior Discipline: None

Probable Cause Panel: March 27, 2014: Garcia and Fallon

Subject's Attorney: Pro Se

Complainant/Address: Department Of Health/Investigative Services Unit –
Jupiter, FL

Materials Submitted: Memorandum to the Board
Motion for Final Order Based Upon a Voluntary Relinquishment
of License
Voluntary Relinquishment
Administrative Complaint
Supplemental Investigative Reports with Exhibits
Final Investigative Report with Exhibits
PCP Memorandum
Board Notification Letter

CJ/aed

STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,
Petitioner,

v.

CASE NO.: 2013-06703

CHARLES S. EBY, M.D., P.A.,
Respondent.

MOTION FOR FINAL ORDER
BASED UPON A VOLUNTARY RELINQUISHMENT OF LICENSE

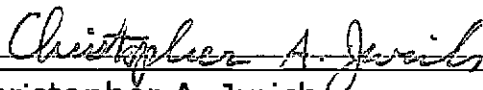
COMES NOW, the Petitioner, by and through its undersigned counsel, and moves the Board of Pharmacy for entry of a Final Order in the above-styled cause on a date and time that has been determined and noticed by the Board. As grounds therefore, the Petitioner would state the following:

1. Petitioner previously filed an Administrative Complaint against Respondent alleging that Respondent had violated the provisions of Florida Statutes, as set forth therein. The Department, by filing the Administrative Complaint, seeks to discipline Respondent's license to practice as a pharmacist, thereby affecting the Respondent's substantial interests.
2. In lieu of undergoing further disciplinary proceedings, the Respondent returned an executed Voluntary Relinquishment of his license.

3. Respondent has been advised, by a copy of this Motion, that a ~~copy of the investigative file in this case shall be furnished to the Board to~~ establish a prima facie case regarding the violations as set forth in the Administrative Complaint.

WHEREFORE the parties respectfully request the Board of Pharmacy enter a Final Order incorporating the terms of the Voluntary Relinquishment of Licensure. *(page left intentionally blank)*

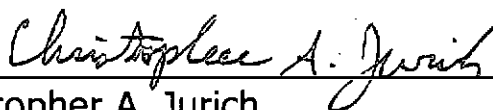
Respectfully Submitted,



Christopher A. Jurich
Assistant General Counsel
Florida Bar No. 0990140
Department of Health
Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, FL 32399-3265
Telephone: (850) 245-4444
FAX: (850) 245-4683 facsimile
Email: christopher.jurich@flhealth.gov

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing has been provided by U.S. certified mail this 2nd day of June, 2014, to Charles S. Eby, M.D., P.A., 16063 Forest Oaks Drive, Fort Myers, FL 33908.



Christopher A. Jurich
Assistant General Counsel

FILED

DEPARTMENT OF HEALTH
DEPUTY CLERK

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

CLERK: *Angel Sauter*

DATE: APR 28 2014

DEPARTMENT OF HEALTH,
Petitioner,

v.

CASE NO. 2013-06703

**CHARLES S. EBY, M.D., P.A., d/b/a
DERMATOLOGIC & COSMETIC SURGERY CENTER, L.C.**

Respondent.

VOLUNTARY RELINQUISHMENT OF LICENSE

Respondent, Charles S. Eby, M.D., P.A., d/b/a Dermatologic & Cosmetic Surgery Center, L.C., license number PH 10330, hereby voluntarily relinquishes Respondent's pharmacy permit in the State of Florida and states as follows:

1. Respondent's purpose in executing this Voluntary Relinquishment is to avoid further administrative action with respect to this cause. Respondent understands that acceptance by the Board of Pharmacy (hereinafter the Board) of this Voluntary Relinquishment shall be construed as action against Respondent's license pursuant to Section 456.072(1)(f), Florida Statutes (2012).

2. Respondent agrees to never reapply for a pharmacy permit in the State of Florida.

3. Respondent agrees to voluntarily cease practicing pharmacy in the state of Florida immediately upon executing this Voluntary Relinquishment. Respondent further agrees to refrain from the practice of pharmacy until such time as this Voluntary Relinquishment is presented to the Board and the Board issues a written final order in this matter.

4. In order to expedite consideration and resolution of this action by the Board in a public meeting, Respondent, being fully advised of the consequences of so doing, hereby waives the statutory privilege of confidentiality of Section 456.073(10), Florida Statutes, and waives a determination of probable cause, by the Probable Cause Panel, or the Department when appropriate, pursuant to Section 456.073(4), Florida Statutes, regarding the complaint, the investigative report of the Department of Health, and all other information obtained pursuant to the Department's investigation in the above-styled action. By signing this waiver, Respondent understands that the record and complaint become public record and remain public record and that information is immediately accessible to the public.

5. Upon the Board's acceptance of this Voluntary Relinquishment, Respondent agrees to waive all rights to seek judicial review of, or to otherwise challenge or contest the validity of, this Voluntary Relinquishment and of the Final Order of the Board incorporating this Voluntary Relinquishment.

6. Petitioner and Respondent hereby agree that upon the Board's acceptance of this Voluntary Relinquishment, each party shall bear its own attorney's fees and costs related to the prosecution or defense of this matter.

7. Respondent authorizes the Board to review and examine all investigative file materials concerning Respondent in connection with the Board's consideration of this Voluntary Relinquishment. Respondent agrees that consideration of this Voluntary Relinquishment and other related materials by the Board shall not prejudice or preclude the Board, or any of its members, from further participation, consideration, or resolution of these proceedings if the terms of this Voluntary Relinquishment are not accepted by the Board.

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO. 2013-06703

**CHARLES S. EBY, M.D., P.A.,
d/b/a DERMATOLOGIC &
COSMETIC SURGERY CENTER, L.C.**

RESPONDENT.

ADMINISTRATIVE COMPLAINT

COMES NOW, Petitioner, Department of Health, by and through its undersigned counsel, and files this Administrative Complaint before the Board of Pharmacy against Respondent, Charles S. Eby, M.D., P.A., d/b/a Dermatologic & Cosmetic Surgery Center, L.C., and in support thereof alleges:

1. Petitioner is the state agency charged with regulating the practice of pharmacy pursuant to Section 20.43, Florida Statutes; Chapter 456, Florida Statutes; and Chapter 465, Florida Statutes.

2. At all times material to this Administrative Complaint, Respondent was a permitted Modified Institutional Class II Type B

pharmacy within the state of Florida, having been issued permit number PH 10330.

3. Respondent's address of record is 2668 Swamp Cabbage Court, Fort Myers, Florida 33901.

4. At all times material to this Administrative Complaint, Respondent was owned and operated by Dr. C.E., a licensed medical doctor within the state of Florida who is board certified in dermatology and cosmetic surgery. Respondent's physical location was within the Cosmetic Surgery Center located in the same facility as Dr. C.E.'s dermatology practice, which is also located at 2668 Swamp Cabbage Court, Fort Myers, Florida 33901.

5. On or about April 24, 2013, the Department conducted a routine inspection of Respondent which revealed the following deficiencies:

- a. Low-risk compounded sterile products (CSPs) were being compounded in an unsterile environment without laminar hoods or a buffer room; and/or
- b. Beyond use dates were assigned to low-risk CSPs past allowable time limits; and/or

- c. No policies and procedures were in place for sterile compounding; and/or
- d. No compounding records were maintained; and/or
- e. No documentation of the existence of an on-going quality assurance program with regularly planned audits; and/or
- f. No evidence that personnel authorized to compound low-risk CSPs completed a media-filled test within the 12 months preceding the inspection.

6. On or about August 16, 2013, the Department attempted to conduct a re-inspection of Respondent and found that the facility was locked and closed. The Department inspector was informed by staff at Dr. C.E.'s dermatology practice that the Cosmetic Surgery Center had closed down approximately two weeks earlier and Dr. C.E. would be ceasing his practice due to an abrupt illness.

7. Respondent failed to notify the Board of Pharmacy in writing as to the effective date of closure and failed to have its pharmacy permit returned to the Board of Pharmacy.

8. Section 465.023(1)(c), Florida Statutes (2012-2013), provides that the department or the board may revoke or suspend the permit of any

pharmacy permittee, and may fine, place on probation, or otherwise discipline any pharmacy permittee if the permittee, or any affiliated person, partner, officer, director, or agent of the permittee has violated any of the requirements of this chapter or any of the rules of the Board of Pharmacy

COUNT ONE

9. Petitioner realleges and incorporates paragraphs one through eight as if fully set forth herein.

10. Rule 64B16-27.797(5)(a), Florida Administrative Code, provides that the pharmacy shall have a designated area with entry restricted to designated personnel for preparing parenteral products. This area shall have a specified ante area and buffer area; in high risk compounding, this shall be separate rooms.

11. As set forth above, Respondent was engaging in low-risk compounding in an unsterile environment without the use of a buffer room or buffer area.

12. Based on the foregoing, Respondent has violated Section 465.023(1)(c), Florida Statutes (2012), by and through a violation of Rule 64B16-27.797(5)(a), Florida Administrative Code, which provides that the pharmacy shall have a designated area with entry restricted to designated

personnel for preparing parenteral products. This area shall have a specified ante area and buffer area; in high risk compounding, this shall be separate rooms.

COUNT TWO

13. Petitioner realleges and incorporates paragraphs one through eight as if fully set forth herein.

14. Rule 64B16-27.797(5)(b)1., Florida Administrative Code, provides that the pharmacy compounding parenteral and sterile preparation shall have appropriate environmental devices capable of maintaining at least class 100 conditions in the work place where critical objects are exposed and critical devices are performed; furthermore, these devices must be capable of maintain class 100 conditions during normal activity. Examples of appropriate devices include laminar airflow hoods and zonal laminar flow of high efficiency particulate air (HEPA) filtered air.

15. As set forth above, Respondent was engaging in low-risk compounding in an unsterile environment without the use of a laminar hood to maintain at least class 100 air quality conditions in the work place where compounding was taking place.

16. Based on the foregoing, Respondent has violated Section 465.023(1)(c), Florida Statutes (2012), by and through a violation of Rule 64B16-27.797(5)(b)1., Florida Administrative Code, which provides that the pharmacy compounding parenteral and sterile preparation shall have appropriate environmental devices capable of maintaining at least class 100 conditions in the work place where critical objects are exposed and critical devices are performed; furthermore, these devices must be capable of maintain class 100 conditions during normal activity. Examples of appropriate devices include laminar airflow hoods and zonal laminar flow of high efficiency particulate air (HEPA) filtered air.

COUNT THREE

17. Petitioner realleges and incorporates paragraphs one through eight as if fully set forth herein.

18. Rule 64B16-27.797(1)(n)4., Florida Administrative Code, provides that for low-risk preparation, in the absence of passing a sterility test or a documented validated process, the storage periods cannot exceed the following time periods; before administration, the compounded sterile products are properly stored and exposed for not more than 48 hours at controlled room temperature, and not for more than 14 days at a cold

temperature (2-8 degrees Celsius), and for 45 days in sold frozen state at -20 degrees Celsius or colder.

19. As set forth above, Respondent extended beyond-use dates to low-risk compounded sterile products past allowable time limits.

20. Based on the foregoing, Respondent has violated Section 465.023(1)(c), Florida Statutes (2012), by and through a violation of Rule 64B16-27.797(1)(n)4., Florida Administrative Code, which provides that for low-risk preparation, in the absence of passing a sterility test or a documented validated process, the storage periods cannot exceed the following time periods; before administration, the compounded sterile products are properly stored and exposed for not more than 48 hours at controlled room temperature, and not for more than 14 days at a cold temperature (2-8 degrees Celsius), and for 45 days in sold frozen state at -20 degrees Celsius or colder.

COUNT FOUR

21. Petitioner realleges and incorporates paragraphs one through eight as if fully set forth herein.

22. Rule 64B16-27.797(4), Florida Administrative Code, provides that a policy and procedure manual shall be prepared and maintained for

the compounding, dispensing, and delivery of sterile preparation prescriptions.

23. As set forth above, Respondent did not have a policy and procedures manual in place for the compounding of sterile products.

24. Based on the foregoing, Respondent has violated Section 465.023(1)(c), Florida Statutes (2012), by and through a violation of Rule 64B16-27.797(4), Florida Administrative Code, which provides that a policy and procedure manual shall be prepared and maintained for the compounding, dispensing, and delivery of sterile preparation prescriptions.

COUNT FIVE

25. Petitioner realleges and incorporates paragraphs one through eight as if fully set forth herein.

26. Rule 64B16-28.140(4), Florida Administrative Code, provides that a written record shall be maintained for each batch/sub-batch of a compounded product under the provisions of Rule 64B16-27.700, Florida Administrative Code.

27. As set forth above, Respondent did not maintain any compounding records.

28. Based on the foregoing, Respondent has violated Section 465.023(1)(c), Florida Statutes (2012), by and through a violation of Rule 64B16-28.140(4), Florida Administrative Code, which provides that a written record shall be maintained for each batch/sub-batch of a compounded product under the provisions of Rule 64B16-27.700, Florida Administrative Code.

COUNT SIX

29. Petitioner realleges and incorporates paragraphs one through eight as if fully set forth herein.

30. Rule 64B16-27.797(7), Florida Administrative Code, provides that there shall be a documented, ongoing quality assurance control program that monitors personnel performance, equipment, and preparations.

31. As set forth above, Respondent did not have documentation of an ongoing quality assurance program in place.

32. Based on the foregoing, Respondent has violated Section 465.023(1)(c), Florida Statutes (2012), by and through a violation of Rule 64B16-27.797(7), Florida Administrative Code, which provides that there

shall be a documented, ongoing quality assurance control program that monitors personnel performance, equipment, and preparations.

COUNT SEVEN

33. Petitioner realleges and incorporates paragraphs one through eight as if fully set forth herein.

34. Rule 64B16-27.797(1)(n)6., Florida Administrative Code, provides that all compounding personnel are required to demonstrate competency by completing a media-filled test that represents low-level compounding annually.

35. As set forth above, Respondent had no documentation that its compounding personnel completed a low-risk media-filled test within the 12 months preceding the inspection on or about April 24, 2013.

36. Based on the foregoing, Respondent has violated Section 465.023(1)(c), Florida Statutes (2012), by and through a violation of Rule 64B16-27.797(1)(n)6., Florida Administrative Code, which provides that all compounding personnel are required to demonstrate competency by completing a media-filled test that represents low-level compounding annually.

COUNT EIGHT

37. Petitioner realleges and incorporates paragraphs one through eight as if fully set forth herein.

38. Rule 64B16-28.202(3), Florida Administrative Code, provides that prior to closure of a pharmacy, the permittee shall notify the Board of Pharmacy in writing as to the effective date of closure, and shall return the pharmacy permit to the Board of Pharmacy office or arrange with the local Bureau of Investigative Services of the Department to have the pharmacy permit returned to the Board of Pharmacy, and advise the Board of Pharmacy which permittee is to receive the prescription files.

39. As set forth above, Respondent failed to notify the Board of Pharmacy in writing of its closure and failed to have its pharmacy permit returned to the Board of Pharmacy.

40. Based on the foregoing, Respondent has violated Section 465.023(1)(c), Florida Statutes (2013), by and through a violation of Rule 64B16-28.202(3), Florida Administrative Code, which provides that prior to closure of a pharmacy, the permittee shall notify the Board of Pharmacy in writing as to the effective date of closure, and shall return the pharmacy permit to the Board of Pharmacy office or arrange with the local Bureau of

Investigative Services of the Department to have the pharmacy permit returned to the Board of Pharmacy, and advise the Board of Pharmacy which permittee is to receive the prescription files.

[Remainder of page left intentionally blank]

WHEREFORE, the Petitioner respectfully requests that the Board of Pharmacy enter an order imposing one or more of the following penalties: permanent revocation or suspension of Respondent's license, restriction of practice, imposition of an administrative fine, issuance of a reprimand, placement of the Respondent on probation, corrective action, refund of fees billed or collected, remedial education and/or any other relief that the Board deems appropriate.

SIGNED this 27th day of March, 2014.

John H. Armstrong, MD, FACS
State Surgeon General and
Secretary of Health

Christopher A. Jurich

CHRISTOPHER A. JURICH
Assistant General Counsel
Fla. Bar No. 0099014
Florida Department of Health
Office of the General Counsel
4052 Bald Cypress Way, Bin C-65
Tallahassee, FL 32399-3265
Telephone: (850) 245-4444
Facsimile: (850) 245-4683
Email: christopher.jurich@flhealth.gov

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK ANGEL SANDERS
DATE MAR 27 2014

/CAJ

PCP Meeting: March 13, 2014
PCP Members: Albert Garcia, BPharm and Leo Fallon, BPharm, PhD

NOTICE OF RIGHTS

Respondent has the right to request a hearing to be conducted in accordance with Section 120.569 and 120.57, Florida Statutes, to be represented by counsel or other qualified representative, to present evidence and argument, to call and cross-examine witnesses and to have subpoena and subpoena duces tecum issued on his or her behalf if a hearing is requested.

NOTICE REGARDING ASSESSMENT OF COSTS

Respondent is placed on notice that Petitioner has incurred costs related to the investigation and prosecution of this matter. Pursuant to Section 456.072(4), Florida Statutes, the Board shall assess costs related to the investigation and prosecution of a disciplinary matter, which may include attorney hours and costs, on the Respondent in addition to any other discipline imposed.

7196 9008 9111 1388 2172

TO:

C.S. Eby, M.D., P.A.

SENDER: A. DEIDESHEIMER
Stip Pak

REFERENCE: 2013-06703

PS Form 3800, January 2005

| | | |
|------------------------------|----------------------|--|
| RETURN RECEIPT SERVICE | Postage | |
| | Certified Fee | |
| | Return Receipt Fee | |
| | Restricted Delivery | |
| | Total Postage & Fees | |

USPS®

Receipt for
Certified Mail™

No Insurance Coverage Provided
Do Not Use for International Mail

POSTMARK OR DATE

2. Article Number



7196 9008 9111 1388 2172

3. Service Type CERTIFIED MAIL™

4. Restricted Delivery? (Extra Fee) Yes

1. Article Addressed to: Charles S. Eby, M.D., P.A.
2668 Swamp Cabbage Court
Fort Myers, FL 33901

CJ
Stip Pak
12013-06703

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly)

C. Priegantz

B. Date of Delivery

4/5/14

C. Signature

X carrier

Agent
 Addressee

D. Is delivery address different from item 1?
If YES, enter delivery address below:

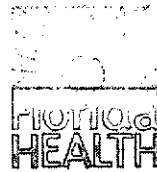
Yes
 No

2014 APR 10 AM 8:18

PRACTITIONER REGULATION
LEGAL

Mission:

To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.



Rick Scott
Governor

John H. Armstrong, MD, FACS
State Surgeon General & Secretary

Vision: To be the Healthiest State in the Nation

May 30, 2014

CERTIFIED MAIL

Charles S. Eby, M.D., P.A.
2668 Swamp Cabbage Court
Ft. Myers, FL 33901-9332

Re: DOH vs. Charles S. Eby, M.D., P.A.
DOH Case Number: 2013-06703

Dear Dr. Eby:

We are in receipt of your executed Voluntary Relinquishment form. As you are aware, by signing the Voluntary Relinquishment of License form you agreed to the following:

- the Voluntary Relinquishment would be considered disciplinary action against your license;
- Voluntarily relinquishing your Florida pharmacist license may have an effect on pharmacy licenses you may hold in other states.

If this is not what you understood, please contact me as soon as possible to discuss, at 850-245-4444, ext. 8224. Otherwise, this case will proceed as planned, and the Florida Board of Pharmacy will take up your request for Voluntary Relinquishment of License at their next regularly scheduled meeting August 12-13, 2014. You are not required to attend the meeting.

Sincerely,

A handwritten signature in cursive script that reads "Christopher A. Jurich".

Christopher A. Jurich
Assistant General Counsel

CAJ/aed

Florida Department of Health

Office of the General Counsel • Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65 • Tallahassee, FL 32399-1701
Express mail address: 2585 Merchants Row - Suite 105
PHONE: 850/245-4444 • FAX 850/245-4683

www.FloridasHealth.com

TWITTER: HealthyFLA
FACEBOOK: FLDepartmentofHealth
YOUTUBE: fldoh

CONFIDENTIAL AND EXEMPT MATERIALS

**One or more pages have been removed
from this document for security reasons**

**Scroll down to see the available pages or
advance to the next document if all
pages have been removed.**

SOME OR ALL PAGES IN THIS DOCUMENT ARE PATIENT RECORDS
AND/OR DOCUMENTS THAT IDENTIFY THE PATIENT BY NAME AND ARE
EXEMPT FROM PUBLIC RECORDS LAWS.

456.057 - Ownership and control of patient records; report or copies of records to be
furnished.—

10)(a)All patient records obtained by the department and any other documents
maintained by the department which identify the patient by name are confidential and exempt
from s. 119.07(1) and shall be used solely for the purpose of the department and the appropriate
regulatory board in its investigation, prosecution, and appeal of disciplinary proceedings. The
records shall not be available to the public as part of the record of investigation for and
prosecution in disciplinary proceedings made available to the public by the department or the
appropriate board.

Mission:

To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.



Rick Scott
Governor

John H. Armstrong, MD, FACS
State Surgeon General & Secretary

Vision: To be the Healthiest State in the Nation

April 23, 2014

Charles S. Eby, M.D.
16063 Forest Oaks Drive
Fort Myers, Florida 33908

Re: DOH v. Charles S. Eby, M.D., P.A.
DOH Case No. 2013-06703

Dear Dr. Eby:

My office is in receipt of your letter dated April 13, 2014. I understand that you returned your pharmacy permit with the intent not to practice again, and I will forward your returned permit to the Board of Pharmacy. However, please be advised that returning your pharmacy permit does not resolve the open disciplinary case against your pharmacy.

As a means of resolving the disciplinary case against the pharmacy, you have the option to execute a Voluntary Relinquishment of your pharmacy permit, which I have enclosed with this letter. Please note that voluntarily relinquishing your pharmacy permit is considered disciplinary action by the Board of Pharmacy. However, signing the Voluntary Relinquishment form will allow you to avoid any costs associated with the investigation and prosecution of this case as well as forgo further disciplinary hearings.

If you have any questions, please contact me at (850) 245-4444, extension 8174.

Sincerely,

A handwritten signature in cursive script that reads "Christopher A. Jurich".

Christopher A. Jurich
Assistant General Counsel

CAJ/aed

Enclosure: Voluntary Relinquishment

Florida Department of Health

Office of the General Counsel • Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65 • Tallahassee, FL 32399-1701
Express mail address: 2585 Merchants Row ~ Suite 105
PHONE: 850/245-4444 • FAX 850/245-4683

www.FloridasHealth.com

TWITTER: HealthyFLA
FACEBOOK: FLDepartmentofHealth
YOUTUBE: fldoh

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

Petitioner,

v.

CASE NO. 2013-06703

**CHARLES S. EBY, M.D., P.A.,
d/b/a DERMATOLOGIC &
COSMETIC SURGERY CENTER, L.C.**

Respondent.

VOLUNTARY RELINQUISHMENT OF LICENSE

Respondent, **Charles S. Eby, M.D., P.A. d/b/a Dermatologic & Cosmetic Surgery Center, L.C.**, permit number **PH10330**, hereby voluntarily relinquishes its pharmacy permit in the State of Florida and states as follows:

1. Respondent's purpose in executing this Voluntary Relinquishment is to avoid further administrative action with respect to this cause. Respondent understands that acceptance by the Board of Pharmacy (hereinafter the Board) of this Voluntary Relinquishment shall be construed as action against Respondent's license pursuant to Section 456.072(1)(f), Florida Statutes.

2. Respondent agrees to never reapply for a pharmacy permit in the State of Florida.

3. Respondent agrees to voluntarily cease operating a pharmacy in the state of Florida immediately upon executing this Voluntary Relinquishment. Respondent further agrees to refrain from operating a pharmacy until such time as this Voluntary Relinquishment is presented to the Board and the Board issues a written final order in this matter.

4. In order to expedite consideration and resolution of this action by the Board in a public meeting, Respondent, being fully advised of the consequences of so doing, hereby waives the statutory privilege of confidentiality of Section 456.073(10), Florida Statutes, and waives a determination of probable cause, by the Probable Cause Panel, or the Department when appropriate, pursuant to Section 456.073(4), Florida Statutes, regarding the complaint, the investigative report of the Department of Health, and all other information obtained pursuant to the Department's investigation in the above-styled action. By signing this waiver, Respondent understands that the record and complaint become public record and remain public record and that information is immediately accessible to the public. Section 456.073(10) Florida Statutes.

5. Upon the Board's acceptance of this Voluntary Relinquishment, Respondent agrees to waive all rights to seek judicial review of, or to otherwise challenge or contest the validity of, this Voluntary Relinquishment and of the Final Order of the Board incorporating this Voluntary Relinquishment.

6. Petitioner and Respondent hereby agree that upon the Board's acceptance of this Voluntary Relinquishment, each party shall bear its own attorney's fees and costs related to the prosecution or defense of this matter.

7. Respondent authorizes the Board to review and examine all investigative file materials concerning Respondent in connection with the Board's consideration of this Voluntary Relinquishment. Respondent agrees that consideration of this Voluntary Relinquishment and other related materials by the Board shall not prejudice or preclude the Board, or any of its members, from further participation, consideration, or resolution of these proceedings if the terms of this Voluntary Relinquishment are not accepted by the Board.

DATED this _____ day of _____, 2014.

CHARLES S. EBY, M.D., P.A.
CASE NO. 2013-06703

STATE OF FLORIDA
COUNTY OF _____

Before me, personally appeared _____,
whose identity is known to me by _____ (type
of identification) and who, under oath, acknowledges that his/her signature
appears above.

Sworn to and subscribed before me this _____ day of _____,
2014.

NOTARY PUBLIC

My Commission Expires:

2205 L 10330

PRACTITIONER REGULATION
LEGAL

2014 APR 25 PM 1:51

RECEIVED

APR 17 2014

Licensing and
Auditing Services

April 13, 2014

Florida Dept. of Health
Office of the General Counsel, Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, FL32399-1701


RE: DOH v. Charles S. Eby MD
Case Number: 201306703; Pharmacy License 10330

Dear Christopher Jurich,

This letter is in response to your administrative complaint received early April 2014. As of the date April 24, 2013, the inspection by your department representative declared our surgery center to be in violation of Chapters 456 & 465 Florida Statutes. Upon learning of our violation we immediately and totally ceased compounding low level medications, on which this entire complaint was based. At the time of the first inspection, I was having symptoms of a yet undiagnosed cancer. By the end of July we had completely closed the practice, when we were attempted to be reinspected. I have inoperable pancreatic cancer and am being treated at Moffitt Cancer Center. At the time of closing, while in much pain, I had followed a recommended list of those entities needing notification and record redistribution, but the return of the pharmacy license was not listed.

Enclosed is the license you request, and since I am terminally ill, I know you understand I have no office, I am not practicing, and I will never practice again, which negates any disciplinary action or cost on your part.

Sincerely,


Charles S. Eby MD
16063 Forest Oaks Drive
Fort Myers, FL 33908
(239) 281-6568

RECEIVED

APR 21 2014

Licensing and
Auditing Services

ELECTION OF RIGHTS

Case Name: Charles S. Eby, M.D., P.A.

Case No.: 2013-06703

PLEASE SELECT ONLY 1 OF THE 3 OPTIONS

An Explanation of Rights is attached. If you do not understand these options, please consult with your attorney or contact the attorney for the Prosecution Services Unit at the address/phone number listed at the bottom of this form.

OPTION 1. I do not dispute the allegations of fact in the Administrative Complaint, but do wish to be accorded a hearing, pursuant to Section 120.57(2), Florida Statutes, at which time I will be permitted to submit oral and/or written evidence in mitigation of the complaint to the Board.

OPTION 2. I do not dispute the allegations of fact contained in the Administrative Complaint and waive my right to object or to be heard. I request that the Board enter a final order pursuant to Section 120.57, Florida Statutes.

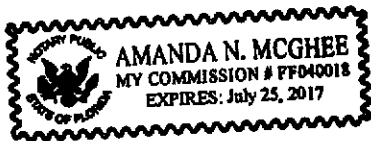
OPTION 3. I do dispute the allegations of fact contained in the Administrative Complaint and request this to be considered a petition for formal hearing, pursuant to Sections 120.569(2)(a) and 120.57(1), Florida Statutes, before an Administrative Law Judge appointed by the Division of Administrative Hearings. I specifically dispute the following paragraphs of the Administrative Complaint:

In addition to the above selection, I also elect the following:

- () I accept the terms of the Settlement Agreement, have signed and am returning the Settlement Agreement or I am interested in settling this case.
(checked) I do not wish to continue practicing and have signed and returned the Voluntary Relinquishment of licensure form.

Regardless of which option I have selected, I understand that I will be given notice of time, date, and place when this matter is to be considered by the Board for Final Action. Mediation under Section 120.573, Florida Statutes, is not available in this matter.

(Please sign and complete all the information below.)



Respondent's signature
Address: 16063 Forest Oaks Dr
Ft. Myers, FL 33908
Lic. No. PH 10330
Phone No. 239-2816568
Fax No.

STATE OF FLORIDA
COUNTY OF Lee

Before me personally appeared Dr. Charles Eby whose identity is known to be by personal (type of identification), and who under oath, acknowledges that his/her signature appears above. Sworn to and subscribed by Respondent before me this 11 day of April, 2014.

Amanda N. McGhee
Notary Public
My Commission Expires: 07/25/2017

PLEASE MAIL AND/OR FAX COMPLETED FORM TO: Christopher Jurich, Esq., Assistant General Counsel, DOH, Prosecution Services Unit, 4052 Bald Cypress Way, Bin C-65, Tallahassee, Florida 32399-3265. Telephone Number: (850) 245-4444; FAX (850) 245-4683- TDD 1-800-955-8771.

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

EXPLANATION OF RIGHTS

In response to the allegations set forth in the Administrative Complaint issued by the Department of Health, you should make **ONE OF THREE** of the following elections within twenty-one (21) days from the date of receipt of the Administrative Complaint. Please make your election on the attached Election of Rights form and return it fully executed to the address listed on the form. **Your Election of Rights must be received by the Department within twenty-one (21) days of the date you were served.**

Option 1 – If you do not dispute any material fact alleged in the Administrative Complaint, you may request a proceeding pursuant to Section 120.57(2), Florida Statutes, before the Board. At this proceeding you will be given an opportunity to present both written and oral evidence in mitigation of the allegations contained in the Administrative Complaint. This request should be directed to the Department by checking the appropriate space, marked as Option 1, on the Election of Rights form.

Option 2 – If you do not dispute any material fact alleged in the Administrative Complaint and you do not desire to participate in the disposition of the case, you may elect Option 2 on the Election of Rights form.

Option 3 – If you do dispute any material fact alleged in the Administrative Complaint, you may request a formal hearing and the appointment of an Administrative Law Judge with the Division of Administrative Hearings pursuant to Section 120.569(2)(a), Florida Statutes, by checking the appropriate space, marked as Option 3, on the Election of Rights form. You must also specifically indicate which paragraphs you dispute in the Administrative Complaint pursuant to Rule 28-106.2015(5)(c), Florida Administrative Code. Failure to do so may be considered a waiver of your right to dispute the allegations at a formal hearing.

Regardless of whether you dispute any material fact alleged in the Administrative Complaint and after choosing one of the three options above, you may also sign the Settlement Agreement or request the opportunity to enter into a Settlement Agreement to resolve this case, pursuant to Section 120.57(4), Florida Statutes. If you accept the Settlement Agreement, it will be presented to the Board for approval. Please be advised that a Final Order approving a Settlement Agreement is considered disciplinary action and will be reported as such.

You may also sign the Voluntary Relinquishment of license, which will be presented to the Board for approval. Please be advised that a Final Order accepting the Voluntary Relinquishment is considered disciplinary action and will be reported as such.

Failure to file the Election of Rights form within twenty-one (21) days may be considered a waiver of your right to dispute the allegations in this matter, pursuant to Rule 28-106.111(4), Florida Administrative Code, and the Board may proceed to hear the case and impose discipline against your license.

EXPLANATION OF THE DISCIPLINARY PROCESS

Once an Administrative Complaint has been filed against the license of a health care professional regulated by the Department of Health, the subject, also referred to as the Respondent, has three options to choose from to resolve the matter.

Option 1 – Settlement Agreement: Pursuant to Section 120.57(4), Florida Statutes, the subject and the Department may enter into a Settlement Agreement. A Settlement Agreement is an agreement between all parties resolving a case without the need for a Formal or Informal Hearing. Settlement Agreements save the Department of Health, the Board, and the subject time and money. In this situation, the Board will hear statements from both parties supporting the proposed Settlement Agreement. If the Board believes the Settlement Agreement is appropriate, the Board will accept the Settlement Agreement and impose its terms against the subject's license. If the Board rejects the Settlement Agreement, it may make a counter-offer to the subject. If the subject does not accept the Board's counter-offer, the subject may choose to proceed with a Formal or Informal Hearing at a later date.

Option 2 – Informal Hearing: Pursuant to Section 120.57(2), Florida Statutes, the subject may request a Hearing Not Involving Disputed Issues of Material Fact, also referred to as an Informal Hearing. In this situation the subject does not dispute the factual allegations in the Administrative Complaint, but is given the opportunity to present evidence to mitigate any penalty or discipline. After considering the evidence, the Board will determine whether the subject should be disciplined and what kind of discipline, if any, is appropriate.

Option 3 – Formal Hearing: Pursuant to Section 120.57(1), Florida Statutes, the subject may request a Hearing Involving Disputed Issues of Material Fact, also referred to as a Formal Hearing. In this situation, the subject has disputed some or all of the material facts upon which the Administrative Complaint is based. An Administrative Law Judge at the Division of Administrative Hearings hears the case. After presentation of evidence by both the Department and the subject, the Administrative Law Judge sends a Recommended Order to the Board. The Board will consider the Administrative Law Judge's Recommended Order, as well as any objections or exceptions presented by the Department or the subject. In these cases, the Board is restricted to the evidence and record that was presented to the Administrative Law Judge during the Formal Hearing, and cannot hear or accept any new evidence. After considering the Recommended Order, the Board will issue a Final Order reflecting their final decision on the case.

If the subject fails to respond to an Administrative Complaint within twenty-one (21) days of service, the right to dispute the issues of material fact may be waived. In the event of a waiver, the case may be heard by the Board at an Informal Waiver Hearing. An Informal Waiver Hearing is, essentially, identical to an Informal Hearing. The Board will review the case, and determine whether the subject should be disciplined and what kind of discipline, if any, is appropriate.

The complainant has the right to attend any and all of these public hearings, but is not required to do so unless called as a witness by the Department or by the subject. The complainant also has the right to present oral or written communication regarding the alleged violation or the penalty the Board may impose.

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO. 2013-06703

**CHARLES S. EBY, M.D., P.A.,
d/b/a DERMATOLOGIC &
COSMETIC SURGERY CENTER, L.C.**

RESPONDENT.

_____ /

SETTLEMENT AGREEMENT

Pursuant to Section 120.57(4), Florida Statutes, the parties offer this Settlement Agreement to the Board of Pharmacy (Board) as disposition of the Administrative Complaint, attached as Exhibit A, in lieu of further administrative proceedings.

STIPULATED FACTS

1. At all times material to this matter, Charles S. Eby, M.D., P.A., d/b/a Dermatologic & Cosmetic Surgery Center, L.C., was a permitted Modified Institutional Class II Type B pharmacy in the state of Florida, having been issued license number PH 10330. Respondent's mailing

address of record is 2668 Swamp Cabbage Court, Fort Myers, Florida 33901.

2. Respondent was charged by an Administrative Complaint, filed by the Department of Health (Department) and properly served upon Respondent, with violations of Chapters 456 and 465, Florida Statutes.

STIPULATED LAW

1. Respondent admits that Respondent is subject to the provisions of Chapters 456 and 465, Florida Statutes, and the jurisdiction of the Department.

2. Respondent admits that the allegations in the Administrative Complaint, if proven true, constitute violations of law and cause the Respondent to be subject to discipline by the Board of Pharmacy.

PROPOSED DISPOSITION

1. **Costs**- The Board of Pharmacy shall impose the total, administrative costs associated with the investigation and prosecution of this matter in an amount not to exceed **ONE THOUSAND EIGHT HUNDRED EIGHTY-SIX DOLLARS AND EIGHTY-FOUR CENTS (\$1,886.84)**. Total costs shall be assessed when the Settlement Agreement is presented to the Board. The costs shall be paid by

Respondent to the **Department of Health, Compliance Management Unit, Bin C76, Post Office Box 6320, Tallahassee, Florida 32314-**

6320, within **90 days** from the date the Final Order is filed with the Department Clerk.

2. **Revocation**- The permit of Charles S. Eby, M.D., P.A., d/b/a Dermatologic & Cosmetic Surgery Center, L.C. is **REVOKED**. Within 30 days the Respondent shall return its permit to DOH-Compliance Management Unit, 4052 Bald Cypress Way, Tallahassee, Florida 32399-3276, Attention: Pharmacy Compliance Officer, or shall surrender the permit to an investigator of the Department of Health.

3. **Future Conduct**- Respondent shall not violate Chapters 456, 465, 499, or 893, Florida Statutes; the rules promulgated pursuant thereto; or any other state or federal law, rule, or regulation relating to the practice or to the ability to practice pharmacy.

4. **Violation of Terms**- It is expressly understood that a violation of the provisions of this Settlement Agreement as approved and incorporated into the Final Order of the Board of Pharmacy shall constitute a violation of an order of the Board for which disciplinary action may be initiated against Respondent pursuant to Chapter 465, Florida Statutes.

5. **No Force or Effect until Final Order-** It is expressly understood that this Settlement Agreement is subject to approval by the Board and has no force or effect until the Board incorporates the terms of this Settlement Agreement into its Final Order.

6. **Purpose of Agreement-** This Settlement Agreement is executed by Respondent for the purpose of avoiding further administrative action with respect to this particular case. In this regard, Respondent authorizes the Board to review and examine all investigative file materials concerning Respondent prior to, or in conjunction with, consideration of the Settlement Agreement. Petitioner and Respondent agree to support this Settlement Agreement at the time it is presented to the Board and shall offer no evidence, testimony, or argument that disputes or contravenes any stipulated fact or conclusion of law. Furthermore, should this Settlement Agreement not be accepted by the Board, it is agreed that the presentation and consideration of this Settlement Agreement and other documents and matters by the Board shall not unfairly or illegally prejudice the Board or any of its members from further participation, consideration, or resolution of these proceedings.

7. **Not Preclude Additional Proceedings**- Respondent and the Department fully understand that this Settlement Agreement as approved and incorporated into the Final Order will not preclude additional proceedings by the Board or Department against Respondent for acts or omissions not specifically set forth in the Administrative Complaint.

8. **Waiver of Attorney's Fees and Costs**- Respondent waives the right to seek any attorney's fees and costs from the Department in connection with this disciplinary proceeding.

9. **Waiver of Procedural Rights**- Respondent waives all rights to further administrative procedure and to appeal and further review of this Settlement Agreement and the Final Order.

10. **Current Addresses**- Respondent shall keep current its mailing address and its practice address with the Board of Pharmacy and the Compliance Officer and shall notify the Board of Pharmacy and the Compliance Officer of any change of mailing address or practice address within ten (10) days of the change.

WHEREFORE, the parties request that the Board enter a Final Order approving and incorporating this Settlement Agreement in resolution of this matter.

SIGNED this 11th day of April, 2014.

Institutional Representative for
Charles S. Eby, M.D., P.A.
Case No. 2013-06703

STATE OF Florida

COUNTY OF W

Before me personally appeared Dr. Charles Eby, whose identity is known to me or by Personal known (type of identification), and who, under oath, acknowledges that his/her signature appears above.

Sworn to and subscribed before me this 11 day of April, 2014.

Amanda McGhee
Notary Public
My Commission Expires: 7/25/2017



APPROVED this _____ day of _____, 2014.

John H. Armstrong, MD, FACS
State Surgeon General and
Secretary of Health

Christopher A. Jurich
Assistant General Counsel

Counsel for Petitioner

Christopher A. Jurich
Florida Bar No. 0099014
Assistant General Counsel
Department of Health
Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, Florida 32399
Tel.: (850) 245-4444 ext. 8174
Fax: (850) 245-4683

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

Petitioner,

v.

CASE NO. 2013-06703

**CHARLES S. EBY, M.D., P.A., d/b/a
DERMATOLOGIC & COSMETIC SURGERY CENTER, L.C.**

Respondent.

VOLUNTARY RELINQUISHMENT OF LICENSE

Respondent, Charles S. Eby, M.D., P.A., d/b/a Dermatologic & Cosmetic Surgery Center, L.C., license number PH 10330, hereby voluntarily relinquishes Respondent's pharmacy permit in the State of Florida and states as follows:

1. Respondent's purpose in executing this Voluntary Relinquishment is to avoid further administrative action with respect to this cause. Respondent understands that acceptance by the Board of Pharmacy (hereinafter the Board) of this Voluntary Relinquishment shall be construed as action against Respondent's license pursuant to Section 456.072(1)(f), Florida Statutes (2012).

2. Respondent agrees to never reapply for a pharmacy permit in the State of Florida.

3. Respondent agrees to voluntarily cease practicing pharmacy in the state of Florida immediately upon executing this Voluntary Relinquishment. Respondent further agrees to refrain from the practice of pharmacy until such time as this Voluntary Relinquishment is presented to the Board and the Board issues a written final order in this matter.

4. In order to expedite consideration and resolution of this action by the Board in a public meeting, Respondent, being fully advised of the consequences of so doing, hereby waives the statutory privilege of confidentiality of Section 456.073(10), Florida Statutes, and waives a determination of probable cause, by the Probable Cause Panel, or the Department when appropriate, pursuant to Section 456.073(4), Florida Statutes, regarding the complaint, the investigative report of the Department of Health, and all other information obtained pursuant to the Department's investigation in the above-styled action. By signing this waiver, Respondent understands that the record and complaint become public record and remain public record and that information is immediately accessible to the public.

5. Upon the Board's acceptance of this Voluntary Relinquishment, Respondent agrees to waive all rights to seek judicial review of, or to otherwise challenge or contest the validity of, this Voluntary Relinquishment and of the Final Order of the Board incorporating this Voluntary Relinquishment.

6. Petitioner and Respondent hereby agree that upon the Board's acceptance of this Voluntary Relinquishment, each party shall bear its own attorney's fees and costs related to the prosecution or defense of this matter.

7. Respondent authorizes the Board to review and examine all investigative file materials concerning Respondent in connection with the Board's consideration of this Voluntary Relinquishment. Respondent agrees that consideration of this Voluntary Relinquishment and other related materials by the Board shall not prejudice or preclude the Board, or any of its members, from further participation, consideration, or resolution of these proceedings if the terms of this Voluntary Relinquishment are not accepted by the Board.

DATED this 11th day of April, 2014.

Charles S. Eby, M.D., P.A.
DOH Case No. 2013-06703

STATE OF FLORIDA
COUNTY OF Ill

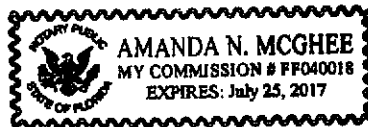
Before me, personally appeared Charles Eby,
whose identity is known to me by personal known (type
of identification) and who, under oath, acknowledges that his/her signature
appears above.

Sworn to and subscribed before me this 11th day of April, 2014.

Amanda N. McGhee
NOTARY PUBLIC

My Commission Expires:

7/25/17



Forest Oaks Dr
Mesa, FL 33908



U.S. POSTAGE
PAID
BONITA SPRINGS, FL
33433
APR 14 2014
AMOUNT
\$6.26
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Department of Health
Compliance Management Unit
Bin C 76
PO Box 6320
Tallahassee, FL 32314-6320

APR 16 2014

April 13, 2014

Florida Dept. of Health
Office of the General Counsel, Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, FL32399-1701


RE: DOH v. Charles S. Eby MD
Case Number: 201306703; Pharmacy License 10330

Dear Christopher Jurich,

This letter is in response to your administrative complaint received early April 2014. As of the date April 24, 2013, the inspection by your department representative declared our surgery center to be in violation of Chapters 456 & 465 Florida Statutes. Upon learning of our violation we immediately and totally ceased compounding low level medications, on which this entire complaint was based. At the time of the first inspection, I was having symptoms of a yet undiagnosed cancer. By the end of July we had completely closed the practice, when we were attempted to be reinspected. I have inoperable pancreatic cancer and am being treated at Moffitt Cancer Center. At the time of closing, while in much pain, I had followed a recommended list of those entities needing notification and record redistribution, but the return of the pharmacy license was not listed.

Enclosed is the license you request, and since I am terminally ill, I know you understand I have no office, I am not practicing, and I will never practice again, which negates any disciplinary action or cost on your part.

Sincerely,


Charles S. Eby MD
16063 Forest Oaks Drive
Fort Myers, FL 33908
(239) 281-6568

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14 APR 16 PM 4:27

AC#

STATE OF FLORIDA
DEPARTMENT OF HEALTH
DIVISION OF MEDICAL QUALITY ASSURANCE

| DATE | LICENSE NO. | CONTROL NO. |
|------------|-------------|-------------|
| 11/22/2012 | PH 10330 | 66262 |

| STATE OF FLORIDA DEPARTMENT OF HEALTH DIVISION OF MEDICAL QUALITY ASSURANCE | AC# | CONTROL NO. |
|---|-------------|-------------|
| DATE | LICENSE NO. | 66262 |
| 11/22/2012 | PH 10330 | |

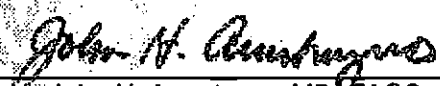
The PHARMACY named below has met all requirements of the laws and rules of the state of Florida.
 Expiration Date: **FEBRUARY 28, 2015**
CHARLES S EBY, MD PA
DERMATOLOGIC & COSMETIC SURGERY CTR
2668 SWAMP CABBAGE CT
FORT MYERS, FL 33901-9332

QUALIFICATION(S):
 MODIFIED INST. CLASS II TYPE B

The PHARMACY named below has met all requirements of the laws and rules of the state of Florida.
 Expiration Date: **FEBRUARY 28, 2015**
CHARLES S EBY, MD PA



Rick Scott
GOVERNOR



John H. Armstrong, MD, FACS
STATE SURGEON GENERAL

DISPLAY IF REQUIRED BY LAW

QUALIFICATION(S):
 Modified Inst. Class II Type B

EXPIRATION DATE: **FEBRUARY 28, 2015**

Your license number is **PH 10330**, please use it in all correspondence with your board/council. Each licensee is solely responsible for notifying the department in writing of the licensee's current mailing address and practice location address. If you have not received your renewal notice 90 days prior to the expiration date shown on this license, please call (850) 488-0595.

Use this section to report name change. Name changes require legal documentation showing the name change. Please make sure that a photocopy of one of the following accompanies this form: a marriage license, a divorce decree or a court order. **A driver's license or social security card is not considered legal documentation.**

Medical Quality Assurance offers you the convenience of several online services. These services give you the ability to renew your license, update your mailing and practice location addresses and update your profile information.

1. Go to www.flhealthsource.com
2. Click on Licensee/Provider
3. Click on Practitioner Login
4. Select your profession
5. Enter the account ID and password that was provided to you on your initial license and click on "Login".
6. If you do not know your account ID and password, click on "Get Login Help" or call our Customer Contact Center at (850) 488-0595 for assistance.

MAIL TO: DEPARTMENT OF HEALTH
 DIVISION OF MEDICAL QUALITY ASSURANCE
 LICENSING AND AUDITING SERVICES UNIT
 P.O. BOX 6320
 TALLAHASSEE, FLORIDA 32314-6320

NAME CHANGE (ATTACH LEGAL DOCUMENTATION)

FROM: _____
 LAST FIRST MIDDLE
 TO: _____
 LAST FIRST MIDDLE
 DH 103, 5/98

| | | | | | | | |
|-------------|----------------------|----------|-------------|--------|----------------------|----|-------------|
| Lic Type | 2205 | Pharmacy | Status | BD | Probable Cause Found | On | 04/07/2014 |
| Complaint # | 201306703 | Docket # | Disposition | | | On | |
| Respondent | CHARLES S EBY, MD PA | | Responsible | hl104b | JURICH, CHRISTOPHER | | Public Case |

Complaint | Respondent | Complainant | Addtl Info | Parties | Allegations | Final Order

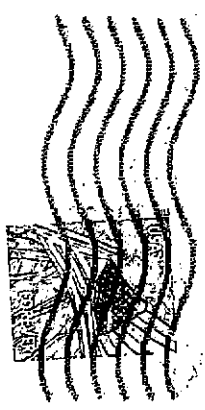
| | | | | | |
|-----------|--|-------------------------------------|----------------|------------|--|
| Source | 78 | Information obtained during DOH int | Security Level | 1 | Letters |
| Form | 1 | Letter | Priority | 1 | Disposition |
| Class'n | | | Incident | 04/24/2013 | <input checked="" type="checkbox"/> Activities |
| Security | STND | Standard | Received | 04/29/2013 | <input type="checkbox"/> Violations |
| Region | | | Entered | 04/29/2013 | <input type="checkbox"/> Discipline |
| Reference | | | Entered By | behaves | <input type="checkbox"/> Compliance |
| Summary | POSSIBLE VIOLATIONS: SS 456.072(1)(k)(dd) F.S.; 465.016(1)(r) F.S.; 465.023 (1)(c) F.S.; Rule 64B16-27.101 F.A.C.; 64B16-27.797(1)(n)4(o)4(4)(5)(6)(7) F.A.C.; 64B16-28.140(4) F.A.C. Violation of Law/Rule; Failure to perform legal obligation; Failure to properly label medication; Failure to properly prepare/store medium and high risk CSPs; Failure to conduct media fill tests in a timely manner; Failure to include single/multidose container. | | | | <input checked="" type="checkbox"/> Related |
| Updated | 04/07/2014 08:44:20 | By | adeid | | <input type="checkbox"/> History |
| | | | | | <input type="checkbox"/> Inspection |
| | | | | | <input type="checkbox"/> Work Notes |
| | | | | | <input type="checkbox"/> Image |
| | | | | | <input type="checkbox"/> Print Report |

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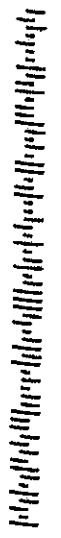
564
16063 Forest Oaks Dr
Ft Myers, FL 33908

FT MYERS, FL 339
24 APR 2014 PM 2 1



DOH - Compliance Management Unit
4052 Bald Cypress Way
Tallahassee, FL 32399-3276

Attn: Patricia
Compliance Officer
32399327699



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456.057 - Ownership and control of patient records; report or copies of records to be
furnished.—

10)(a)All patient records obtained by the department and any other documents
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Mission:

To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.



Vision: To be the Healthiest State in the Nation

Rick Scott
Governor

John H. Armstrong, MD, FACS
State Surgeon General & Secretary

MEMORANDUM OF PROBABLE CAUSE PANEL FINDINGS

TO: Department of Health

FROM: Board of Pharmacy, Probable Cause Panel

SUBJECT: Charles S. Eby, MD, PA d/b/a Dermatologic & Cosmetic Surgery Center, LC
CASE NO.: 2013- 06703

DATE OF PROBABLE CAUSE MEETING: March 13, 2014

This matter was brought before a Probable Cause Panel composed of: **Garcia and Fallon**

A-1 (CJ)

The panel, having received the investigative report and supplemental materials, having carefully reviewed said documentation and the recommendation of the agency/department, and having had the opportunity to inquire of counsel, finds that:

Probable cause exists herein that the Subject violated the following statutes/rules:

Count 1: Section 465.023(1)(c), Florida Statutes (2012), by and through a violation of Rule 64B16-27.797(5)(a), Florida Administrative Code

Count 2: Section 465.023(1)(c), Florida Statutes (2012), by and through a violation of Rule 64B16-27.797(5)(b)1., Florida Administrative Code

Count 3: Section 465.023(1)(c), Florida Statutes (2012), by and through a violation of Rule 64B16-27.797(1)(n)4., Florida Administrative Code

Count 4: Section 465.023(1)(c), Florida Statutes (2012), by and through a violation of Rule 64B16-27.797(4), Florida Administrative Code

~~**Count 5:** Section 465.023(1)(c), Florida Statutes (2012), by and through a violation of Rule 64B16-28.140(4), Florida Administrative Code, which provides that a written record shall be maintained for each batch/sub-batch of a compounded product under the provisions of Rule 64B16-27.700, Florida Administrative Code~~

Count 6: Section 465.023(1)(c), Florida Statutes (2012), by and through a violation of Rule 64B16-27.797(7), Florida Administrative Code

Count 7: Section 465.023(1)(c), Florida Statutes (2012), by and through a violation of Rule 64B16-27.797(1)(n)6., Florida Administrative Code

Count 8: Section 465.023(1)(c), Florida Statutes (2013), by and through a violation of Rule 64B16-28.202(3), Florida Administrative Code

The panel suggests imposing the following penalty: N/A

Probable cause does not exist and the case should be closed with the following closure code:

In lieu of a finding of probable cause, the above named licensee shall be issued a letter of guidance to address the conduct in question:

Florida Department of Health

Office of the General Counsel - Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65 • Tallahassee, FL 32399-1701
Express mail address: 2585 Merchants Row - Suite 105
PHONE: 850/245-4444 • FAX 850/245-4683

www.FloridaHealth.com

TWITTER: HealthyFLA
FACEBOOK: FLDdepartmentofhealth
YOUTUBE: fdoh

___ The panel has requested supplemental or additional information on the following:

Other _____

Pattie Keenan for Lee Fallon

CHAIRPERSON, PROBABLE CAUSE PANEL
BOARD OF PHARMACY

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Rick Scott
Governor

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To protect, promote & improve the health of all people in Florida through integrated

state, county & community efforts.

John H. Armstrong, MD, FACS

Surgeon General & Sec

Vision: To be the **Healthiest State** in the Nation

STATE OF FLORIDA
BOARD OF PHARMACY

DEPARTMENT OF HEALTH,
PETITIONER,

VS.

CASE NO. 201406355

AVENIX PHARMACEUTICALS,
RESPONDENT.

NOTICE

TO: AVENIX PHARMACEUTICALS
3200 N FEDERAL H'WAY
STE 223
BOCA RATON, FL 33431

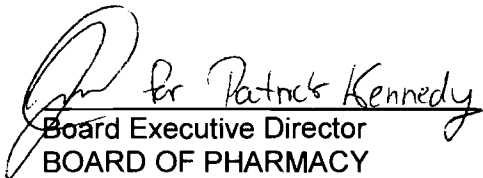
PLEASE TAKE NOTICE that a disciplinary hearing will be heard before the BOARD OF PHARMACY on Wednesday, August 13, 2014, commencing at 9 a.m. The Respondent is not required to be present at this meeting. This hearing will be held at DoubleTree by Hilton, 100 Fairway Drive, Deerfield Beach, FL 33441, 1(800) 624-3606..

The purpose of the hearing is to consider a motion for: Voluntary Relinquishment

Note: Cases shown on the agenda as "timed" items may be heard in a different order or may be heard earlier if all parties are present. Cases are scheduled beginning at 9 a.m.; therefore, it is imperative that you arrive promptly at 9 a.m. and be prepared to be at the meeting for several hours until your case is heard.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Hearing has been sent by U.S. Mail to the above address(es) this 10th day of July, 2014.


Dr. Patrick Kennedy

Board Executive Director
BOARD OF PHARMACY
Florida Department of Health
4052 Bald Cypress Way, Bin #
Tallahassee, FL 32399 -

Florida Department of Health

Division of Medical Quality Assurance
4052 Bald Cypress Way, Bin C10 • Tallahassee, FL 32399-3260
PHONE: (850) 245-4444 • FAX : (850) 245-4791

www.FloridasHealth.com

TWITTER: HealthyFLA
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AND: MARTIN DIX
106 EAST COLLEGE AVENUE
SUITE 1200
TALLAHASSEE, FL 32301

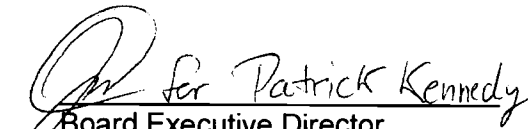
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MEMORANDUM

TO: Patrick W. Kennedy, M.A., Executive Director, Board of Pharmacy
FROM: Karine Gialella, Assistant General Counsel
RE: **Voluntary Relinquishment**
SUBJECT: DOH v. Avenix Pharmaceuticals
 DOH Case Number 2014-06355
DATE: May 27, 2014

Enclosed you will find materials in the above-referenced case to be placed on the agenda for final agency action for the August 12-13, 2014 meeting of the board. The following information is provided in this regard.

Subject: Avenix Pharmaceuticals
Subject's Address of Record: 3200 N Federal H'Way
 Ste 223
 Boca Raton, FL 33431

Enforcement Address: 3200 North Federal Highway
 Ste 223
 Boca Raton, FL 33431

Subject's License No: 27334 **Rank:** PH

Licensure File No: 20543

Initial Licensure Date: 12/27/2013

Board Certification: None

Required to Appear: No

Current IPN/PRN Contract: No

Allegation(s): Section 456.072(1)(k)(dd), Florida Statutes (2013)
 Section 456.016(1)(r), Florida Statutes (2013)
 Section 465.023(1)(c), Florida Statutes (2013)
 Rules 64B16-27.100, 64B16-27.104(5), 64B16-27.300,
 64B16-27.700, 64B16-27.797, 64B16-28.1081,
 64B16-27.140, Florida Administrative Code

Prior Discipline: None

Probable Cause Panel: PCP Waived

Florida Department of Health

Office of the General Counsel • Prosecution Services Unit
 4052 Bald Cypress Way, Bin C-65 • Tallahassee, FL 32399-1701
 Express mail address: 2585 Merchants Row • Suite 105
 PHONE: 850/245-4444 • FAX 850/245-4662

www.FloridasHealth.com

TWITTER:HealthyFLA

FACEBOOK:FLDepartmentofHealth

YOUTUBE:fdoh

Subject's Attorney:

Julie Gallagher, Esq.
Martin Dix, Esq.
Akerman LLP
106 East College Avenue
Suite 1200
Martin Dix
Tallahassee, FL 32301
(850) 224-9634 Telephone

Complainant/Address:

Department Of Health/Investigative Services
Unit-[Jupiter]

Materials Submitted:

Memorandum to the Board
Motion for Final Order Accepting Voluntary
Relinquishment of License
Voluntary Relinquishment
Final Investigative Report with Exhibits 1-21

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

Petitioner,

CASE NO. 2014-06355

V.

AVENIX PHARMACEUTICALS,

Respondent.

MOTION FOR FINAL ORDER
BASED UPON A VOLUNTARY RELINQUISHMENT OF LICENSE

COMES NOW, the Petitioner, by and through its undersigned counsel, and moves the Board of Pharmacy for entry of a Final Order in the above-styled cause on a date and time that has been determined and noticed by the Board. As grounds therefore, the Petitioner would state the following:

1. On or about **April 24, 2014**, a Uniform Consumer Complaint was filed with the Department of Health, alleging that the Subject violated the provisions of Chapter 456 or Chapter 465, Florida Statutes.

2. In lieu of undergoing further disciplinary proceedings, the Respondent returned an executed Voluntary Relinquishment of his/her license.

3. Respondent has been advised, by a copy of this Motion, that a copy of the investigative file in this case shall be furnished to the Board to establish a prima facie case regarding the violations as set forth in the **Uniform Consumer Complaint.**

WHEREFORE, the parties respectfully request the Board Pharmacy of enter a Final Order incorporating the terms of the Voluntary Relinquishment of Licensure.

Respectfully Submitted,

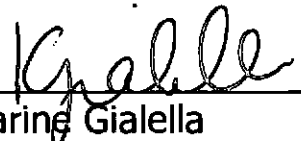
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Karine Giaella
Assistant General Counsel
DOH Prosecution Services Unit
4052 Bald Cypress Way, Bin #C65
Tallahassee, FL 32399-3265
Florida Bar No. **0091101**
Telephone: (850) 245-4444
Facsimile: (850) 245-4662
Email: Karine.Giaella@flhealth.gov

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing has been provided by U.S. mail this 30th day of May, 2014, to Respondent's attorneys: Julie Gallagher and Martin Dix, Esq., 106 East College Avenue, Ste. 1200, Tallahassee, FL 32301.



Karine Giaella
Assistant General Counsel

KG/as

STATE OF FLORIDA
DEPARTMENT OF HEALTH

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK Angel Sanders
DATE MAY 27 2014

DEPARTMENT OF HEALTH,
Petitioner,

v.

DOH Case No. 2014-06355

AVENIX PHARMACEUTICALS
Respondent.

VOLUNTARY RELINQUISHMENT OF LICENSE

Respondent OWNER OF AVENIX PHARMACEUTICALS license No. 27334, hereby voluntarily relinquishes Respondent's license to practice as a pharmacy in the State of Florida and states as follows:

1. Respondent's purpose in executing this Voluntary Relinquishment is to avoid further administrative action with respect to this cause. Respondent understands that acceptance by the Board of Pharmacy (hereinafter the Board) of this Voluntary Relinquishment shall be construed as disciplinary action against Respondent's license pursuant to Section 456.072(1)(f), Florida Statutes. As with any disciplinary action, this relinquishment will be reported to the National Practitioner Data Bank as disciplinary action. Licensing authorities in other states may impose discipline in their jurisdiction based on discipline taken in Florida.

2. Respondent agrees to never reapply for licensure as a Pharmacy in the State of Florida.

3. Respondent agrees to voluntarily cease practicing as a pharmacy immediately upon executing this Voluntary Relinquishment. Respondent further agrees to refrain from the practice of pharmacy until such time as this Voluntary Relinquishment is presented to the Board and the Board Issues a written final order in this matter.

4. In order to expedite consideration and resolution of this action by the Board in a public meeting, Respondent, being fully advised of the consequences of so doing, hereby waives the statutory privilege of confidentiality of Section 456.073(10), Florida Statutes, and waives a determination of probable cause, by the Probable Cause Panel, or the Department when appropriate, pursuant to Section 456.073(4), Florida Statutes, regarding the complaint, the investigative report of the Department of Health, and all other information obtained pursuant to the Department's investigation in the above-styled action. By signing this waiver, Respondent understands that the record and complaint become public record and remain public record and that information is immediately accessible to the public.

5. Upon the Board's acceptance of this Voluntary Relinquishment, Respondent agrees to waive all rights to seek judicial review of, or to otherwise challenge or contest the validity of, this Voluntary Relinquishment and of the Final Order of the Board incorporating this Voluntary Relinquishment.

6. Petitioner and Respondent hereby agree that upon the Board's acceptance of this Voluntary Relinquishment, each party shall bear its own attorney's fees and costs related to the prosecution or defense of this matter.

7. Respondent authorizes the Board to review and examine all investigative file materials concerning Respondent in connection with the Board's consideration of this

Voluntary Relinquishment. Respondent agrees that consideration of this Voluntary Relinquishment and other related materials by the Board shall not prejudice or preclude the Board, or any of its members, from further participation, consideration, or resolution of these proceedings if the terms of this Voluntary Relinquishment are not accepted by the Board.

DATED this 3RD day of MAY, 2014.

John E. Hoffman
OWNER OF AVENIX PHARMACEUTICALS

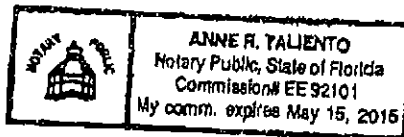
STATE OF Florida
COUNTY OF Polk

Before me, personally appeared John Hoffman whose identity is known to me or who produced FL DRIV LIC (type of identification) and who, under oath, acknowledges that his signature appears above.

Sworn to and subscribed before me this 3 day of May, 2014

Anne R. Talento
NOTARY PUBLIC

My Commission Expires:



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regulatory board in its investigation, prosecution, and appeal of disciplinary proceedings. The
records shall not be available to the public as part of the record of investigation for and
prosecution in disciplinary proceedings made available to the public by the department or the
appropriate board.

CONFIDENTIAL AND EXEMPT MATERIALS

**One or more pages have been removed
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**Scroll down to see the available pages or
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SOME OR ALL PAGES IN THIS DOCUMENT ARE PATIENT RECORDS
AND/OR DOCUMENTS THAT IDENTIFY THE PATIENT BY NAME AND ARE
EXEMPT FROM PUBLIC RECORDS LAWS.

456.057 - Ownership and control of patient records; report or copies of records to be
furnished.—

10)(a)All patient records obtained by the department and any other documents
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Rick Scott
Governor

Mission:

To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.

John H. Armstrong, MD, FACS
Surgeon General & Sec

Vision: To be the Healthiest State in the Nation

STATE OF FLORIDA
BOARD OF PHARMACY

DEPARTMENT OF HEALTH,
PETITIONER,

VS.

CASE NO. 201317761

RICHARD ALONSO,
RESPONDENT.

NOTICE

TO: RICHARD ALONSO
106 MASTERS LANE
SAFETY HARBOR, FL 34695

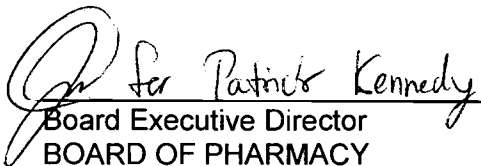
PLEASE TAKE NOTICE that a disciplinary hearing will be heard before the BOARD OF PHARMACY on Wednesday, August 13, 2014, commencing at 9 a.m. Although the Respondent is not required to be present, it is in their best interest to attend. This hearing will be held at DoubleTree by Hilton, 100 Fairway Drive, Deerfield Beach, FL 33441, 1(800) 624-3606..

The purpose of the hearing is to consider a motion for: Hearing - No Disputed Material Facts

Note: Cases shown on the agenda as "timed" items may be heard in a different order or may be heard earlier if all parties are present. Cases are scheduled beginning at 9 a.m.; therefore, it is imperative that you arrive promptly at 9 a.m. and be prepared to be at the meeting for several hours until your case is heard.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Hearing has been sent by U.S. Mail to the above address(es) this 10th day of July, 2014.


Board Executive Director
BOARD OF PHARMACY

Florida Department of Health
4052 Bald Cypress Way, Bin #
Tallahassee, FL 32399 -

Florida Department of Health
Division of Medical Quality Assurance
4052 Bald Cypress Way, Bin C10 • Tallahassee, FL 32399-3260
PHONE: (850) 245-4444 • FAX : (850) 245-4791

www.FloridasHealth.com
TWITTER:HealthyFLA
FACEBOOK:FLDepartmentofHealth
YOUTUBE: fldoh

Mission:

To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.

**Rick Scott**

Governor

John H. Armstrong, MD, FACS

Surgeon General & Secretary

Vision: To be the Healthiest State in the Nation**MEMORANDUM**

TO: Mark Whitten, Executive Director, Board of Pharmacy
FROM: R. Shaffer Claridge, PSU *RLSC*
RE: **Hearing - No Disputed Material Facts**
SUBJECT: DOH v. Richard Alonso, R.Ph.
 DOH Case Number 2013-17761
DATE: June 9, 2014

Enclosed you will find materials in the above-referenced case to be placed on the agenda for final agency action for the August 12 - 13, 2014 meeting of the board. The following information is provided in this regard.

Subject: Richard Alonso, R.Ph.
Subject's Address of Record: 106 Masters Ln
 Safety Harbor, FL 34695
Enforcement Address: 106 Masters Ln
 Safety Harbor, FL 34695
Subject's License No: 39780 **Rank:** PS
Licensure File No: 31017
Initial Licensure Date: 3/11/2005
Board Certification: No
Required to Appear: No
Current IPN/PRN Contract: Yes
Allegation(s): Count I: Section 465.016(1)(m), Florida Statutes (2010-2013)
 Count II: Section 456.072(1)(hh), Florida Statutes (2010-2013)
Prior Discipline: 4020, 02/25/2013, DOH-13-0395-S
Probable Cause Panel: January 23, 2014
 Debra Glass
 Lorena Risch
Subject's Attorney: Pro Se

Florida Department of Health

Office of the General Counsel • Prosecution Services Unit
 4052 Bald Cypress Way, Bin C-65 • Tallahassee, FL 32399-1701
 Express mail address: 2585 Merchants Row - Suite 105
 PHONE: 850/245-4444 • FAX 850/245-4662

www.FloridasHealth.com

TWITTER: HealthyFLA

FACEBOOK: FLDepartmentofHealth

YOUTUBE: fldoh

Complainant/Address:

Professional Resource Network, Inc.
Penelope P. Ziegler, MD
Post Office Box 1020
Fernandina, FL 32035

Materials Submitted:

Memorandum to the Board
Motion for Final Order
Election of Rights
Administrative Complaint
Motion to Assess Costs with Attachments
 Exhibit 1 – Complaint Cost Summary
 Exhibit 2 – Itemized Cost by Complaint
Supplemental Investigative Report Dated 12/4/2013
 with Exhibits S-1
Supplemental Investigative Report Dated 12/18/2013
 with Exhibits S2-1
Final Investigative Report with Exhibits 1-6
Memorandum of Finding Probable Cause
Order of Emergency Restriction of License

Disciplinary Guidelines:

Section 465.016(1)(m), Florida Statutes (2010-2013): From \$500 fine, suspension until safe to practice with reasonable skill and safety, and appearance before the board to \$2,500 fine and Revocation.

Section 456.072(1)(hh), Florida Statutes (2010-2013): From Suspension until successful completion or receipt of written confirmation of compliance with ongoing treatment and a fine of up to \$1,000 to Revocation.

Preliminary Case Remarks: Informal Hearing

This case involves a pharmacist with a long history of substance abuse. Respondent participated with PRN intermittently from May of 2011 through November of 2013. During that time Respondent frequently failed to comply with the recommendations of PRN and his treatment providers. On or about September 17, 2013, Respondent was evaluated by an independent physician and diagnosed with alcohol dependence, cocaine abuse, cannabis abuse, tobacco use disorder and adjustment disorder, and was deemed unfit to practice pharmacy with reasonable skill and safety. After the evaluation, Respondent refused to cooperate with PRN.

Recommended Penalty: \$1,500 fine, costs, and suspension until safe to practice with reasonable skill and safety.

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

Petitioner,

v.

CASE NO. 2013-17761

Richard Alonso, R.Ph.,

Respondent.

**MOTION FOR FINAL ORDER AFTER HEARING NOT INVOLVING
DISPUTED ISSUES OF MATERIAL FACTS**

COMES NOW, the Petitioner, by and through its undersigned counsel, and moves the Board of Pharmacy for entry of a Final Order in the above-styled cause on a date and time that has been determined and noticed by the Board. As grounds therefore, the Petitioner would state the following:

1. Petitioner previously filed an Administrative Complaint against Respondent alleging that Respondent had violated the provisions of Florida Statutes, as set forth therein. The Department, by filing the Administrative Complaint, is seeking to discipline the Respondent's license to practice as a pharmacist thereby affecting the Respondent's substantial interests.

2. On or about, Petitioner served Respondent with the Administrative Complaint via Respondent's address of record with the Department of Health. The Department, by serving the Respondent with the Administrative Complaint, provided the Respondent written notice of its decision to seek discipline of the Respondent's license to practice as a pharmacist.

3. The Respondent has filed an Election of Rights Form or other responsive pleading evincing, or has otherwise indicated, that Respondent does not dispute the material facts alleged in the Administrative Complaint.

4. There are no disputed issues of material fact to be resolved by the Board.

5. Respondent has been advised, by a copy of this Motion, that a copy of the investigative file in this case shall be furnished to the Board to establish a prima facie case regarding the violations as set forth in the Administrative Complaint.

WHEREFORE, the parties respectfully request the Board of Pharmacy, after allowing the Respondent the opportunity to present oral and/or written evidence in mitigation of the Administrative Complaint, enter

a Final Order imposing whatever discipline upon the Respondent's license that the Board deems appropriate.

Respectfully Submitted,


John H. Armstrong, MD
State Surgeon General and Secretary of Health



R. Shaffer Claridge
Assistant General Counsel
DOH Prosecution Services Unit
4052 Bald Cypress Way, Bin #C65
Tallahassee, FL 32399-3265
Florida Bar No. 0095549
Telephone: (850) 245-4444
Facsimile: (850) 245-4662

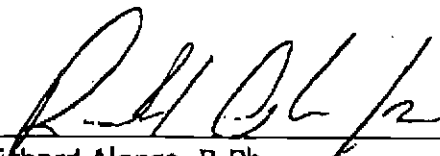
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing has been provided by U.S. mail this 9th day of April, 2014, to: Respondent, Richard Alonso, R.Ph., at 106 Masters Lane, Safety Harbor, FL 34695.



Shaffer Claridge
Assistant General Counsel

SC/as


 Richard Alonso, R.Ph.

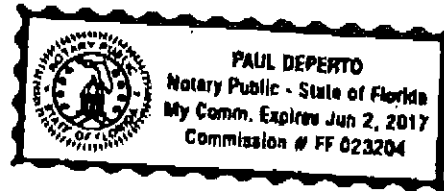
STATE OF FLORIDA
 COUNTY OF:

Before me, personally appeared Richard Alonso Jr, whose identity is known to me by FLDL (type of identification) and who, under oath, acknowledges that his signature appears above. Sworn to and subscribed before me this 18 day of February, 2014.


 NOTARY PUBLIC

My Commission Expires:

June 2, 2017



ELECTION OF RIGHTS

DOH v Richard Alonso, R.P.H. Case No. 2013-17761

PLEASE SELECT ONLY 1 OF THE 3 OPTIONS

An Explanation of Rights is attached. If you do not understand these options, please consult with your attorney or contact the attorney for the Prosecution Services Unit at the address/phone number listed at the bottom of this form.

OPTION 1 I do not dispute the allegations of fact in the Administrative Complaint, but do wish to be accorded a hearing pursuant to Section 120.57(2), Florida Statutes, at which time I will be permitted to submit oral and/or written evidence in mitigation of the complaint to the Board.

OPTION 2 I do not dispute the allegations of fact contained in the Administrative Complaint and waive my right to object or to be heard. I request that the Board enter a final order pursuant to Section 120.57, Florida Statutes.

OPTION 3 I do dispute the allegations of fact contained in the Administrative Complaint and request this to be considered a petition for formal hearing, pursuant to Sections 120.568(2)(a) and 120.57(1), Florida Statutes, before an Administrative Law Judge appointed by the Division of Administrative Hearings. I specifically dispute the following paragraphs of the Administrative Complaint:

- ① Recommendation for residential treatment and deadline in which to attend (Financial Reasons)
- ② Allegations of stalking (Falsely Made)

In addition to the above selection, I also elect the following:

- I accept the terms of the Settlement Agreement, have signed and am returning the Settlement Agreement or I am interested in settling this case.
- I do not wish to continue practicing, have signed and returned the voluntary relinquishment of licensure form, if it has been provided.

Regardless of which option I have selected, I understand that I will be given notice of time, date, and place when this matter is to be considered by the Board for Final Action. Mediation under Section 120.573, Florida Statutes, is not available in this matter.

Is this a different address than the Department of Health's current address of record? Yes No

If yes, does this address need to be updated with DDH as the new address of record? Yes No

(Please sign and complete all the information below.)

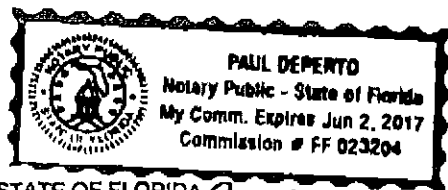
Richard Alonso, Jr.
Respondent's signature

Address: 13921 Cherry Creek Drive,
Tampa, FL 33618

Lic. No. PS 39780

Phone No. (352) 476-0174

Fax No. N/A



STATE OF FLORIDA
COUNTY OF Pinellas

Before me, personally appeared Richard Alonso, Jr. whose identity is known to me by F.I.D.I. (type of identification) and who, acknowledges that his/her signature appears above.

Sworn to or affirmed by Affiant before me this 18 day of February, 2014.

Paul Deperto
Notary Public-State of Florida

June 2, 2017
My Commission Expires

Paul Deperto
Type or Print Name

PLEASE MAIL AND/OR FAX COMPLETED FORM TO: Shaffer Claridge, Assistant General Counsel, DOH, Prosecution Services Unit, 4052 Bald Cypress Way, Bin C-66, Tallahassee, Florida 32399-3266. Telephone Number: (850) 245-4444 FAX (850) 245-4662; TDD 1-800-966-8771.

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

Petitioner,

CASE NUMBER 2013-17761

RICHARD ALONSO, R.PH.,

Respondent.

ADMINISTRATIVE COMPLAINT

Petitioner, Department of Health ("Department"), by and through undersigned counsel, files this Administrative Complaint against the Respondent, RICHARD ALONSO, R.PH. ("Respondent"), and states:

FINDINGS OF FACT

1. The Department of Health ("Department") is the state agency charged with regulating the practice of pharmacy pursuant to Chapters 20, 456, and 465, Florida Statutes (2010-2013).

2. At all times material to this Order, Respondent was a licensed pharmacist within the state of Florida, having been issued license number PS 39780.

3. In May 2011, Respondent contacted the Professionals Resource Network ("PRN"). PRN is designated as the State of Florida's impaired practitioners program for pharmacists.

4. On or about June 8, 2011, Respondent submitted to an evaluation by Dr. D.R., M.D., who diagnosed Respondent with alcohol dependence, generalized anxiety disorder, and depressive disorder.

5. On or about June 21, 2011, Respondent was admitted to an intensive outpatient program at HealthCare Connection of Tampa.

6. Respondent was discharged from HealthCare Connection of Tampa on or about September 29, 2011, with diagnoses of alcohol dependence in early, full remission; sedative/hypnotic or anxiolytic dependence in early, full remission; cocaine abuse in early, full remission; generalized anxiety disorder; and depressive disorder. Upon his discharge, it was recommended that Respondent participate in PRN monitoring.

7. According to Section 893.03(2), Florida Statutes (2010-2013), cocaine is a Schedule II controlled substance that has a high potential for abuse and has a currently accepted but severely restricted medical use in treatment in the United States. Abuse of cocaine may lead to severe psychological or physical dependence.

8. On or about June 24, 2011, Respondent signed a five year Dual Diagnosis Monitoring Contract with PRN, requiring him to, among other things, refrain from alcohol use.

9. On or about April 24, 2012, Respondent was admitted to a detoxification program at Town and Country Hospital. However, Respondent left the program against medical advice the same day. Respondent was subsequently admitted to a detoxification program at Turning Point the same evening.

10. On or about April 27, 2012, Respondent left the detoxification program at Turning Point against medical advice, after being informed that it was recommended that he enter a residential treatment program. The same day, Respondent informed PRN that he would not agree to a residential treatment program, but would attend an intensive outpatient program.

11. On or about April 30, 2012, PRN informed Respondent that he would be referred to the Department if he did not comply with PRN's recommendations.

12. On or about May 2, 2012, Respondent informed PRN that he had decided to "opt-out of PRN."

13. On May 7, 2012, PRN referred Respondent to the Department.

14. On or about July 17, 2012, Dr. N.D., M.D., a physician at Turning Point, evaluated Respondent. Dr. N.D. diagnosed Respondent with alcohol dependence, cocaine abuse, cannabis abuse and substance-induced mood disorder with depressive features.

15. According to Section 893.03(1), Florida Statutes (2010-2013), cannabis is a Schedule I controlled substance that has a high potential for abuse and has no currently accepted medical use in treatment in Florida. Its use under medical supervision does not meet accepted safety standards.

16. On or about October 16, 2012, Respondent re-enrolled in PRN and signed a five-year monitoring contract.

17. On or about August 9, 2013, Respondent provided a urine sample for a drug screen. The urine sample tested positive for ethanol at a level of 0.374, and EtG and EtS¹ levels consistent with alcohol use. PRN referred Respondent to Dr. J.S., M.D., a psychiatrist, for evaluation.

18. On or about September 17, 2013, Dr. J.S. examined Respondent. Dr. J.S. diagnosed Respondent with alcohol dependence, cocaine abuse, cannabis abuse, tobacco use disorder and adjustment disorder. A contemporaneous drug screen was performed, which was positive for cocaine

¹ Ethyl glucuronide (EtG) and ethyl sulfate (EtS) is a laboratory based urine test which detects the presence of alcohol up to 80 hours after consumption.

and alcohol. Dr. J.S. ultimately determined that Respondent was not fit to practice pharmacy with reasonable skill and safety. Dr. J.S. recommended that Respondent enter residential treatment.

19. PRN established a November 4, 2013, deadline for Respondent to enter residential treatment. Respondent failed to meet that deadline.

20. On or about November 12, 2013, PRN terminated Respondent's contract for non-compliance.

COUNT ONE

21. Petitioner realleges and incorporates by reference paragraphs one (1) through twenty (20) as if fully set forth herein.

22. Section 465.016(1)(m), Florida Statutes (2010-2013), subjects a pharmacist to discipline for "[b]eing unable to practice pharmacy with reasonable skill and safety by reason of illness, use of drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition."

23. An independent evaluator determined that Respondent is unable to practice pharmacy with reasonable skill and safety by reason of use of drugs, narcotics and/or alcohol.

24. Based on the foregoing, Respondent violated Section 465.016(1)(m), Florida Statutes (2010-2013), by being unable to practice pharmacy with reasonable skill and safety by reason of use of drugs, narcotics and/or alcohol.

COUNT TWO

25. Petitioner realleges and incorporates by reference paragraphs one (1) through twenty (20) as if fully set forth herein.

26. Section 456.072(1)(hh), Florida Statutes (2010-2013), subjects a pharmacist to discipline for "[b]eing terminated from a treatment program for impaired practitioners, which is overseen by an impaired practitioner consultant as described in s. 456.076, for failure to comply, without good cause, with the terms of the monitoring or treatment contract entered into by the licensee, or for not successfully completing any drug treatment or alcohol treatment program."

27. Respondent repeatedly failed to comply with the recommendations of PRN and individual treatment providers, and was ultimately terminated from PRN on or about November 12, 2013.

28. Based on the foregoing, Respondent violated 456.072(1)(hh), Florida Statutes (2010-2013), by being terminated from a treatment program for impaired practitioners.

WHEREFORE, the Petitioner respectfully requests that the Board of Pharmacy enter an order imposing one or more of the following penalties: permanent revocation or suspension of Respondent's license, restriction of practice, imposition of an administrative fine, issuance of a reprimand, placement of the Respondent on probation, corrective action, refund of fees billed or collected, remedial education and/or any other relief that the Board of Pharmacy deems appropriate.

SIGNED this 23rd day of January, 2014.

John H. Armstrong, MD, FACS
State Surgeon General and
Secretary of Health



R. Shaffer Claridge, Esq.
Florida Bar No. 0095549
Assistant General Counsel
Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, Florida 32399-3265
(P) 850-245-4444, extension 8166
(F) 850-245-4662
(E)Shaffer.claridge@flhealth.gov

PCP Date: January 23, 2014

PCP Members: Ms. Debra Glass & Ms. Lorena Risch

NOTICE OF RIGHTS

Respondent has the right to request a hearing to be conducted in accordance with Section 120.569 and 120.57, Florida Statutes, to be represented by counsel or other qualified representative, to present evidence and argument, to call and cross-examine witnesses and to have subpoena and subpoena duces tecum issued on his or her behalf if a hearing is requested.

NOTICE REGARDING ASSESSMENT OF COSTS

Respondent is placed on notice that Petitioner has incurred costs related to the investigation and prosecution of this matter. Pursuant to Section 456.072(4), Florida Statutes, the Board shall assess costs related to the investigation and prosecution of a disciplinary matter, which may include attorney hours and costs, on the Respondent in addition to any other discipline imposed.

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

Petitioner,

v.

CASE NO. 2013-17761

RICHARD ALONSO, R.PH.,

Respondent.

MOTION TO ASSESS COSTS
IN ACCORDANCE WITH SECTION 456.072(4)

The Department of Health, by and through counsel, moves the Board of Pharmacy for entry of a Final Order assessing costs against Respondent for the investigation and prosecution of this case in accordance with Section 456.072(4), Florida Statutes (2013). As grounds therefore, the Petitioner states the following:

1. At its next regularly scheduled meeting, the Board of Pharmacy will take up for consideration the above-styled disciplinary action and will enter a Final Order.

2. Section 456.072(4), Florida Statutes (2013), states, in pertinent part, as follows:

In addition to any other discipline imposed through final order, or citation, entered on or after July 1, 2001, under this section or discipline imposed through final order, or

citation, entered on or after July 1, 2001, for a violation of any practice act, the board, or the department when there is no board, shall assess costs related to the investigation and prosecution of the case. The costs related to the investigation and prosecution include, but are not limited to, salaries and benefits of personnel, costs related to the time spent by the attorney and other personnel working on the case, and any other expenses incurred by the department for the case. The board, or the department when there is no board, shall determine the amount of costs to be assessed after its consideration of an affidavit of itemized costs and any written objections thereto....

3. As evidenced in the attached affidavit (Exhibit A), the investigation and prosecution of this case has resulted in costs in the total amount of \$1,723.09, based on the following itemized statement of costs:

| | |
|-----------------------------|-------------------|
| Complaint: | \$54.66 |
| Investigation: | \$1,021.13 |
| Legal: | \$642.30 |
| Compliance: | \$5.00 |
| Sub Total: | \$1,723.09 |
| Expenses To Date: | \$0.00 |
| Prior Amount: | \$0.00 |
| Total Costs To Date: | \$1,723.09 |

4. The attached affidavit reflects the Department's costs for attorney time in this case as \$642.30 (Exhibit A). The costs of obtaining an affidavit from any outside attorney will be greater than \$642.30.

Therefore, the Department is not seeking costs for attorney time in this case.

5. Should Respondent file written objections to the assessment of costs, within ten (10) days of the date of this motion, specifying the grounds for the objections and the specific elements of the costs to which objections are made, Petitioner requests that the Board determine the amount of costs to be assessed based upon its consideration of the affidavit attached as Exhibit A and any timely-filed written objections.

6. Petitioner requests that the Board grant this motion and assess costs in the amount of \$1,080.79 as supported by competent, substantial evidence. This assessment of costs is in addition to any other discipline imposed by the Board and is in accordance with Section 456.072(4), Florida Statutes (2013).

WHEREFORE, the Department of Health requests that the Board of Pharmacy enter a Final Order assessing costs against Respondent in the amount of \$1,080.79.

DATED this 31st day of March, 2014.

Respectfully submitted,



Shaffer Claridge, Esq.
Assistant General Counsel
Florida Bar No. 0095549
DOH Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, FL 32399-3265
850-245-4444 PHONE
850-245-4662 FAX
E-mail: Shaffer.claridge@flhealth.gov

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Motion to Assess Costs has been furnished via certified postage-paid U.S. Mail to the Respondent, Richard Alonso, R.Ph., at 106 Masters Lane, Safety Harbor, FL 34695, this 31st day of March, 2014.



Shaffer Claridge
Assistant General Counsel

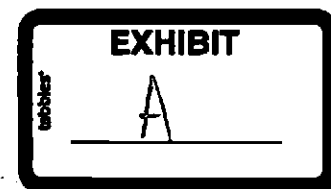
SC/as

AFFIDAVIT OF FEES AND COSTS EXPENDED

STATE OF FLORIDA
COUNTY OF LEON:

BEFORE ME, the undersigned authority, personally appeared **Shane Walters**, who was sworn and states as follows:

- 1) My name is Shane Walters.
- 2) I am over the age of 18, competent to testify, and make this affidavit upon my own personal knowledge and after review of the records at the Florida Department of Health (DOH).
- 3) I am a Operations Management Consultant for the Consumer Services Unit for DOH. The Consumer Services Unit is where all complaints against Florida health care licensees (e.g., medical doctors, dentists, nurses, respiratory therapists) are officially filed. I have been in my current job position for more than one year. My business address is 4052 Bald Cypress Way, Bin C-75, Tallahassee, Florida 32399.
- 4) As a Operations Management Consultant, my job duties include reviewing data in the Time Tracking System and verifying that the amounts correspond. The Time Tracking System is a computer program which records and tracks DOH's costs regarding the investigation and prosecution of cases against Florida health care licensees.
- 5) As of today, DOH's total costs for investigating and prosecuting DOH case number **2013-17761** (Department of Health v. **Richard Alonso, R.Ph.** are **one thousand seven hundred twenty-three dollars and nine cents (\$1,723.09)**
- 6) The costs for DOH case number **2013-17761** (Department of Health v. **Richard Alonso, R.Ph.**) are summarized in **Exhibit 1** (Cost Summary Report), which is attached to this document.
- 7) The itemized costs and expenses for DOH case number **2013-17761** (Department of Health v. **Richard Alonso, R.Ph.** are detailed in **Exhibit 2** (Itemized Cost Report and Itemized Expense Report and receipts), which is attached to this document.
- 8) The itemized costs as reflected in Exhibit 2 are determined by the following method: DOH employees who work on cases daily are to keep track of their time in six-minute increments (e.g., investigators and lawyers). A designated DOH employee in the Consumer Services



Unit, Legal Department, and in each area office, inputs the time worked and expenses spent into the Time Tracking System. Time and expenses are charged against a state health care Board (e.g., Florida Board of Medicine, Florida Board of Dentistry, Florida Board of Osteopathic Medicine), and/or a case. If no Board or case can be charged, then the time and expenses are charged as administrative time. The hourly rate of each employee is calculated by formulas established by the Department. (See the Itemized Cost Report)

- 9) Shane Walters, first being duly sworn, states that he has read the foregoing Affidavit and its attachments and the statements contained therein are true and correct to the best of his knowledge and belief.

FURTHER AFFIANT SAYETH NOT.

Shane Walters
Shane Walters, Affiant

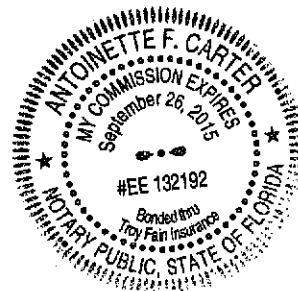
State of Florida
County of Leon

Sworn to and subscribed before me this 27 day of March, 2014,
by Shane Walters, who is personally known to me.

Antoinette F. Carter
Notary Signature

Antoinette Carter
Name of Notary Printed

Stamp Commissioned Name of Notary Public:

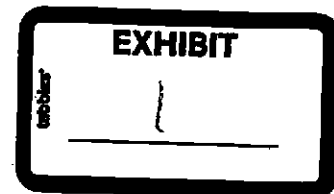


Complaint Cost Summary

Complaint Number: 201317761

Subject's Name: ALONSO, RICHARD

| | ***** Cost to Date ***** | |
|-----------------------------|--------------------------|-------------------|
| | Hours | Costs |
| Complaint: | 1.00 | \$54.66 |
| Investigation: | 16.00 | \$1,021.13 |
| Legal: | 6.30 | \$642.30 |
| Compliance: | 0.15 | \$5.00 |
| | ***** | ***** |
| Sub Total: | 23.45 | \$1,723.09 |
| Expenses to Date: | | \$0.00 |
| Prior Amount: | | \$0.00 |
| Total Costs to Date: | | \$1,723.09 |



**Time Tracking System
Itemized Cost by Complaint**

Complaint 201317761

Report Date 03/27/2014

| Staff Code | Activity Hours | Staff Rate | Cost | Activity Date | Activity Code | Activity Description |
|------------|----------------|------------|------|---------------|---------------|----------------------|
|------------|----------------|------------|------|---------------|---------------|----------------------|

COMPLIANCE MANAGEMENT UNIT

| | | | | | | |
|------------------|-------------|---------|---------------|------------|-----|-----------------------|
| HC27 | 0.10 | \$33.33 | \$3.33 | 11/13/2013 | 67 | STAFF MEETINGS |
| HC27 | 0.05 | \$33.33 | \$1.67 | 01/09/2014 | 125 | LICENSE STATUS CHANGE |
| Sub Total | 0.15 | | \$5.00 | | | |

CONSUMER SERVICES UNIT

| | | | | | | |
|------------------|-------------|---------|----------------|------------|----|---|
| HA23 | 0.20 | \$54.65 | \$10.93 | 11/13/2013 | 35 | TELEPHONE CALLS |
| HA23 | 0.10 | \$54.65 | \$5.47 | 11/13/2013 | 64 | LEGAL ADVICE/DISCUSSION - BOARD OFFICE, DEPT STAFF OR ATTY GEN OFF. |
| HA23 | 0.70 | \$54.65 | \$38.26 | 11/13/2013 | 78 | INITIAL REVIEW AND ANALYSIS OF COMPLAINT |
| Sub Total | 1.00 | | \$54.66 | | | |

INVESTIGATIVE SERVICES UNIT

| | | | | | | |
|------------------|--------------|---------|-------------------|------------|----|----------------------------|
| PI21 | 0.40 | \$63.82 | \$25.53 | 11/14/2013 | 4 | ROUTINE INVESTIGATIVE WORK |
| PI21 | 2.30 | \$63.82 | \$146.79 | 11/14/2013 | 76 | REPORT PREPARATION |
| PI21 | 1.20 | \$63.82 | \$76.58 | 11/14/2013 | 58 | TRAVEL TIME |
| PI21 | 2.40 | \$63.82 | \$153.17 | 11/15/2013 | 4 | ROUTINE INVESTIGATIVE WORK |
| PI21 | 1.30 | \$63.82 | \$82.97 | 11/15/2013 | 4 | ROUTINE INVESTIGATIVE WORK |
| PI21 | 2.30 | \$63.82 | \$146.79 | 11/15/2013 | 76 | REPORT PREPARATION |
| PI21 | 1.70 | \$63.82 | \$108.49 | 11/19/2013 | 4 | ROUTINE INVESTIGATIVE WORK |
| PI21 | 0.80 | \$63.82 | \$51.06 | 11/19/2013 | 76 | REPORT PREPARATION |
| PI21 | 1.10 | \$63.82 | \$70.20 | 12/04/2013 | 6 | SUPPLEMENTAL INVESTIGATION |
| PI21 | 1.20 | \$63.82 | \$76.58 | 12/18/2013 | 6 | SUPPLEMENTAL INVESTIGATION |
| PI21 | 0.40 | \$63.82 | \$25.53 | 12/18/2013 | 76 | REPORT PREPARATION |
| PI21 | 0.40 | \$63.82 | \$25.53 | 01/10/2014 | 6 | SUPPLEMENTAL INVESTIGATION |
| PI21 | 0.50 | \$63.82 | \$31.91 | 01/10/2014 | 6 | SUPPLEMENTAL INVESTIGATION |
| Sub Total | 16.00 | | \$1,021.13 | | | |

EXHIBIT
2

**Time Tracking System
Itemized Cost by Complaint**

Complaint 201317761

Report Date 03/27/2014

Page 2 of 2

Staff Code Activity Hours Staff Rate Cost Activity Date Activity Code Activity Description

PROSECUTION SERVICES UNIT

| | | | | | | |
|------------------|-------------|----------|-----------------|------------|----|---|
| HLL101A | 1.50 | \$101.95 | \$152.93 | 11/13/2013 | 25 | REVIEW CASE FILE |
| HLL101A | 1.00 | \$101.95 | \$101.95 | 11/13/2013 | 81 | ESO/ERO |
| HLL101A | 0.80 | \$101.95 | \$81.56 | 01/02/2014 | 81 | ESO/ERO |
| HLL101A | 0.20 | \$101.95 | \$20.39 | 01/03/2014 | 81 | ESO/ERO |
| HLL101A | 0.10 | \$101.95 | \$10.20 | 01/03/2014 | 81 | ESO/ERO |
| HLL101A | 0.80 | \$101.95 | \$81.56 | 01/09/2014 | 28 | PREPARE OR REVISE ADMINISTRATIVE COMPLAINT |
| HLL101A | 0.40 | \$101.95 | \$40.78 | 01/22/2014 | 89 | PROBABLE CAUSE PREPARATION |
| HLL101A | 0.40 | \$101.95 | \$40.78 | 01/23/2014 | 63 | PRESENTATION OF CASES TO PROBABLE CAUSE PANEL |
| HLL101A | 0.50 | \$101.95 | \$50.98 | 03/20/2014 | 26 | PREPARE OR REVISE MEMORANDUM |
| HLL101A | 0.60 | \$101.95 | \$61.17 | 03/20/2014 | 40 | PREPARATION OF OR REVISION OF A PLEADING |
| Sub Total | 6.30 | | \$642.30 | | | |

Total Cost

\$1,723.09



*** CONFIDENTIAL ***
Time Tracking System
Itemized Expense by Complaint
Complaint

Report Date: 03/27/2014

Page 1 of 1

| Staff Code | Expense Date | Expense Amount | Expense Code | Expense Code Description |
|------------|--------------|----------------|--------------|--------------------------|
|------------|--------------|----------------|--------------|--------------------------|

SubTotal
Total Expenses

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456.057 - Ownership and control of patient records; report or copies of records to be
furnished.—

10)(a)All patient records obtained by the department and any other documents
maintained by the department which identify the patient by name are confidential and exempt
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MEMORANDUM OF FINDING OF PROBABLE CAUSE DETERMINATION

TO: Department of Health, Prosecution Services Unit

FROM: Chair, Probable Cause Panel, Florida Board of Pharmacy

**RE: DOH v. Richard Alonso, R.Ph.
DOH Case Number 2013-17761**

MEMBERS: Debra Glass, Lorena Risch

DATE OF PCP: January 23, 2014 **AGENDA ITEM:**

This matter came before the Probable Cause Panel on the above date. Having reviewed the complete investigative report, recommendations of the Department, and any information submitted by the Subject, and being otherwise fully advised in the premises, the panel finds that:

X **Probable cause exists** and a formal complaint shall be filed for violation of statutes and rules, including but not limited to:

Section 465.016(1)(m), Florida Statutes (2010-2013)
Section 465.072(1)(hh), Florida Statutes (2010-2013)

___ Probable Cause was **not** found in this case

___ In lieu of probable cause, issue **letter of guidance**

___ Case requires **expert review**

___ Case needs **further investigation**

- a)
- b)
- c)

___ Upon **reconsideration**, dismiss

___ **Other** _____

Patricia Kennedy for Debra Glass 06/30/2014
Chair, Probable Cause Panel Date
Board of Pharmacy

SC/as

FILED DATE - **1-9-14**
Department of HealthSTATE OF FLORIDA
DEPARTMENT OF HEALTHBy Angela Butler
Deputy Agency Clerk

In Re: The Emergency Restriction of the License of
Richard Alonso, R.Ph.
License Number PS 39780
Case Number 2013-17761

ORDER OF EMERGENCY RESTRICTION OF LICENSE

John H. Armstrong, MD, FACS, State Surgeon General and Secretary of Health, ORDERS the Emergency Restriction of the License of Richard Alonso, R. Ph. ("Mr. Alonso"), to practice as a pharmacist in the State of Florida. Mr. Alonso holds license number PS 39780. His address of record is 106 Masters Lane, Safe Harbor, Florida 34695. The following Findings of Fact and Conclusions of Law support the emergency restriction of Mr. Alonso's license to practice as a pharmacist in the State of Florida.

FINDINGS OF FACT

1. The Department of Health ("Department") is the state agency charged with regulating the practice of pharmacy pursuant to Chapters 20, 456, and 465, Florida Statutes (2010-2013). Section 456.073(8), Florida Statutes (2010-2013), empowers the State Surgeon General to summarily restrict Mr. Alonso's license to practice as a pharmacist in the State of Florida in accordance with Section 120.60(6), Florida Statutes (2010-2013).

2. At all times material to this Order, Mr. Alonso was a licensed

pharmacist within the state of Florida:

3. In March 2011, Mr. Alonso was arrested and charged with domestic battery after a verbal argument with his wife became physical. Mr. Alonso was intoxicated at the time of the incident.

4. In July 2011, the court approved Mr. Alonso to participate in a domestic violence deferred prosecution program. The court's order required Mr. Alonso to, among other things, refrain from consuming alcohol and complete alcohol counseling.

5. In May 2011, Mr. Alonso contacted Professionals Resource Network ("PRN"). PRN is designated as the State of Florida's impaired practitioners program for pharmacists.

6. On June 8, 2011, Mr. Alonso submitted to an evaluation by Dr. D.R., M.D., who diagnosed Mr. Alonso with alcohol dependence, generalized anxiety disorder, and depressive disorder. Dr. D.R. noted that residential treatment may be necessary in the future, but recommended that Mr. Alonso first participate in an intensive outpatient treatment program through PRN.

7. On June 21, 2011, Mr. Alonso was admitted to an intensive outpatient program at HealthCare Connection of Tampa. In addition to the

intensive outpatient program, Mr. Alonso also participated in Alcoholics Anonymous and a Professionals Group.

8. Mr. Alonso was discharged from HealthCare Connection of Tampa on September 29, 2011, with diagnoses of alcohol dependence in early, full remission; sedative/hypnotic or anxiolytic dependence in early, full remission; cocaine abuse in early, full remission; generalized anxiety disorder; and depressive disorder. Upon his discharge, it was recommended that Mr. Alonso participate in PRN monitoring, continue psychiatric care, and continue in Alcoholics Anonymous.

9. According to Section 893.03(2), Florida Statutes (2010-2013), cocaine is a Schedule II controlled substance that has a high potential for abuse and has a currently accepted but severely restricted medical use in treatment in the United States. Abuse of cocaine may lead to severe psychological or physical dependence.

10. On June 24, 2011, Mr. Alonso signed a five year Dual Diagnosis Monitoring Contract with PRN, requiring him to, among other things, refrain from the use of alcohol and obtain psychiatric treatment.

11. On April 21, 2012, Mr. Alonso was arrested for crashing into a tree in front of a residential home and leaving the scene.

12. On April 23, 2012, PRN learned of Mr. Alonso's arrest.

13. On April 24, 2012, Mr. Alonso was admitted to a detoxification program at Town and Country Hospital. However, Mr. Alonso left the program against medical advice the same day. Mr. Alonso was subsequently admitted to a detoxification program at Turning Point the same evening.

14. On April 27, 2012, Mr. Alonso left the detoxification program at Turning Point against medical advice, after being informed that it was recommended that he enter a residential treatment program. The same day, Mr. Alonso informed PRN that he would not agree to a residential treatment program, but would attend an intensive outpatient program.

15. On April 30, 2012, PRN informed Mr. Alonso that he would be referred to the Department if he did not comply with PRN's recommendations. On May 2, 2012, Mr. Alonso informed PRN that he decided to "opt-out of PRN." On May 7, 2012, PRN referred Mr. Alonso to the Department.

16. On or about July 17, 2012, Dr. N.D., M.D., a physician at Turning Point, evaluated Mr. Alonso. Dr. N.D. diagnosed Mr. Alonso with alcohol dependence, cocaine abuse, cannabis abuse and substance-induced mood disorder with depressive features.

17. According to Section 893.03(1), Florida Statutes (2010-2013),

cannabis is a Schedule I controlled substance that has a high potential for abuse and has no currently accepted medical use in treatment in Florida. Its use under medical supervision does not meet accepted safety standards.

18. On or about October 16, 2012, Mr. Alonso re-enrolled in PRN and signed a five-year monitoring contract.

19. On or about August 9, 2013, Mr. Alonso provided a urine sample for drug screen. The urine sample tested positive for ethanol at a level of 0.374, and EtG and EtS¹ levels consistent with alcohol use. PRN referred Mr. Alonso to Dr. J.S., M.D., a psychiatrist, for evaluation.

20. On or about September 17, 2013, Dr. J.S. examined Mr. Alonso. Dr. J.S. diagnosed Mr. Alonso with alcohol dependence, cocaine abuse, cannabis abuse, tobacco use disorder and adjustment disorder. A contemporaneous drug screen was performed, which was positive for cocaine and alcohol. During the interview, Mr. Alonso adamantly denied using cocaine. Dr. J.S. ultimately determined that Mr. Alonso was not fit to practice pharmacy with reasonable skill and safety. Dr. J.S. recommended that Mr. Alonso enter residential treatment.

21. PRN established a November 4, 2013, deadline for Mr. Alonso to

¹ Ethyl glucuronide (EtG) and ethyl sulfate (EtS) is a laboratory based urine test which detects the presence of alcohol up to 80 hours after consumption.

enter residential treatment. Mr. Alonso failed to meet that deadline.

22. On or about November 8, 2013, Mr. Alonso went to the residence of his PRN compliance manager, and confronted her outside the residence.

23. On or about November 12, 2013, PRN terminated Mr. Alonso's contract for non-compliance.

24. Pharmacists work with highly addictive and potentially dangerous controlled substances. Pharmacists must possess good judgment and clear thinking.

25. Mr. Alonso's dependence on alcohol, cocaine and cannabis, and his aggressive and defiant behavior toward PRN indicate that he does not possess the requisite judgment necessary to safely practice pharmacy.

26. Mr. Alonso's refusal to comply with the terms of his PRN contract indicate that his violations of the laws which govern the practice of pharmacy are likely to continue.

27. A less restrictive sanction would not sufficiently protect the public from the threat that Mr. Alonso poses. Mr. Alonso's ongoing refusal to fully address his persistent polysubstance dependence renders him an immediate, serious danger. Nothing short of the immediate restriction of Mr. Alonso's license to practice pharmacy, according to the terms of this order, will

sufficiently protect the public.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the State Surgeon General concludes as follows:

1. The State Surgeon General has jurisdiction over this matter pursuant to Sections 20.43 and 456.073(8), Florida Statutes (2010-2013), and Chapter 465, Florida Statutes (2010-2013).

2. Section 465.016(1)(m), Florida Statutes (2010-2013), subjects a pharmacist to discipline, including restriction, for "[b]eing unable to practice pharmacy with reasonable skill and safety by reason of illness, use of drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition."

3. Mr. Alonso violated Section 465.016(1)(m), Florida Statutes (2010-2013), by being unable to practice pharmacy by reason of use of alcohol, drugs, narcotics or chemicals.

4. Section 456.072(1)(hh), Florida Statutes (2010-2013), subjects a pharmacist to discipline, including restriction, for "[b]eing terminated from a treatment program for impaired practitioners, which is overseen by an impaired practitioner consultant as described in s. 456.076, for failure to comply, without

good cause, with the terms of the monitoring or treatment contract entered into by the licensee, or for not successfully completing any drug treatment or alcohol treatment program."

5. Mr. Alonso violated Section 456.072(1)(hh), Florida Statutes, by being terminated from PRN.

6. Section 120.60(6), Florida Statutes (2010-2013), authorizes the Department to restrict a pharmacist's license if the Department finds that the pharmacist presents an immediate, serious danger to the public health, safety, or welfare.

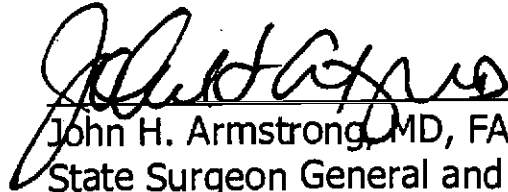
7. Mr. Alonso's continued practice as a pharmacist constitutes an immediate serious danger to the health, safety, and welfare of the public and this summary procedure is fair under the circumstances to adequately protect the public.

WHEREFORE, in accordance with Section 120.60(6), Florida Statutes (2012-2013), it is **ORDERED THAT:**

1. The license of Richard Alonso, R.Ph., license number PS 39780, is hereby immediately restricted to prohibit him from practicing pharmacy until such time as PRN recommends to the Department that Mr. Alonso is safe to practice pharmacy.

2. A proceeding seeking formal discipline of the license of Richard Alonso to practice as a pharmacist will be promptly instituted and acted upon in compliance with Sections 120.569 and 120.60(6), Florida Statutes (2010-2013).

DONE and ORDERED this 8th day of January, 2014.



John H. Armstrong, MD, FACS
State Surgeon General and
Secretary of Health

PREPARED BY:
R. Shaffer Claridge, Esq.
Florida Bar No. 0095549
Assistant General Counsel
Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, Florida 32399-3265
(P) 850-245-4444, extension 8166
(F) 850-245-4662
(E) Shaffer.claridge@flhealth.gov

NOTICE OF RIGHT TO JUDICIAL REVIEW

Pursuant to Sections 120.60(6), and 120.68, Florida Statutes, this Order is judicially reviewable. Review proceedings are governed by the Florida Rules of Appellate Procedure. Proceedings are commenced by filing a Petition for Review, in accordance with Florida Rule of Appellate Procedure 9.100, with the District Court of Appeal, accompanied by a filing fee prescribed by law, and a copy of the Petition with the Agency Clerk of the Department within 30 days of the date this Order is filed.



Rick Scott
Governor

Mission:

To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.

John H. Armstrong, MD, FACS
Surgeon General & Sec

Vision: To be the **Healthiest State** in the Nation

**STATE OF FLORIDA
BOARD OF PHARMACY**

DEPARTMENT OF HEALTH,
PETITIONER,

CASE NO. 201304359

VS.

WALGREEN COMPANY,
RESPONDENT.

NOTICE

TO: WALGREEN COMPANY
PO BOX 901
DEERFIELD, IL 60015

PLEASE TAKE NOTICE that a disciplinary hearing will be heard before the BOARD OF PHARMACY on Wednesday, August 13, 2014, commencing at 9 a.m. Although the Respondent is not required to be present, it is in their best interest to attend. This hearing will be held at DoubleTree by Hilton, 100 Fairway Drive, Deerfield Beach, FL 33441, 1(800) 624-3606..

The purpose of the hearing is to consider a motion for: Hearing - No Disputed Material Facts

Note: Cases shown on the agenda as "timed" items may be heard in a different order or may be heard earlier if all parties are present. Cases are scheduled beginning at 9 a.m.; therefore, it is imperative that you arrive promptly at 9 a.m. and be prepared to be at the meeting for several hours until your case is heard.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Hearing has been sent by U.S. Mail to the above address(es) this 10th day of July, 2014.

Board Executive Director
BOARD OF PHARMACY
Florida Department of Health
4052 Bald Cypress Way, Bin #
Tallahassee, FL 32399 -

Florida Department of Health

Division of Medical Quality Assurance
4052 Bald Cypress Way, Bin C10 • Tallahassee, FL 32399-3260
PHONE: (850) 245-4444 • FAX : (850) 245-4791

www.FloridasHealth.com

TWITTER:HealthyFLA
FACEBOOK:FLDepartmentofHealth
YOUTUBE: fldoh

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Rick Scott
Governor

John H. Armstrong, MD, FACS
State Surgeon General & Secretary

Vision: To be the Healthiest State in the Nation

STATE OF FLORIDA
BOARD OF PHARMACY

DEPARTMENT OF HEALTH,
PETITIONER,

VS. CASE NO. 201304359

WALGREEN COMPANY,
RESPONDENT.

NOTICE

AND: PATRICIA A. ZAGAMI
104 WILMOT ROAD - MS 1434
DEERFIELD, IL 60015

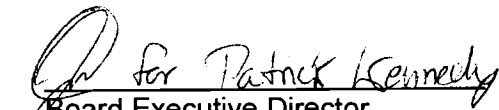
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The purpose of the hearing is to consider a motion for: Hearing - No Disputed Material Facts

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Board Executive Director
BOARD OF PHARMACY
Florida Department of Health
4052 Bald Cypress Way, Bin #
Tallahassee, FL 32399 -

Florida Department of Health

Division of Medical Quality Assurance • Bureau of HCPR
4052 Bald Cypress Way, Bin C-04 • Tallahassee, FL 32399-1701
PHONE: 850/245-4292 • FAX 850/413-6982

www.FloridasHealth.com

TWITTER: HealthyFLA
FACEBOOK: FLDepartmentofHealth
YOUTUBE: fldoh

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Vision: To be the Healthiest State in the Nation

Rick Scott

Governor

John H. Armstrong, MD, FACS

Surgeon General & Secretary

MEMORANDUM

TO: Patrick W. Kennedy, M.A., Executive Director, Board of Pharmacy
FROM: Matthew Witters, Assistant General Counsel *MS*
RE: **Hearing - No Disputed Material Facts**
SUBJECT: DOH v. Walgreens Company, #4391
 DOH Case Number 2013-04359
DATE: June 16, 2014

Enclosed you will find materials in the above-referenced case to be placed on the agenda for final agency action for the **August 12-13, 2014** meeting of the board. The following information is provided in this regard.

Subject: Walgreens Company, #4391
Subject's Address of Record: P.O. Box 901
 Deerfield, IL 60015
Enforcement Address: P.O. Box 901
 Deerfield, IL 60015
Subject's License No: 19501 **Rank:** PH
Licensure File No: 11474
Initial Licensure Date: 9/10/2003
Board Certification: None
Required to Appear: No
Current IPN/PRN Contract: No
Allegation(s): For Amended Administrative Complaint -
 Section 456.072(1)(f), F.S. (2012)
Prior Discipline: None
Probable Cause Panel: May 8, 2014: Fallon and Glass; January 9, 2014: Glass
 and Mikhael
Subject's Attorney: David S. Weinstein, Esq.
 Clarke Silvergate, Attorneys at Law
 799 Brickell Plaza
 Suite 900
 Miami, FL 33131
Complainant/Address: Department of Health
Materials Submitted: Memorandum to the Board
 Amended Administrative Complaint

Memorandum of Finding Probable Cause
Motion for Hearing Not Involving Disputed Issues of
Material Facts for Final Order
Election of Rights
Cost Summary Report
Motion to Assess Costs with Attachments
Correspondence to Respondent from Petitioner
Correspondence from Respondent
Final Investigative Report with Exhibits 1-4

MGW/aed

GUIDELINES:

Same Penalty as imposed in other jurisdiction or as closely as possible to penalties for similar violation.

PRELIMINARY CASE REMARKS

This is a one count administrative complaint which alleges that the Respondent entered into a settlement agreement with the Drug Enforcement Administration by which Respondent surrendered its registration to dispense Schedule II through Schedule V controlled substances until May 26, 2014.

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK ANGEL SANDERS
DATE MAY 08 2014

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO. 2013-04359

**WALGREEN COMPANY, d.b.a.,
WALGREENS #04391**

RESPONDENT.

AMENDED ADMINISTRATIVE COMPLAINT

COMES NOW, Petitioner, Department of Health, by and through its undersigned counsel, and files this Amended Administrative Complaint before the Board of Pharmacy against Respondent, Walgreen Company, and in support thereof alleges:

1. Petitioner is the state department charged with regulating the practice of pharmacy pursuant to Section 20.43, Florida Statutes; Chapter 456, Florida Statutes; and Chapter 465, Florida Statutes.
2. At all times material to this Amended Administrative Complaint, Respondent was a permitted community pharmacy within the state of Florida, having been issued permit number PH 16044.

3. Respondent's address of record is Post Office Box 901, Deerfield, Illinois 60015.

4. Respondent's physical location is 2501 Virginia Avenue, Fort Pierce, Florida 34981.

5. On or about June 11, 2013, Respondent entered into a settlement agreement with the Drug Enforcement Administration by which Respondent surrendered its registration to dispense Schedule II through Schedule V controlled substances until May 26, 2014.

6. Section 456.072(1)(f), Florida Statutes (2012), provides that a having a license or the authority to practice any regulated profession revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of any jurisdiction, including its agencies or subdivisions, for a violation that would constitute a violation under Florida law. The licensing authority's acceptance of a relinquishment of licensure, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of charges against the license, shall be construed as action against the license.

7. Respondent entered into a settlement agreement with the Drug Enforcement Administration by which the Respondent surrendered its

registration to dispense Schedule II through Schedule V controlled substances until May 26, 2014.

8. Based on the foregoing, Respondent has violated Section 456.072(1)(f), Florida Statutes (2012) by having a license or the authority to practice any regulated profession revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of any jurisdiction, including its agencies or subdivisions, for a violation that would constitute a violation under Florida law. The licensing authority's acceptance of a relinquishment of licensure, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of charges against the license, shall be construed as action against the license.

WHEREFORE, Petitioner respectfully requests that the Board of Pharmacy enter an order imposing one or more of the following penalties: permanent revocation or suspension of Respondent's license, restriction of practice, imposition of an administrative fine, issuance of a reprimand, placement of Respondent on probation, corrective action, refund of fees billed or collected, remedial education and/or any other relief that the Board deems appropriate.

SIGNED this 8 day of May, 2014.

JOHN H. ARMSTRONG, MD, FACS
State Surgeon General and
Secretary of Health



Matthew G. Witters
Assistant General Counsel
Fla. Bar No. 0091245
Florida Department of Health
Office of the General Counsel
4052 Bald Cypress Way, Bin #C65
Tallahassee, FL 32399-3265
Telephone: (850) 245-4444
Facsimile: (850) 245-4683
Email: matthew.witters@flhealth.gov

PCP: May 8, 2014
PCP Members: Fallon and Glass

NOTICE OF RIGHTS

Respondent has the right to request a hearing to be conducted in accordance with Section 120.569 and 120.57, Florida Statutes, to be represented by counsel or other qualified representative, to present evidence and argument, to call and cross-examine witnesses and to have subpoena and subpoena duces tecum issued on his or her behalf if a hearing is requested.

NOTICE REGARDING ASSESSMENT OF COSTS

Respondent is placed on notice that Petitioner has incurred costs related to the investigation and prosecution of this matter. Pursuant to Section 456.072(4), Florida Statutes, the Board shall assess costs related to the investigation and prosecution of a disciplinary matter, which may include attorney hours and costs, on the Respondent in addition to any other discipline imposed.

MEMORANDUM OF PROBABLE CAUSE DETERMINATION

TO: Department of Health, Prosecution Services Unit
FROM: Chair, Probable Cause Panel, Florida Board of Pharmacy
RE: Walgreen Company, #04391
Case Number: 2013-04359

MEMBERS: Glass and Fallon

DATE OF PCP: May 8, 2014 **AGENDA ITEM:** R-08 MW

This matter came before the Probable Cause Panel on the above date. Having reviewed the complete investigative file, recommendations of the Department, and any information submitted by the Subject, and being otherwise fully advised in the premises, the panel finds that:

Probable cause exists and a formal complaint shall be filed for violation of statutes and rules, including but not limited to:

Section 456.072(1)(f), F.S. (2012)

Probable Cause was **not** found in this case

In lieu of probable cause, issue **letter of guidance**

Case requires **expert review**

Case needs **further investigation**

a)

b)

c)

Upon **reconsideration, dismiss**

Other

Patrick Kennedy for Lee Fallon 5/15/2014

Chair, Probable Cause Panel
Board of Pharmacy

MEMORANDUM OF PROBABLE CAUSE DETERMINATION

TO: Department of Health, Prosecution Services Unit
FROM: Chair, Probable Cause Panel, Florida Board of Pharmacy
RE: Walgreen Company # 04391 (MGW)
Case Number: 2013-04359

MEMBERS: Debra Glass and Mark Mikhael

DATE OF PCP: January 9, 2014

AGENDA ITEM: A-11

.....
This matter came before the Probable Cause Panel on the above date. Having reviewed the complete investigative file, recommendations of the Department, and any information submitted by the Subject, and being otherwise fully advised in the premises, the panel finds that:

Probable cause exists and a formal complaint shall be filed for violation of statutes and rules, including but not limited to:

Section 465.072(1)(k), Florida Statutes (2012) by violating Section 465.023(1)(c), Florida Statutes (2012) through a violation of Section 465.023(1)(e), Florida Statutes (2012)

Probable Cause was not found in this case

In lieu of probable cause, issue letter of guidance

Case requires expert review

Case needs further investigation

a)
b)

Upon reconsideration, dismiss

other

Sunny Collins for Debra Glass
Chair, Probable Cause Panel

Board of Pharmacy

20 Jan 2014
Date

STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,
Petitioner,

v.

CASE NO. 2013-04359

WALGREENS COMPANY, #4391,
Respondent.

MOTION FOR FINAL ORDER AFTER HEARING NOT INVOLVING DISPUTED
ISSUES OF MATERIAL FACTS

COMES NOW, the Petitioner, by and through its undersigned counsel, and moves the Board of Pharmacy for entry of a Final Order in the above-styled cause on a date and time that has been determined and noticed by the Board. As grounds therefore, the Petitioner would state the following:

1. Petitioner previously filed an Administrative Complaint against Respondent alleging that Respondent had violated the provisions of Florida Statutes, as set forth therein. The Department, by filing the Administrative Complaint, is seeking to discipline the Respondent's license to practice as a community pharmacy, thereby affecting the Respondent's substantial interests.

2. On or about May 20, 2014, Petitioner served Respondent with the Amended Administrative Complaint via Respondent's address of record with the Department of Health. The Department, by serving the Respondent with the Amended Administrative Complaint, provided the Respondent written notice of its decision to seek discipline of the Respondent's license to practice as a community pharmacy.

3. The Respondent has filed an Election of Rights Form or other responsive pleading evincing, or has otherwise indicated, that Respondent does not dispute the material facts alleged in the Administrative Complaint.

4. There are no disputed issues of material fact to be resolved by the Board.

5. Respondent has been advised, by a copy of this Motion, that a copy of the investigative file in this case shall be furnished to the Board to establish a prima facie case regarding the violations as set forth in the Administrative Complaint.

WHEREFORE the parties respectfully request the Board of Pharmacy, after allowing the Respondent the opportunity to present oral and/or written evidence in mitigation of the Administrative Complaint, enter a Final Order imposing whatever discipline upon the Respondent's license that the Board deems appropriate.

Respectfully Submitted,



Matthew G. Witters, Esq.
Assistant General Counsel
Fla. Bar No. 0091245
Florida Department of Health
Office of the General Counsel
4052 Bald Cypress Way, Bin #C65
Tallahassee, FL 32399-3265
Telephone: (850) 245-4444, ext. 8172
Facsimile: (850) 245-4683
Email: matthew.witters@flhealth.gov

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing has been provided by U.S. mail this 17 day of June, 2014, to Walgreens Company, #4391, Pharmacy Law – Operations & Services, 104 Wilmot Road, MS #1446, Deerfield, IL 60015.



Matthew G. Witters, Esq.
Assistant General Counsel

Walgreens

Pharmacy Law - Operations
& Services
104 Wilmot Road, MS #1446
Deerfield, IL 60015

May 29, 2014

Via Facsimile (850) 245-4683

Matthew G. Witters, Assistant General Counsel
Florida Department of Health
Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, FL 32399-3265

Re: DOH v. Walgreens #3099, #3629, #3836, #4391, #4727, and #6997

Dear Mr. Witters:

Attached please find Walgreens Elections of Rights for the above referenced cases. If you have any questions regarding the attached documents, please feel free to contact me.

Sincerely,



Patricia A. Zagami, R.Ph.
Attorney
(847) 315-2871

EVERY DAY WE HELP PEOPLE GET, STAY AND LIVE WELL.

ELECTION OF RIGHTS

Case Name: Walgreen Company #04391

Case No. 2013-04359

PLEASE SELECT ONLY 1 OF THE 3 OPTIONS

An Explanation of Rights is attached. If you do not understand these options, please consult with your attorney or contact the attorney for the Prosecution Services Unit at the address/phone number listed at the bottom of this form.

OPTION 1. I do not dispute the allegations of fact in the Amended Administrative Complaint, but do wish to be accorded a hearing, pursuant to Section 120.57(2), Florida Statutes, at which time I will be permitted to submit oral and/or written evidence in mitigation of the complaint to the Board.

OPTION 2. I do not dispute the allegations of fact contained in the Amended Administrative Complaint and waive my right to object or to be heard. I request that the Board enter a final order pursuant to Section 120.57, Florida Statutes.

OPTION 3. I do dispute the allegations of fact contained in the Amended Administrative Complaint and request this to be considered a petition for formal hearing, pursuant to Sections 120.569(2)(a) and 120.57(1), Florida Statutes, before an Administrative Law Judge appointed by the Division of Administrative Hearings. I specifically dispute the following paragraphs of the Amended Administrative Complaint:

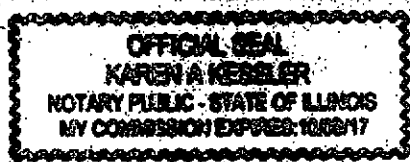
In addition to the above selection, I also elect the following:

- () I accept the terms of the Settlement Agreement, have signed and am returning the Settlement Agreement or I am interested in settling this case.
() I do not wish to continue practicing and have signed and returned the Voluntary Relinquishment of licensure form.

Regardless of which option I have selected, I understand that I will be given notice of time, date, and place when this matter is to be considered by the Board for Final Action. Mediation under Section 120.573, Florida Statutes, is not available in this matter.

(Please sign and complete all the information below.)

Respondent: Patricia Zagami, R.Ph., JD.
Address: 104 Wilmet Rd. MS #1446
Deerfield, FL 60015
Lic. No.
Phone No. 847-315-2871
Fax No. 847-315-2645



STATE OF FLORIDA # ILLINOIS
COUNTY OF LAKE

Before me personally appeared PATRICIA ZAGAMI, whose identity is known to be by LICENSE (type of identification), and who under oath, acknowledges that his/her signature appears above. Sworn to and subscribed before me this 29th day of MAY, 2014.

Karen A. Kessler
Notary Public

My Commission Expires: 10/18/17

PLEASE MAIL AND/OR FAX COMPLETED FORM TO: Matthew G. Witters, Assistant General Counsel, DOH, Prosecution Services Unit, 4052 Bald Cypress Way, Bin C-65, Tallahassee, Florida 32399-3265. Telephone Number: (850) 245-4444; FAX (850) 245-4683 - TDD 1-800-955-8771.

| | | | |
|--------|----------------------------------|------|------|
| Search | Complaint/Case Number: 201304359 | MAIN | HELP |
|--------|----------------------------------|------|------|

Complaint Cost Summary

Complaint Number: 201304359

Subject's Name: WALGREEN COMPANY

| | ***** Cost to Date ***** | |
|----------------------|--------------------------|----------|
| | Hours | Costs |
| Complaint: | 2.45 | \$134.51 |
| Investigation: | 4.20 | \$246.02 |
| Legal: | 2.70 | \$278.40 |
| Compliance: | 0.00 | \$0.00 |
| | ***** | ***** |
| Sub Total: | 9.35 | \$658.93 |
| Expenses to Date: | | \$0.00 |
| Prior Amount: | | \$0.00 |
| Total Costs to Date: | | \$658.93 |

= 1380.53

STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,
Petitioner,

v.

CASE NO. 2013-04359

WALGREENS COMPANY, #4391
Respondent.

MOTION TO ASSESS COSTS IN ACCORDANCE
WITH SECTION 456.072(4)

COMES NOW the Department of Health, by and through undersigned counsel, and moves the Board of Pharmacy for the entry of a Final Order assessing costs against the Respondent for the investigation and prosecution of this case in accordance with Section 456.072(4), Florida Statutes. As grounds, therefore, the Petitioner states the following:

1. At its next regularly scheduled meeting, the Board of Pharmacy will take up for consideration the above-styled disciplinary action and will enter a Final Order therein.

2. Section 456.072(4), Florida Statutes, states as follows:

In addition to any other discipline imposed through final order, or citation, entered on or

after July 1, 2001, pursuant to this section or discipline imposed through final order, or citation, entered on or after July 1, 2001, for a violation of any practice act, the board, or the department when there is not board, shall assess costs related to the investigation and prosecution of the case. Such costs related to the investigation and prosecution include, but are not limited to, salaries and benefits of personnel, costs related to the time spent by the attorney and other personnel working on the case, and any other expenses incurred by the department for the case. The board, or the department when there is no board, shall determine the amount of costs to be assessed after its consideration of an affidavit of itemized costs and any written objections thereto.

3. The investigation and prosecution of this case has resulted in costs in the total amount of \$658.93 based on the following itemized statement of costs: **Complaint Number: 2013-04359**

Subject's Name: WALGREEN COMPANY

| | ***** Cost to Date ***** | |
|-----------------------------|--------------------------|----------|
| | Hours | Costs |
| Complaint: | 2.45 | \$134.51 |
| Investigation: | 4.20 | \$246.02 |
| Legal: | 2.70 | \$278.40 |
| Compliance: | 0.00 | \$0.00 |
| | ***** | ***** |
| Sub Total: | 9.35 | \$658.93 |
| Expenses to Date: | | \$0.00 |
| Prior Amount: | | \$0.00 |
| Total Costs to Date: | | \$658.93 |

Therefore, the Petitioner seeks an assessment of costs against the Respondent in the amount of \$380.53 as evidenced in the attached affidavit. (Exhibit A).

4. Should the Respondent file written objections to the assessment of costs, within ten (10) days of the date of this motion, specifying the grounds for the objections and the specific elements of the costs to which the objections are made, the Petitioner requests that the Board determine the amount of costs to be assessed based upon its consideration of the affidavit attached as Exhibit A and any timely-filed written objections.

5. Petitioner requests that the Board grant this motion and assess costs in the amount of \$380.53 as supported by competent, substantial evidence. This assessment of costs is in addition to any other discipline imposed by the Board and is in accordance with Section 456.072(4), Florida Statutes.

WHEREFORE, the Department of Health requests that the Board of Pharmacy enter a Final Order assessing costs against the Respondent in the amount of \$380.53.

DATED this 17 day of June, 2014.

Respectfully submitted,



Matthew G. Witters, Esq.
Assistant General Counsel
DOH Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, FL 32399-3265
Florida Bar #0091245
(850) 245-4444 Telephone, ext. 8172
(850) 245-4683 Fax
Email: matthew.witters@flhealth.gov

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Motion to Assess Costs has been provided by U.S. Mail this 17 day of June, 2014, to Walgreens Company, #4391, Pharmacy Law – Operations & Services, 104 Wilmot Road, MS #1446, Deerfield, IL 60015.



Matthew G. Witters, Esq.
Assistant General Counsel

AFFIDAVIT OF FEES AND COSTS EXPENDED

STATE OF FLORIDA
COUNTY OF LEON:

BEFORE ME, the undersigned authority, personally appeared **SHANE WALTERS** who was sworn and states as follows:

- 1) My name is Shane Walters.
- 2) I am over the age of 18, competent to testify, and make this affidavit upon my own personal knowledge and after review of the records at the Florida Department of Health (DOH).
- 3) I am the Operations and Management Consultant Manager (OMCM) for the Consumer Services and Compliance Management Unit for DOH. The Consumer Services Unit is where all complaints against Florida health care licensees (e.g., medical doctors, dentists, nurses, respiratory therapists) are officially filed. I have been in my current job position for more than one year. My business address is 4052 Bald Cypress Way, Bin C-75 Tallahassee, Florida 32399-3275.
- 4) As OMCM of the Consumer Services and Compliance Management Unit, my job duties include reviewing data in the Time Tracking System and verifying that the amounts correspond. The Time Tracking System is a computer program which records and tracks DOH's costs regarding the investigation and prosecution of cases against Florida health care licensees.
- 5) As of today, DOH's total costs for investigating and prosecuting DOH case number(s) **2013-04359** (Department of Health v **Walgreens Company, #4391**) are **SIX HUNDRED FIFTY-EIGHT DOLLARS AND NINETY-THREE CENTS (\$658.93)**.
- 6) The costs for DOH case number(s) **2013-04359** (Department of Health v **Walgreens Company, #4391**) are summarized in Exhibit 1 (Cost Summary Report), which is attached to this document.
- 7) The itemized costs and expenses for DOH case number(s) **2013-04359** (Department of Health v **Walgreens Company, #4391**) are detailed in Exhibit 2 (Itemized Cost Report and Itemized Expense Report and receipts), which is attached to this document.
- 8) The itemized costs as reflected in Exhibit 2 are determined by the following method: DOH employees who work on cases daily are to keep track of their time in six-minute increments (e.g., investigators



and lawyers). A designated DOH employee in the Consumer Services Unit, Legal Department, and in each area office, inputs the time worked and expenses spent into the Time Tracking System. Time and expenses are charged against a state health care Board (e.g., Florida Board of Medicine, Florida Board of Dentistry, Florida Board of Osteopathic Medicine), and/or a case. If no Board or case can be charged, then the time and expenses are charged as administrative time. The hourly rate of each employee is calculated by formulas established by the Department. (See the Itemized Cost Report)

- 9) Shane Walters, first being duly sworn, states that she has read the foregoing Affidavit and its attachments and the statements contained therein are true and correct to the best of her knowledge and belief.

FURTHER AFFIANT SAYETH NOT.

Shane Walters
Shane Walters, Affiant

State of Florida
County of Leon

Sworn to and subscribed before me this 16th day of June, 2014,
by Shane Walters, who is personally known to me.

Towanda B. Burnett
Notary Signature

Towanda B. Burnett
Name of Notary Printed



Stamp Commissioned Name of Notary Public:

Complaint Cost Summary

Complaint Number: 201304359

Subject's Name: WALGREEN COMPANY

| | ***** Cost to Date ***** | |
|-----------------------------|--------------------------|----------|
| | Hours | Costs |
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| Legal: | 2.70 | \$278.40 |
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| | ***** | ***** |
| Sub Total: | 9.35 | \$658.93 |
| Expenses to Date: | | \$0.00 |
| Prior Amount: | | \$0.00 |
| Total Costs to Date: | | \$658.93 |

EXHIBIT

1

**Time Tracking System
Itemized Cost by Complaint**

Complaint 201304359

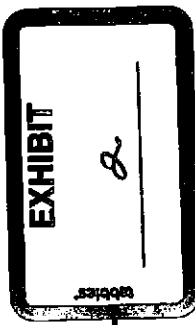
Report Date 06/16/2014

Page 1 of 2

| Staff Code | Activity Hours | Staff Rate | Cost | Activity Date | Activity Code | Activity Description |
|-------------------------------|----------------|------------|-----------------|---------------|---------------|--|
| CONSUMER SERVICES UNIT | | | | | | |
| HA162 | 0.50 | \$54.90 | \$27.45 | 03/13/2013 | 78 | INITIAL REVIEW AND ANALYSIS OF COMPLAINT |
| HA162 | 0.50 | \$54.90 | \$27.45 | 03/28/2013 | 7 | PRELIMINARY INVESTIGATION |
| HA162 | 0.05 | \$54.90 | \$2.75 | 05/20/2013 | 35 | TELEPHONE CALLS |
| HA162 | 0.50 | \$54.90 | \$27.45 | 06/12/2013 | 7 | PRELIMINARY INVESTIGATION |
| HA168 | 0.60 | \$54.90 | \$32.94 | 07/12/2013 | 144 | CSU INVESTIGATIVE WORK |
| HA168 | 0.30 | \$54.90 | \$16.47 | 07/18/2013 | 144 | CSU INVESTIGATIVE WORK |
| HA168 | 0.30 | \$54.90 | \$16.47 | 08/05/2013 | 144 | CSU INVESTIGATIVE WORK |
| HA168 | 0.50 | \$54.90 | \$27.45 | 08/26/2013 | 78 | INITIAL REVIEW AND ANALYSIS OF COMPLAINT |
| HA168 | 0.10 | \$54.90 | \$5.49 | 08/28/2013 | 78 | INITIAL REVIEW AND ANALYSIS OF COMPLAINT |
| HA168 | 1.10 | \$54.90 | \$60.39 | 09/19/2013 | 76 | REPORT PREPARATION |
| HA168 | 0.40 | \$54.90 | \$21.96 | 09/20/2013 | 76 | REPORT PREPARATION |
| HA52 | 0.10 | \$54.90 | \$5.49 | 09/23/2013 | 2 | OFFICE SUPERVISORY DUTIES |
| Sub Total | 4.95 | | \$271.76 | | | |

| | | | | | | |
|------------------------------------|-------------|---------|-----------------|------------|----|---------------------------|
| INVESTIGATIVE SERVICES UNIT | | | | | | |
| WI89 | 0.20 | \$63.98 | \$12.80 | 03/21/2013 | 7 | PRELIMINARY INVESTIGATION |
| WI89 | 0.50 | \$63.98 | \$31.99 | 03/22/2013 | 7 | PRELIMINARY INVESTIGATION |
| WI89 | 0.40 | \$63.98 | \$25.59 | 03/25/2013 | 76 | REPORT PREPARATION |
| WI89 | 0.40 | \$63.98 | \$25.59 | 03/25/2013 | 76 | REPORT PREPARATION |
| WI89 | 0.20 | \$63.98 | \$12.80 | 03/26/2013 | 7 | PRELIMINARY INVESTIGATION |
| Sub Total | 1.70 | | \$108.77 | | | |

| | | | | | | |
|----------------------------------|------|----------|---------|------------|----|--|
| PROSECUTION SERVICES UNIT | | | | | | |
| HLL90B | 0.30 | \$106.35 | \$31.91 | 10/15/2013 | 28 | PREPARE OR REVISE ADMINISTRATIVE COMPLAINT |
| HLL90B | 0.10 | \$106.35 | \$10.64 | 10/15/2013 | 35 | TELEPHONE CALLS |
| HLL90B | 0.10 | \$106.35 | \$10.64 | 10/17/2013 | 35 | TELEPHONE CALLS |



**Time Tracking System
Itemized Cost by Complaint**

Complaint 201304359

Report Date 06/16/2014

| Staff Code | Activity Hours | Staff Rate | Cost | Activity Date | Activity Code | Activity Description |
|------------------|----------------|------------|-----------------|---------------|---------------|---|
| HLL90B | 0.20 | \$106.35 | \$21.27 | 10/23/2013 | 35 | TELEPHONE CALLS |
| HLL90B | 0.20 | \$101.95 | \$20.39 | 10/29/2013 | 38 | REVIEW DISCOVERY REQUESTS/RESPONSES |
| HLL90B | 0.20 | \$101.95 | \$20.39 | 12/09/2013 | 37 | REVIEW LETTER |
| HLL90B | 0.20 | \$101.95 | \$20.39 | 12/11/2013 | 89 | PROBABLE CAUSE PREPARATION |
| HLL90B | 0.40 | \$101.95 | \$40.78 | 01/02/2014 | 79 | STIPULATION |
| HLL90B | 0.10 | \$101.95 | \$10.20 | 01/09/2014 | 63 | PRESENTATION OF CASES TO PROBABLE CAUSE PANEL |
| HLL90B | 0.10 | \$101.95 | \$10.20 | 01/09/2014 | 90 | POST PROBABLE CAUSE PROCESSING |
| HLL90B | 0.10 | \$101.95 | \$10.20 | 01/13/2014 | 36 | PREPARATION OR REVISION OF LETTER |
| HLL90B | 0.10 | \$101.95 | \$10.20 | 01/15/2014 | 90 | POST PROBABLE CAUSE PROCESSING |
| HLL90B | 0.10 | \$101.95 | \$10.20 | 04/03/2014 | 89 | PROBABLE CAUSE PREPARATION |
| HLL90B | 0.10 | \$101.95 | \$10.20 | 04/29/2014 | 89 | PROBABLE CAUSE PREPARATION |
| HLL90B | 0.20 | \$101.95 | \$20.39 | 05/07/2014 | 89 | PROBABLE CAUSE PREPARATION |
| HLL90B | 0.10 | \$101.95 | \$10.20 | 05/08/2014 | 63 | PRESENTATION OF CASES TO PROBABLE CAUSE PANEL |
| HLL90B | 0.10 | \$101.95 | \$10.20 | 05/16/2014 | 90 | POST PROBABLE CAUSE PROCESSING |
| Sub Total | 2.70 | | \$278.40 | | | |

| | |
|-------------------|-----------------|
| Total Cost | \$658.93 |
|-------------------|-----------------|

***** CONFIDENTIAL *****
Time Tracking System
Itemized Expense by Complaint
Complaint

Report Date: 06/16/2014

Page 1 of 1

| Staff Code | Expense Date | Expense Amount | Expense Code | Expense Code Description |
|------------|--------------|----------------|--------------|--------------------------|
|------------|--------------|----------------|--------------|--------------------------|

SubTotal

Total Expenses

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State Surgeon General & Secretary

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June 17, 2014

David S. Weinstein, Esq.
Clarke Silvergate, Attorneys at Law
799 Brickell Plaza
Suite 900
Miami, FL 33131

Re: DOH vs. Walgreens Company, #4391
DOH Case Number: 2013-04359

Dear Mr. Weinstein:

I am in receipt of your election of rights requesting a hearing not involving disputed issues of material fact executed by you on May 29, 2014, concerning the above referenced case. This means that the facts alleged in the Amended Administrative Complaint are uncontested. This is an important distinction because, by law, the Board cannot resolve disputes of material fact in this case or any disciplinary case. Since you are requesting a hearing not involving disputed issues of material fact, you are not admitting the facts alleged in the Amended Administrative Complaint, however, you are agreeing not to contest these facts and to limit presentation to legal argument, if any, and to matters in mitigation or extenuation.

Our office is now preparing this case to be presented at the next regularly scheduled meeting of the Florida Board of Pharmacy. Please be advised your case will be set at the convenience of the Department and/or the Board and you will be notified of the date and time approximately two weeks prior to the meeting.

Thank for your attention and cooperation in this matter. Should you have any questions, please feel free to contact this office.

Sincerely,

A handwritten signature in black ink, appearing to read "Matthew G. Witters".

Matthew G. Witters, Esq.
Assistant General Counsel

MGW/aed

Florida Department of Health
Office of the General Counsel • Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65 • Tallahassee, FL 32399-1701
Express mail address: 2585 Merchants Row – Suite 105
PHONE: 850/245-4444 • FAX 850/245-4683

www.FloridasHealth.com
TWITTER:HealthyFLA
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YOUTUBE: fidoh

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Rick Scott
Governor

John H. Armstrong, MD, FACS
State Surgeon General & Secretary

October 29, 2013

David S. Weinstein, Esquire
Clarke Silvergate, Attorneys at Law
Suite 900
799 Brickell Plaza
Miami, Florida 33131

Re: Complaint No. 2013-04359
Complaint Name: Walgreen's Company Store # 04391

Dear Mr. Weinstein:

Pursuant to Section 456.073(10), Florida Statutes, enclosed is a CD containing a copy the Department's complete investigative file in Complaint No. 2013-04359. Section 456.073(10), Florida Statutes provides in part:

... Upon completion of the investigation and a recommendation by the department to find probable cause, and pursuant to a written request by the subject or the subject's attorney, the department shall provide the subject an opportunity to inspect the investigative file or, at the subject's expense, forward to the subject a copy of the investigative file. Notwithstanding s. 456.057, the subject may inspect or receive a copy of any expert witness report or patient record connected with the investigation if the subject agrees in writing to maintain the confidentiality of any information received under this subsection until 10 days after probable cause is found and to maintain the confidentiality of patient records pursuant to s. 456.057. The subject may file a written response to the information contained in the investigative file. Such response must be filed within 20 days of mailing by the department, unless an extension of time has been granted by the department. . . .

Pursuant to the provisions of Section 456.073(10), Florida Statutes, your written response must be received by no later than twenty (20) days from the date of this letter. Any requests for an extension of time must be made to my office prior to the expiration of the original twenty (20) days.

The password for the CD is: 456. Please call with any questions, 850-245-4444, ext. 8172.

Florida Department of Health
Office of the General Counsel - Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65 • Tallahassee, FL 32399-3265
Express mail address: 2585 Merchants Row - Suite 105
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John H. Armstrong, MD, FACS
State Surgeon General & Secretary

Respectfully,

A handwritten signature in black ink, appearing to read "Matthew G. Witters".

Matthew G. Witters
Assistant General Counsel

MGW/crl

Enclosures: CD Investigative File (2013-04359)
Invoice #: MQPR14-242

Florida Department of Health

Office of the General Counsel • Prosecution Services Unit
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AND/OR DOCUMENTS THAT IDENTIFY THE PATIENT BY NAME AND ARE
EXEMPT FROM PUBLIC RECORDS LAWS.

456.057 - Ownership and control of patient records; report or copies of records to be
furnished.—

10)(a)All patient records obtained by the department and any other documents
maintained by the department which identify the patient by name are confidential and exempt
from s. 119.07(1) and shall be used solely for the purpose of the department and the appropriate
regulatory board in its investigation, prosecution, and appeal of disciplinary proceedings. The
records shall not be available to the public as part of the record of investigation for and
prosecution in disciplinary proceedings made available to the public by the department or the
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Rick Scott
Governor

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John H. Armstrong, MD, FACS

Surgeon General & Sec

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STATE OF FLORIDA
BOARD OF PHARMACY

DEPARTMENT OF HEALTH,
PETITIONER,

VS.

CASE NO. 201304374

WALGREEN COMPANY,
RESPONDENT.

NOTICE

TO: WALGREEN COMPANY
PO BOX 901
DEERFIELD, IL 60015

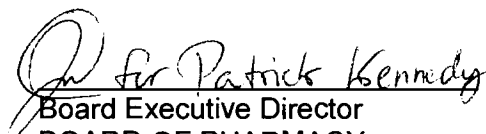
PLEASE TAKE NOTICE that a disciplinary hearing will be heard before the BOARD OF PHARMACY on Wednesday, August 13, 2014, commencing at 9 a.m. Although the Respondent is not required to be present, it is in their best interest to attend. This hearing will be held at DoubleTree by Hilton, 100 Fairway Drive, Deerfield Beach, FL 33441, 1(800) 624-3606..

The purpose of the hearing is to consider a motion for: Hearing - No Disputed Material Facts

Note: Cases shown on the agenda as "timed" items may be heard in a different order or may be heard earlier if all parties are present. Cases are scheduled beginning at 9 a.m.; therefore, it is imperative that you arrive promptly at 9 a.m. and be prepared to be at the meeting for several hours until your case is heard.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Hearing has been sent by U.S. Mail to the above address(es) this 10th day of July, 2014.


Patrick Kennedy

Board Executive Director
BOARD OF PHARMACY
Florida Department of Health
4052 Bald Cypress Way, Bin #
Tallahassee, FL 32399 -

Florida Department of Health

Division of Medical Quality Assurance
4052 Bald Cypress Way, Bin C10 • Tallahassee, FL 32399-3260
PHONE: (850) 245-4444 • FAX : (850) 245-4791

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John H. Armstrong, MD, FACS
State Surgeon General & Secretary

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STATE OF FLORIDA
BOARD OF PHARMACY

DEPARTMENT OF HEALTH,
PETITIONER,

VS.

CASE NO. 201304374

WALGREEN COMPANY,
RESPONDENT.

NOTICE

AND: DAVID S. WEINSTEIN
799 BRICKELL PLAZA, SUITE 900
CLARKE SILVERGATE, ATTORNEYS AT LAW
MIAMI, FL 33131

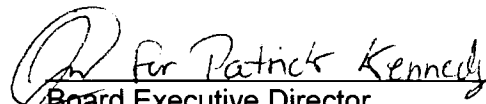
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Board Executive Director
BOARD OF PHARMACY
Florida Department of Health
4052 Bald Cypress Way, Bin #
Tallahassee, FL 32399 -

Florida Department of Health
Division of Medical Quality Assurance • Bureau of HCPR
4052 Bald Cypress Way, Bin C-04 • Tallahassee, FL 32399-1701
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STATE OF FLORIDA
BOARD OF PHARMACY

DEPARTMENT OF HEALTH,
PETITIONER,

VS.

CASE NO. 201304374

WALGREEN COMPANY,
RESPONDENT.

NOTICE

AND: PATRICIA A. ZAGAMI
104 WILMOT ROAD - MS 1434
DEERFIELD, IL 60015

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Board Executive Director

BOARD OF PHARMACY
Florida Department of Health
4052 Bald Cypress Way, Bin #
Tallahassee, FL 32399 -

Florida Department of Health

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MEMORANDUM

TO: Patrick W. Kennedy, M.A., Executive Director, Board of Pharmacy
FROM: Matthew Witters, Assistant General Counsel (M)
RE: **Hearing - No Disputed Material Facts**
SUBJECT: DOH v. Walgreen Company
DOH Case Number 2013-04374
DATE: June 16, 2014 AB

Enclosed you will find materials in the above-referenced case to be placed on the agenda for final agency action for the **August 13, 2014**, meeting of the board. The following information is provided in this regard.

Subject: Walgreen Company
Subject's Address of Record: PO Box 901
Deerfield, IL 60015
Enforcement Address: PO Box 901
Deerfield, IL 60015
Subject's License No: 13738 **Rank:** PH
Licensure File No: 4314
Initial Licensure Date: 12/19/1995
Board Certification: No
Required to Appear: No
Current IPN/PRN Contract: No
Allegation(s): 456.072(1)(f), FS (2012)
Prior Discipline: None
Probable Cause Panel: January 9, 2014; Glass & Mikhael
May 8, 2014; Fallon & Glass
Subject's Attorney: David S. Weinstein
799 Brickell Plaza, Suite 900
Clarke Silvergate, Attorneys At Law
Miami, FL 33131
Complainant/Address: Department Of Health
Materials Submitted: Memorandum to the Board
Motion For Final Order
Amended Administrative Complaint
Administrative Complaint
Motion to Assess Costs with Attachments
Exhibit A – Affidavit of Fees & Costs Expended

Exhibit 1 – Complaint Cost Summary
Exhibit 2 – Itemized Cost by Complaint
Election of Rights
Notification Letter
Respondent's Documents
Memorandum of Finding Probable Cause
Final Investigative Report with Exhibits 1-4

GUIDELINES:

Same Penalty as imposed in other jurisdiction or as closely as possible to penalties for similar violation.

PRELIMINARY CASE REMARKS

This is a one count administrative complaint which alleges that the Respondent entered into a settlement agreement with the Drug Enforcement Administration by which Respondent surrendered its registration to dispense Schedule II through Schedule V controlled substances until May 26, 2014.

STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,
Petitioner,

v.

CASE NO. 2013-04374

WALGREEN COMPANY #03629,
Respondent.

MOTION FOR FINAL ORDER AFTER HEARING NOT INVOLVING DISPUTED
ISSUES OF MATERIAL FACTS

COMES NOW, the Petitioner, by and through its undersigned counsel, and moves the Board of Pharmacy for entry of a Final Order in the above-styled cause on a date and time that has been determined and noticed by the Board. As grounds therefore, the Petitioner would state the following:

1. Petitioner previously filed an Administrative Complaint against Respondent alleging that Respondent had violated the provisions of Florida Statutes, as set forth therein. The Department, by filing the Administrative Complaint, is seeking to discipline the Respondent's license to practice as a pharmacy, thereby affecting the Respondent's substantial interests.
2. On or about May 20, 2014, Petitioner served Respondent with the Administrative Complaint via Respondent's address of record with the

Department of Health. The Department, by serving the Respondent with the Administrative Complaint, provided the Respondent written notice of its decision to seek discipline of the Respondent's license to practice as a pharmacy.

3. The Respondent has filed an Election of Rights Form or other responsive pleading evincing, or has otherwise indicated, that Respondent does not dispute the material facts alleged in the Administrative Complaint.

4. There are no disputed issues of material fact to be resolved by the Board.

5. Respondent has been advised, by a copy of this Motion, that a copy of the investigative file in this case shall be furnished to the Board to establish a prima facie case regarding the violations as set forth in the Administrative Complaint.

WHEREFORE the parties respectfully request the Board of Pharmacy, after allowing the Respondent the opportunity to present oral and/or written evidence in mitigation of the Administrative Complaint, enter a Final Order imposing whatever discipline upon the Respondent's license that the Board deems appropriate.

Respectfully Submitted,



Matthew Witters
Assistant General Counsel
Fla. Bar No. 2013-04374
Florida Department of Health
Office of the General Counsel
4052 Bald Cypress Way, Bin #C65
Tallahassee, FL 32399-3265
Telephone: (850) 245-4444
Facsimile: (850) 245-4683
Email: matthew.witters@flhealth.gov

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing has been provided by U.S. mail this 17 day of June, 2014, to Walgreen Company, c/o David Weinstein, Esquire, 799 Brickell Plaza, Suite 900, Miami, FL 33131.



Matthew Witters
Assistant General Counsel

STATE OF FLORIDA
DEPARTMENT OF HEALTH

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK ANGEL SANDERS
DATE MAY 08 2014

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO. 2013-04374

WALGREEN COMPANY, d.b.a.,
WALGREENS #03629

RESPONDENT.

AMENDED ADMINISTRATIVE COMPLAINT

COMES NOW, Petitioner, Department of Health, by and through its undersigned counsel, and files this Amended Administrative Complaint before the Board of Pharmacy against Respondent, Walgreen Company, and in support thereof alleges:

1. Petitioner is the state department charged with regulating the practice of pharmacy pursuant to Section 20.43, Florida Statutes; Chapter 456, Florida Statutes; and Chapter 465, Florida Statutes.
2. At all times material to this Amended Administrative Complaint, Respondent was a permitted community pharmacy within the state of Florida, having been issued permit number PH 13738.

3. Respondent's address of record is Post Office Box 901, Deerfield, Illinois 60015.

4. Respondent's physical location is 12028 Majestic Blvd., Hudson, Florida 34667.

5. On or about June 11, 2013, Respondent entered into a settlement agreement with the Drug Enforcement Administration by which Respondent surrendered its registration to dispense Schedule II through Schedule V controlled substances until May 26, 2014.

6. Section 456.072(1)(f), Florida Statutes (2012), provides that a having a license or the authority to practice any regulated profession revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of any jurisdiction, including its agencies or subdivisions, for a violation that would constitute a violation under Florida law. The licensing authority's acceptance of a relinquishment of licensure, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of charges against the license, shall be construed as action against the license.

7. Respondent entered into a settlement agreement with the Drug Enforcement Administration by which the Respondent surrendered its

registration to dispense Schedule II through Schedule V controlled substances until May 26, 2014.

8. Based on the foregoing, Respondent has violated Section 456.072(1)(f), Florida Statutes (2012) by having a license or the authority to practice any regulated profession revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of any jurisdiction, including its agencies or subdivisions, for a violation that would constitute a violation under Florida law. The licensing authority's acceptance of a relinquishment of licensure, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of charges against the license, shall be construed as action against the license.

WHEREFORE, Petitioner respectfully requests that the Board of Pharmacy enter an order imposing one or more of the following penalties: permanent revocation or suspension of Respondent's license, restriction of practice, imposition of an administrative fine, issuance of a reprimand, placement of Respondent on probation, corrective action, refund of fees billed or collected, remedial education and/or any other relief that the Board deems appropriate.

SIGNED this 8 day of May, 2014.

JOHN H. ARMSTRONG, MD, FACS
State Surgeon General and
Secretary of Health



Matthew G. Witters
Assistant General Counsel
Fla. Bar No. 0091245
Florida Department of Health
Office of the General Counsel
4052 Bald Cypress Way, Bin #C65
Tallahassee, FL 32399-3265
Telephone: (850) 245-4444
Facsimile: (850) 245-4683
Email: matthew.witters@flhealth.gov

PCP: May 8, 2014
PCP Members: Fallon and Glass

NOTICE OF RIGHTS

Respondent has the right to request a hearing to be conducted in accordance with Section 120.569 and 120.57, Florida Statutes, to be represented by counsel or other qualified representative, to present evidence and argument, to call and cross-examine witnesses and to have subpoena and subpoena duces tecum issued on his or her behalf if a hearing is requested.

NOTICE REGARDING ASSESSMENT OF COSTS

Respondent is placed on notice that Petitioner has incurred costs related to the investigation and prosecution of this matter. Pursuant to Section 456.072(4), Florida Statutes, the Board shall assess costs related to the investigation and prosecution of a disciplinary matter, which may include attorney hours and costs, on the Respondent in addition to any other discipline imposed.

MEMORANDUM OF PROBABLE CAUSE DETERMINATION

TO: Department of Health, Prosecution Services Unit
FROM: Chair, Probable Cause Panel, Florida Board of Pharmacy
RE: Walgreen Company, #03629
Case Number: 2013-04374

MEMBERS: Glass and Fallon

DATE OF PCP: May 8, 2014 AGENDA ITEM: R-09 *MU*

This matter came before the Probable Cause Panel on the above date. Having reviewed the complete investigative file, recommendations of the Department, and any information submitted by the Subject, and being otherwise fully advised in the premises, the panel finds that:

Probable cause exists and a formal complaint shall be filed for violation of statutes and rules, including but not limited to:

Section 456.072(1)(f), F.S. (2012)

Probable Cause was not found in this case

In lieu of probable cause, issue letter of guidance

Case requires expert review

Case needs further investigation

- a)
- b)
- c)

Upon reconsideration, dismiss

Other

[Signature]
for Lee Fallon 5/15/2014
Chair, Probable Cause Panel
Board of Pharmacy

MEMORANDUM OF PROBABLE CAUSE DETERMINATION

TO: Department of Health, Prosecution Services Unit
FROM: Chair, Probable Cause Panel, Florida Board of Pharmacy
RE: Walgreen Company # 03629 (MGW)
Case Number: 2013-04374

MEMBERS: Debra Glass and Mark Mikhael

DATE OF PCP: January 9, 2014

AGENDA ITEM: A-12

.....
This matter came before the Probable Cause Panel on the above date. Having reviewed the complete
investigative file, recommendations of the Department, and any information submitted by the Subject, and
being otherwise fully advised in the premises, the panel finds that:

Probable cause exists and a formal complaint shall be filed for violation of
statutes and rules, including but not limited to:

**Section 465.072(1)(k), Florida Statutes (2012) by violating Section 465.023(1)(c),
Florida Statutes (2012) through a violation of Section 465.023(1)(e), Florida Statutes (2012)**

Probable Cause was not found in this case

In lieu of probable cause, issue **letter of guidance**

Case requires expert review

Case needs **further investigation**

a)
b)

Upon **reconsideration**, dismiss

other

Debra Glass for Debra Glass 20 Jan 2014
Chair, Probable Cause Panel Date
Board of Pharmacy

STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,
Petitioner,

v.

CASE NO. 2013-04374

WALGREEN COMPANY #03629,
Respondent.

MOTION TO ASSESS COSTS IN ACCORDANCE
WITH SECTION 456.072(4)

COMES NOW the Department of Health, by and through undersigned counsel, and moves the Board of Pharmacy for the entry of a Final Order assessing costs against the Respondent for the investigation and prosecution of this case in accordance with Section 456.072(4), Florida Statutes. As grounds therefore, the Petitioner states the following:

1. At its next regularly scheduled meeting, the Board of Pharmacy will take up for consideration the above-styled disciplinary action and will enter a Final Order therein.

2. Section 456.072(4), Florida Statutes, states as follows:

In addition to any other discipline imposed through final order, or citation, entered on or

after July 1, 2001, pursuant to this section or discipline imposed through final order, or citation, entered on or after July 1, 2001, for a violation of any practice act, the board, or the department when there is not board, shall assess costs related to the investigation and prosecution of the case. Such costs related to the investigation and prosecution include, but are not limited to, salaries and benefits of personnel, costs related to the time spent by the attorney and other personnel working on the case, and any other expenses incurred by the department for the case. The board, or the department when there is no board, shall determine the amount of costs to be assessed after its consideration of an affidavit of itemized costs and any written objections thereto. .

3. The investigation and prosecution of this case has resulted in costs in the total amount of \$501.77, based on the following itemized statement of costs:

| | ***** Cost to Date ***** | |
|-------------------|--------------------------|---------------------------|
| | Hours | Costs |
| Complaint: | 1.20 | \$65.88 |
| Investigation: | 3.00 | \$178.32 |
| Legal: | 2.50 | \$257.57 |
| Compliance: | 0.00 | \$0.00 |
| Sub Total: | 6.70 | \$501.77 |
| Expenses to Date: | | \$«Expense_to_Date_Costs» |
| Prior | | \$0.00 |

| | | |
|----------------------|--|----------|
| Amount: | | |
| Total Costs to Date: | | \$501.77 |

Therefore, the Petitioner seeks an assessment of costs against the Respondent in the amount of \$244.20 as evidenced in the attached affidavit. (Exhibit A).

4. Should the Respondent file written objections to the assessment of costs, within ten (10) days of the date of this motion, specifying the grounds for the objections and the specific elements of the costs to which the objections are made, the Petitioner requests that the Board determine the amount of costs to be assessed based upon its consideration of the affidavit attached as Exhibit A and any timely-filed written objections.

5. Petitioner requests that the Board grant this motion and assess costs in the amount of \$244.20 as supported by competent, substantial evidence. This assessment of costs is in addition to any other discipline imposed by the Board and is in accordance with Section 456.072(4), Florida Statutes.

WHEREFORE, the Department of Health requests that the Board of Pharmacy enter a Final Order assessing costs against the Respondent in the amount of \$244.20.

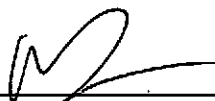
DATED this 17 day of June, 2014.



Matthew Witters
Assistant General Counsel
Fla. Bar No. 91245
Florida Department of Health
Office of the General Counsel
4052 Bald Cypress Way, Bin #C65
Tallahassee, FL 32399-3265
Telephone: (850) 245-4444
Facsimile: (850) 245-4683
Email: matthew.witters@flhealth.gov

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Motion to Assess Costs has been provided by U.S. Mail this 17 day of June, 2014, to Walgreen Company, c/o David Weinstein, Esquire, 799 Brickell Plaza, Suite 900, Miami, FL 33131.



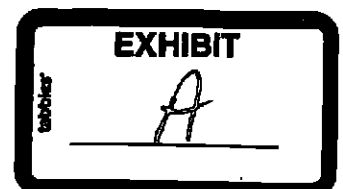
Matthew Witters
Assistant General Counsel

AFFIDAVIT OF FEES AND COSTS EXPENDED

STATE OF FLORIDA
COUNTY OF LEON:

BEFORE ME, the undersigned authority, personally appeared **SHANE WALTERS** who was sworn and states as follows:

- 1) My name is Shane Walters.
- 2) I am over the age of 18, competent to testify, and make this affidavit upon my own personal knowledge and after review of the records at the Florida Department of Health (DOH).
- 3) I am the Operations and Management Consultant Manager (OMCM) for the Consumer Services and Compliance Management Unit for DOH. The Consumer Services Unit is where all complaints against Florida health care licensees (e.g., medical doctors, dentists, nurses, respiratory therapists) are officially filed. I have been in my current job position for more than one year. My business address is 4052 Bald Cypress Way, Bin C-75 Tallahassee, Florida 32399-3275.
- 4) As OMCM of the Consumer Services and Compliance Management Unit, my job duties include reviewing data in the Time Tracking System and verifying that the amounts correspond. The Time Tracking System is a computer program which records and tracks DOH's costs regarding the investigation and prosecution of cases against Florida health care licensees.
- 5) As of today, DOH's total costs for investigating and prosecuting DOH case number(s) **2013-04374** (Department of Health v **WALGREEN COMPANY**) are **FIVE HUNDRED ONE DOLLAR AND SEVENTY-SEVEN CENTS (\$501.77)**.
- 6) The costs for DOH case number(s) **2013-04374** (Department of Health v **WALGREEN COMPANY**) are summarized in Exhibit 1 (Cost Summary Report), which is attached to this document.
- 7) The itemized costs and expenses for DOH case number(s) **2013-04374** (Department of Health v **WALGREEN COMPANY**) are detailed in Exhibit 2 (Itemized Cost Report and Itemized Expense Report and receipts), which is attached to this document.
- 8) The itemized costs as reflected in Exhibit 2 are determined by the following method: DOH employees who work on cases daily are to keep track of their time in six-minute increments (e.g., investigators



and lawyers). A designated DOH employee in the Consumer Services Unit, Legal Department, and in each area office, inputs the time worked and expenses spent into the Time Tracking System. Time and expenses are charged against a state health care Board (e.g., Florida Board of Medicine, Florida Board of Dentistry, Florida Board of Osteopathic Medicine), and/or a case. If no Board or case can be charged, then the time and expenses are charged as administrative time. The hourly rate of each employee is calculated by formulas established by the Department. (See the Itemized Cost Report)

- 9) Shane Walters, first being duly sworn, states that she has read the foregoing Affidavit and its attachments and the statements contained therein are true and correct to the best of her knowledge and belief.

FURTHER AFFIANT SAYETH NOT.

Shane Walters

Shane Walters, Affiant

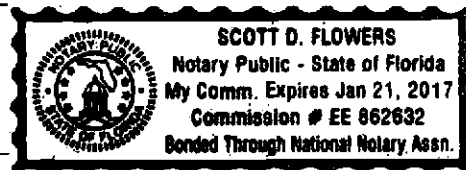
State of Florida
County of Leon

Sworn to and subscribed before me this 17 day of June, 2014,
by Shane Walters, who is personally known to me.

[Signature]
Notary Signature

Name of Notary Printed

Stamp Commissioned Name of Notary Public:



Complaint Cost Summary

Complaint Number: 201304374

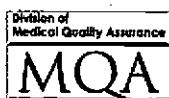
Subject's Name: WALGREEN COMPANY

| | ***** Cost to Date ***** | |
|----------------------|--------------------------|----------|
| | Hours | Costs |
| Complaint: | 1.20 | \$65.88 |
| Investigation: | 3.00 | \$178.32 |
| Legal: | 2.50 | \$257.57 |
| Compliance: | 0.00 | \$0.00 |
| | ***** | ***** |
| Sub Total: | 6.70 | \$501.77 |
| Expenses to Date: | | \$0.00 |
| Prior Amount: | | \$0.00 |
| Total Costs to Date: | | \$501.77 |

EXHIBIT

Main Report

CSU
ISU
PSU



*** CONFIDENTIAL ***
Time Tracking System
Itemized Cost by Complaint

Complaint: 201304374

Report Date 06/17/2014

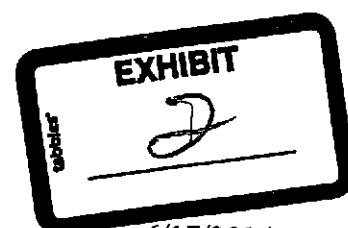
Page 1

| Staff Code | Activity Hours | Staff Rate | Cost | Activity Date | Activity Code | Activity Description |
|------------------------------------|----------------|------------|-----------------|---------------|---------------|---|
| CONSUMER SERVICES UNIT | | | | | | |
| HA162 | 0.50 | \$54.90 | \$27.45 | 09/13/2013 | 78 | INITIAL REVIEW AND ANALYSIS OF COMPLAINT |
| HA168 | 0.30 | \$54.90 | \$27.45 | 08/26/2013 | 78 | INITIAL REVIEW AND ANALYSIS OF COMPLAINT |
| HA168 | 0.10 | \$54.90 | \$5.49 | 08/28/2013 | 78 | INITIAL REVIEW AND ANALYSIS OF COMPLAINT |
| HA168 | 1.10 | \$54.90 | \$60.39 | 05/19/2013 | 76 | REPORT PREPARATION |
| HA168 | 0.40 | \$54.90 | \$21.96 | 09/20/2013 | 76 | REPORT PREPARATION |
| HA52 | 0.10 | \$54.90 | \$5.49 | 05/23/2013 | 2 | OFFICE SUPERVISORY DUTIES |
| Sub Total | 2.70 | | \$148.23 | | | |
| INVESTIGATIVE SERVICES UNIT | | | | | | |
| TI117 | 0.50 | \$63.98 | \$31.99 | 04/03/2013 | 76 | REPORT PREPARATION |
| TI117 | 0.30 | \$63.98 | \$19.19 | 04/03/2013 | 58 | TRAVEL TIME |
| TI117 | 0.60 | \$63.98 | \$38.39 | 08/14/2013 | 7 | PRELIMINARY INVESTIGATION |
| Sub Total | 1.50 | | \$99.57 | | | |
| PROSECUTION SERVICES UNIT | | | | | | |
| HLL90B | 0.30 | \$106.35 | \$31.91 | 10/14/2013 | 28 | PREPARE OR REVISE ADMINISTRATIVE COMPLAINT |
| HLL90B | 0.30 | \$106.35 | \$31.91 | 10/15/2013 | 28 | PREPARE OR REVISE ADMINISTRATIVE COMPLAINT |
| HLL90B | 0.20 | \$101.95 | \$20.39 | 10/29/2013 | 38 | REVIEW DISCOVERY REQUESTS/RESPONSES |
| HLL90B | 0.20 | \$101.95 | \$20.39 | 12/09/2013 | 37 | REVIEW LETTER |
| HLL90B | 0.20 | \$101.95 | \$20.39 | 12/11/2013 | 89 | PROBABLE CAUSE PREPARATION |
| HLL90B | 0.20 | \$101.95 | \$20.39 | 01/02/2014 | 79 | STIPULATION |
| HLL90B | 0.10 | \$101.95 | \$10.20 | 01/03/2014 | 89 | PROBABLE CAUSE PREPARATION |
| HLL90B | 0.10 | \$101.95 | \$10.20 | 01/09/2014 | 63 | PRESENTATION OF CASES TO PROBABLE CAUSE PANEL |
| HLL90B | 0.10 | \$101.95 | \$10.20 | 01/09/2014 | 90 | POST PROBABLE CAUSE PROCESSING |
| HLL90B | 0.10 | \$101.95 | \$10.20 | 01/13/2014 | 36 | PREPARATION OR REVISION OF LETTER |
| HLL90B | 0.10 | \$101.95 | \$10.20 | 01/15/2014 | 92 | POST BOARD MEETING PROCESSING |

Florida Department of Health

- FOR INTERNAL USE ONLY -

hwzdcos



ELECTION OF RIGHTS

Case Name: Walgreen Company #03629

Case No. 2013-04374

PLEASE SELECT ONLY 1 OF THE 3 OPTIONS

An Explanation of Rights is attached. If you do not understand these options, please consult with your attorney or contact the attorney for the Prosecution Services Unit at the address/phone number listed at the bottom of this form.

OPTION 1. X I do not dispute the allegations of fact in the Administrative Complaint, but do wish to be accorded a hearing, pursuant to Section 120.57(2), Florida Statutes, at which time I will be permitted to submit oral and/or written evidence in mitigation of the complaint to the Board.

OPTION 2. I do not dispute the allegations of fact contained in the Administrative Complaint and waive my right to object or to be heard. I request that the Board enter a final order pursuant to Section 120.57, Florida Statutes.

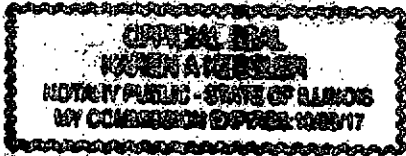
OPTION 3. I do dispute the allegations of fact contained in the Administrative Complaint and request this to be considered a petition for formal hearing, pursuant to Sections 120.569(2)(a) and 120.57(1), Florida Statutes, before an Administrative Law Judge appointed by the Division of Administrative Hearings. I specifically dispute the following paragraphs of the Amended Administrative Complaint:

In addition to the above selection, I also elect the following:

- () I accept the terms of the Settlement Agreement, have signed and am returning the Settlement Agreement or I am interested in settling this case.
() I do not wish to continue practicing and have signed and returned the Voluntary Relinquishment of licensure form.

Regardless of which option I have selected, I understand that I will be given notice of time, date, and place when this matter is to be considered by the Board for Final Action. Mediation under Section 120.573, Florida Statutes, is not available in this matter. (Please sign and complete all the information below.)

Respondent: Patricia Zagani, RPh, JD
Address: 104 Wilmot Rd., MS #1446
Deerfield IL 60015
Lic. No.
Phone No. 847-315-2871
Fax No. 847-315-2645



STATE OF ILLINOIS
COUNTY OF COKE

Before me personally appeared PATRICIA ZAGANI whose identity is known to be by LICENSE (type of identification), and who under oath, acknowledges that his/her signature appears above. Sworn to and subscribed before me this 4th day of JUNE, 2014.

Notary Public signature

My Commission Expires: 10/18/17

PLEASE MAIL AND/OR FAX COMPLETED FORM TO: Matthew G. Witters, Assistant General Counsel, DOH, Prosecution Services Unit, 4052 Bald Cypress Way, Bin C-65, Tallahassee, Florida 32399-3265. Telephone Number: (850) 245-4444; FAX (850) 245-4683 - TDD 1-800-955-8771.

Mission:

To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.



Rick Scott
Governor

John H. Armstrong, MD, FACS
State Surgeon General & Secretary

Vision: To be the Healthiest State in the Nation

June 17, 2014

David Weinstein, Esquire
799 Brickell Plaza, #900
Miami, FL 33131

Re: DOH vs. Walgreen Company #03629
DOH Case Number: 2013-04374

Dear Mr. Weinstein:

I am in receipt of your client's election of rights requesting a hearing not involving disputed issues of material fact, executed by your client on May 29, 2014, concerning the above referenced case. This means that the facts alleged in the Administrative Complaint are uncontested. This is an important distinction because, by law, the Board cannot resolve disputes of material fact in this case or any disciplinary case. Since your client is requesting a hearing not involving disputed issues of material fact, he/she is not admitting the facts alleged in the Administrative Complaint, however, your client is agreeing not to contest these facts and to limit presentation to legal argument, if any, and to matters in mitigation or extenuation.

Our office is now preparing this case to be presented at the next regularly scheduled meeting of the Florida Board of Pharmacy. Please be advised your client's case will be set at the convenience of the Department and/or the Board, and your office will receive notification of the date and time approximately two weeks prior to the meeting.

Thank for your attention and cooperation in this matter. Should you have any questions, please feel free to contact this office.

Sincerely,

A handwritten signature in black ink, appearing to read "Matthew Witters".

Matthew Witters
Assistant General Counsel

MW/ab

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Rick Scott
Governor

John H. Armstrong, MD, FACS
State Surgeon General & Secretary

October 29, 2013

David S. Weinstein, Esquire
Clarke Silvergate, Attorneys at Law
Suite 900
799 Brickell Plaza
Miami, Florida 33131

Re: Complaint No. 2013-04374
Complaint Name: Walgreen's Company Store # 03629

Dear Mr. Weinstein:

Pursuant to Section 456.073(10), Florida Statutes, enclosed is a CD containing a copy the Department's complete investigative file in Complaint No. 2013-04374. Section 456.073(10), Florida Statutes provides in part:

... Upon completion of the investigation and a recommendation by the department to find probable cause, and pursuant to a written request by the subject or the subject's attorney, the department shall provide the subject an opportunity to inspect the investigative file or, at the subject's expense, forward to the subject a copy of the investigative file. Notwithstanding s. 456.057, the subject may inspect or receive a copy of any expert witness report or patient record connected with the investigation if the subject agrees in writing to maintain the confidentiality of any information received under this subsection until 10 days after probable cause is found and to maintain the confidentiality of patient records pursuant to s. 456.057. The subject may file a written response to the information contained in the investigative file. Such response must be filed within 20 days of mailing by the department, unless an extension of time has been granted by the department. ...

Pursuant to the provisions of Section 456.073(10), Florida Statutes, your written response must be received by no later than twenty (20) days from the date of this letter. Any requests for an extension of time must be made to my office prior to the expiration of the original twenty (20) days.

The password for the CD is: 456. Please call with any questions, 850-245-4444, ext. 8172.

Florida Department of Health
Office of the General Counsel - Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65 • Tallahassee, FL 32399-3265
Express mail address: 2585 Merchants Row - Suite 105
PHONE: 850/245-4444 • FAX 850/245-466X

www.FloridasHealth.com
TWITTER: HealthyFLA
FACEBOOK: FLDepartmentofHealth
YOUTUBE: fldoh

Mission:

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Rick Scott
Governor

John H. Armstrong, MD, FACS
State Surgeon General & Secretary

Respectfully,

A handwritten signature in black ink, appearing to read "Matthew G. Witters".

Matthew G. Witters
Assistant General Counsel

MGW/crl

Enclosures: CD Investigative File (2013-04374)
Invoice #: MQPR14-245

Florida Department of Health

Office of the General Counsel - Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65 • Tallahassee, FL 32399-3265
Express mail address: 2585 Merchants Row - Suite 105
PHONE: 850/245-4444 • FAX 850/245-466X

www.FloridasHealth.com

TWITTER:HealthyFLA
FACEBOOK:FLDepartmentofHealth
YOUTUBE: fldoh

DOH vs. Walgreen Company dba Walgreens #03629
Case Number 2013-04374

**Acknowledgement of and
Agreement to Maintain Patient Confidentiality**

I, Walgreens #03629, am the Subject of an investigation by the Department of Health. As the Subject of such an investigation, I am entitled to inspect or receive a copy of the investigative report, including any expert witness report or patient records connected with the investigation pursuant to Section 456.073(10), Florida Statutes, if I agree in writing to maintain the confidentiality of any information received under this provision, until 10 days after probable cause is found and to maintain the confidentiality of patient records pursuant to Section 456.057, Florida Statutes.

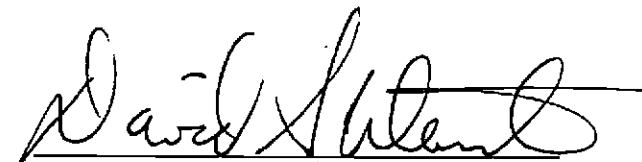
I understand the cost associated with duplicating x-rays and I want () do not want to receive a copy of any x-rays that are contained within the investigative file.

SIGNED this _____ day of _____, 2013.

Walgreens #03629
2013-04359

or

SIGNED this 28th day of October, 2013 on behalf of Walgreens #03629



David S. Weinstein, Esquire

CONFIDENTIAL AND EXEMPT MATERIALS

**One or more pages have been removed
from this document for security reasons**

**Scroll down to see the available pages or
advance to the next document if all
pages have been removed.**

SOME OR ALL PAGES IN THIS DOCUMENT ARE PATIENT RECORDS
AND/OR DOCUMENTS THAT IDENTIFY THE PATIENT BY NAME AND ARE
EXEMPT FROM PUBLIC RECORDS LAWS.

456.057 - Ownership and control of patient records; report or copies of records to be
furnished.—

10)(a)All patient records obtained by the department and any other documents
maintained by the department which identify the patient by name are confidential and exempt
from s. 119.07(1) and shall be used solely for the purpose of the department and the appropriate
regulatory board in its investigation, prosecution, and appeal of disciplinary proceedings. The
records shall not be available to the public as part of the record of investigation for and
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Rick Scott
Governor

Mission:

To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.

John H. Armstrong, MD, FACS
Surgeon General & Sec

Vision: To be the Healthiest State in the Nation

STATE OF FLORIDA
BOARD OF PHARMACY

DEPARTMENT OF HEALTH,
PETITIONER,

VS.

CASE NO. 201304366

WALGREEN COMPANY,
RESPONDENT.

NOTICE

TO: WALGREEN COMPANY
PO BOX 901
DEERFIELD, IL 60015

PLEASE TAKE NOTICE that a disciplinary hearing will be heard before the BOARD OF PHARMACY on Wednesday, August 13, 2014, commencing at 9 a.m. Although the Respondent is not required to be present, it is in their best interest to attend. This hearing will be held at DoubleTree by Hilton, 100 Fairway Drive, Deerfield Beach, FL 33441, 1(800) 624-3606..

The purpose of the hearing is to consider a motion for: Hearing - No Disputed Material Facts

Note: Cases shown on the agenda as "timed" items may be heard in a different order or may be heard earlier if all parties are present. Cases are scheduled beginning at 9 a.m.; therefore, it is imperative that you arrive promptly at 9 a.m. and be prepared to be at the meeting for several hours until your case is heard.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Hearing has been sent by U.S. Mail to the above address(es) this 10th day of July, 2014.

Board Executive Director
BOARD OF PHARMACY
Florida Department of Health
4052 Bald Cypress Way, Bin #
Tallahassee, FL 32399 -

Florida Department of Health

Division of Medical Quality Assurance
4052 Bald Cypress Way, Bin C10 • Tallahassee, FL 32399-3260
PHONE: (850) 245-4444 • FAX : (850) 245-4791

www.FloridasHealth.com

TWITTER:HealthyFLA
FACEBOOK:FLDepartmentofHealth
YOUTUBE: fldoh

Mission:

To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.



Rick Scott
Governor

John H. Armstrong, MD, FACS
State Surgeon General & Secretary

Vision: To be the Healthiest State in the Nation

STATE OF FLORIDA

BOARD OF PHARMACY

DEPARTMENT OF HEALTH,
PETITIONER,

VS.

CASE NO. 201304366

WALGREEN COMPANY,
RESPONDENT.

NOTICE

AND: DAVID S. WEINSTEIN
799 BRICKELL PLAZA, SUITE 900
CLARKE SILVERGATE, ATTORNEYS AT LAW
MIAMI, FL 33131


PLEASE TAKE NOTICE that a disciplinary hearing will be heard before the BOARD OF PHARMACY on Wednesday, August 13, 2014, commencing at 9 a.m. Although the Respondent is not required to be present, it is in their best interest to attend. This hearing will be held at DoubleTree by Hilton, 100 Fairway Drive, Deerfield Beach, FL 33441, 1(800) 624-3606..

The purpose of the hearing is to consider a motion for: Hearing - No Disputed Material Facts

Note: Cases shown on the agenda as "timed" items may be heard in a different order or may be heard earlier if all parties are present. Cases are scheduled beginning at 9 a.m.; therefore, it is imperative that you arrive promptly at 9 a.m. and be prepared to be at the meeting for several hours until your case is heard.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Hearing has been sent by U.S. Mail to the above address(es) this 10th day of July, 2014.


Board Executive Director
BOARD OF PHARMACY
Florida Department of Health
4052 Bald Cypress Way, Bin #
Tallahassee, FL 32399 -

Florida Department of Health

Division of Medical Quality Assurance • Bureau of HCPR
4052 Bald Cypress Way, Bin C-04 • Tallahassee, FL 32399-1701
PHONE: 850/245-4292 • FAX 850/413-6982

www.FloridasHealth.com

TWITTER:HealthyFLA
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Mission:

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**Rick Scott**

Governor

John H. Armstrong, MD, FACS

Surgeon General & Secretary

Vision: To be the Healthiest State in the Nation**MEMORANDUM**

TO: Patrick W. Kennedy, M.A., Executive Director, Board of Pharmacy
FROM: Matthew Witters, Assistant General Counsel *(Handwritten initials)*
RE: **Hearing - No Disputed Material Facts**
SUBJECT: DOH v. Walgreens Company, #3836
 DOH Case Number 2013-04366
DATE: June 16, 2014

Enclosed you will find materials in the above-referenced case to be placed on the agenda for final agency action for the **August 12-13, 2014** meeting of the board. The following information is provided in this regard.

Subject: Walgreens Company, #3836
Subject's Address of Record: P.O. Box 901
 Deerfield, IL 60015
Enforcement Address: P.O. Box 901
 Deerfield, IL 60015
Subject's License No: 19S01 **Rank:** PH
Licensure File No: 11474
Initial Licensure Date: 9/10/2003
Board Certification: None
Required to Appear: No
Current IPN/PRN Contract: No
Allegation(s): For Amended Administrative Complaint -
 Section 456.072(1)(f), F.S. (2012)
Prior Discipline: None
Probable Cause Panel: May 8, 2014: Fallon and Glass; January 9, 2014: Glass
 and Mikhael
Subject's Attorney: David S. Weinstein, Esq.
 Clarke Silvergate, Attorneys at Law
 799 Brickell Plaza
 Suite 900
 Miami, FL 33131
Complainant/Address: Department of Health
Materials Submitted: Memorandum to the Board
 Amended Administrative Complaint

Florida Department of Health

Office of the General Counsel • Prosecution Services Unit
 4052 Bald Cypress Way, Bldg C-65 • Tallahassee, FL 32399-1701
 Express mail address: 2585 Merchants Row • Suite 105
 PHONE: 850/245-4444 • FAX 850/245-4683

www.FloridasHealth.com

TWITTER:HealthyFLA

FACEBOOK:FLDepartmentofHealth

YOUTUBE: fldoh

Memorandum of Finding Probable Cause
Motion for Hearing Not Involving Disputed Issues of
Material Facts for Final Order
Election of Rights
Cost Summary Report
Motion to Assess Costs with Attachments
Correspondence to Respondent from Petitioner
Correspondence from Respondent
Final Investigative Report with Exhibits 1-4

MGW/aed

GUIDELINES:

Same Penalty as imposed in other jurisdiction or as closely as possible to penalties for similar violation.

PRELIMINARY CASE REMARKS

This is a one count administrative complaint which alleges that the Respondent entered into a settlement agreement with the Drug Enforcement Administration by which Respondent surrendered its registration to dispense Schedule II through Schedule V controlled substances until May 26, 2014.

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK ANGEL SANDERS
DATE MAY 08 2014

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO. 2013-04366

**WALGREEN COMPANY, d.b.a.,
WALGREENS #03836**

RESPONDENT.

AMENDED ADMINISTRATIVE COMPLAINT

COMES NOW, Petitioner, Department of Health, by and through its undersigned counsel, and files this Amended Administrative Complaint before the Board of Pharmacy against Respondent, Walgreen Company, and in support thereof alleges:

1. Petitioner is the state department charged with regulating the practice of pharmacy pursuant to Section 20.43, Florida Statutes; Chapter 456, Florida Statutes; and Chapter 465, Florida Statutes.

2. At all times material to this Amended Administrative Complaint, Respondent was a permitted community pharmacy within the state of Florida, having been issued permit number PH 7367.

3. Respondent's address of record is Post Office Box 901, Deerfield, Illinois 60015.

4. Respondent's physical location is 9332 U.S. Highway 19, Port Richey, Florida 34668.

5. On or about June 11, 2013, Respondent entered into a settlement agreement with the Drug Enforcement Administration by which Respondent surrendered its registration to dispense Schedule II through Schedule V controlled substances until May 26, 2014.

6. Section 456.072(1)(f), Florida Statutes (2012), provides that a having a license or the authority to practice any regulated profession revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of any jurisdiction, including its agencies or subdivisions, for a violation that would constitute a violation under Florida law. The licensing authority's acceptance of a relinquishment of licensure, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of charges against the license, shall be construed as action against the license.

7. Respondent entered into a settlement agreement with the Drug Enforcement Administration by which the Respondent surrendered its

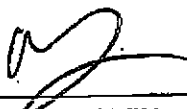
registration to dispense Schedule II through Schedule V controlled substances until May 26, 2014.

8. Based on the foregoing, Respondent has violated Section 456.072(1)(f), Florida Statutes (2012) by having a license or the authority to practice any regulated profession revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of any jurisdiction, including its agencies or subdivisions, for a violation that would constitute a violation under Florida law. The licensing authority's acceptance of a relinquishment of licensure, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of charges against the license, shall be construed as action against the license.

WHEREFORE, Petitioner respectfully requests that the Board of Pharmacy enter an order imposing one or more of the following penalties: permanent revocation or suspension of Respondent's license, restriction of practice, imposition of an administrative fine, issuance of a reprimand, placement of Respondent on probation, corrective action, refund of fees billed or collected, remedial education and/or any other relief that the Board deems appropriate.

SIGNED this 8 day of May, 2014.

JOHN H. ARMSTRONG, MD, FACS
State Surgeon General and
Secretary of Health


Matthew G. Witters
Assistant General Counsel
Fla. Bar No. 0091245
Florida Department of Health
Office of the General Counsel
4052 Bald Cypress Way, Bin #C65
Tallahassee, FL 32399-3265
Telephone: (850) 245-4444
Facsimile: (850) 245-4683
Email: matthew.witters@flhealth.gov

PCP: May 8, 2014
PCP Members: Fallon & Glass

NOTICE OF RIGHTS

Respondent has the right to request a hearing to be conducted in accordance with Section 120.569 and 120.57, Florida Statutes, to be represented by counsel or other qualified representative, to present evidence and argument, to call and cross-examine witnesses and to have subpoena and subpoena duces tecum issued on his or her behalf if a hearing is requested.

NOTICE REGARDING ASSESSMENT OF COSTS

Respondent is placed on notice that Petitioner has incurred costs related to the investigation and prosecution of this matter. Pursuant to Section 456.072(4), Florida Statutes, the Board shall assess costs related to the investigation and prosecution of a disciplinary matter, which may include attorney hours and costs, on the Respondent in addition to any other discipline imposed.

MEMORANDUM OF PROBABLE CAUSE DETERMINATION

TO: Department of Health, Prosecution Services Unit
FROM: Chair, Probable Cause Panel, Florida Board of Pharmacy

RE: **Walgreen Company, #03836**
Case Number: 2013-04366

MEMBERS: Glass and Fallon

DATE OF PCP: May 8, 2014 **AGENDA ITEM:** R-06 MW

This matter came before the Probable Cause Panel on the above date. Having reviewed the complete investigative file, recommendations of the Department, and any information submitted by the Subject, and being otherwise fully advised in the premises, the panel finds that:

Probable cause exists and a formal complaint shall be filed for violation of statutes and rules, including but not limited to:

Section 456.072(1)(f), F.S. (2012)

Probable Cause was not found in this case

In lieu of probable cause, issue letter of guidance

Case requires expert review

Case needs further investigation

a)

b)

c)

Upon reconsideration, dismiss

Other _____

Patricia K. Kuehl for Chair, Lec Fallon 5/15/2014
Chair, Probable Cause Panel
Board of Pharmacy

MEMORANDUM OF PROBABLE CAUSE DETERMINATION

TO: Department of Health, Prosecution Services Unit
FROM: Chair, Probable Cause Panel, Florida Board of Pharmacy
RE: Walgreen Company #03836 (MGW)
Case Number: 2013-04366
MEMBERS: Debra Glass and Mark Mikhael

DATE OF PCP: January 9, 2014 **AGENDA ITEM:** A-13

.....
This matter came before the Probable Cause Panel on the above date. Having reviewed the complete investigative file, recommendations of the Department, and any information submitted by the Subject, and being otherwise fully advised in the premises, the panel finds that:

Probable cause exists and a formal complaint shall be filed for violation of statutes and rules, including but not limited to:

Section 465.072(1)(k), Florida Statutes (2012) by violating Section 465.023(1)(c), Florida Statutes (2012) through a violation of Section 465.023(1)(e), Florida Statutes (2012)

- Probable Cause was not found in this case
- In lieu of probable cause, issue letter of guidance
- Case requires expert review
- Case needs further investigation
 - a)
 - b)
- Upon reconsideration, dismiss
- other

Jimmy Collins for Debra Glass 20 Jan 2014
Chair, Probable Cause Panel Date
Board of Pharmacy

STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,
Petitioner,

v.

CASE NO. 2013-04366

WALGREENS COMPANY, #3836,
Respondent.

MOTION FOR FINAL ORDER AFTER HEARING NOT INVOLVING DISPUTED
ISSUES OF MATERIAL FACTS

COMES NOW, the Petitioner, by and through its undersigned counsel, and moves the Board of Pharmacy for entry of a Final Order in the above-styled cause on a date and time that has been determined and noticed by the Board. As grounds therefore, the Petitioner would state the following:

1. Petitioner previously filed an Administrative Complaint against Respondent alleging that Respondent had violated the provisions of Florida Statutes, as set forth therein. The Department, by filing the Administrative Complaint, is seeking to discipline the Respondent's license to practice as a community pharmacy, thereby affecting the Respondent's substantial interests.

2. On or about May 20, 2014, Petitioner served Respondent with the Amended Administrative Complaint via Respondent's address of record with the Department of Health. The Department, by serving the Respondent with the Amended Administrative Complaint, provided the Respondent written notice of its decision to seek discipline of the Respondent's license to practice as a community pharmacy.

3. The Respondent has filed an Election of Rights Form or other responsive pleading evincing, or has otherwise indicated, that Respondent does not dispute the material facts alleged in the Administrative Complaint.

4. There are no disputed issues of material fact to be resolved by the Board.

5. Respondent has been advised, by a copy of this Motion, that a copy of the investigative file in this case shall be furnished to the Board to establish a prima facie case regarding the violations as set forth in the Administrative Complaint.

WHEREFORE the parties respectfully request the Board of Pharmacy, after allowing the Respondent the opportunity to present oral and/or written evidence in mitigation of the Administrative Complaint, enter a Final Order imposing whatever discipline upon the Respondent's license that the Board deems appropriate.

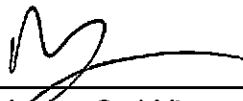
Respectfully Submitted,



Matthew G. Witters, Esq.
Assistant General Counsel
Fla. Bar No. 0091245
Florida Department of Health
Office of the General Counsel
4052 Bald Cypress Way, Bin #C65
Tallahassee, FL 32399-3265
Telephone: (850) 245-4444, ext. 8172
Facsimile: (850) 245-4683
Email: matthew.witters@flhealth.gov

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing has been provided by U.S. mail this 17 day of June, 2014, to Walgreens Company, #3836, Pharmacy Law – Operations & Services, 104 Wilmot Road, MS #1446, Deerfield, IL 60015.



Matthew G. Witters, Esq.
Assistant General Counsel

TELETYPE UNIT FAX 041-315-2043 MAY 29 2014 04:01PM P001/007

Walgreens

Pharmacy Law - Operations
& Services
104 Wilmot Road, MS #1446
Deerfield, IL 60015

May 29, 2014

Via Facsimile (850) 245-4683

Matthew G. Witters, Assistant General Counsel
Florida Department of Health
Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, FL 32399-3265

Re: DOH v. Walgreens #3099, #3629, #3836, #4391, #4727, and #6997

Dear Mr. Witters:

Attached please find Walgreens Elections of Rights for the above referenced cases. If you have any questions regarding the attached documents, please feel free to contact me.

Sincerely,



Patricia A. Zagami, R.Ph.
Attorney
(847) 315-2871

EVERY DAY WE HELP PEOPLE GET, STAY AND LIVE WELL.

ELECTION OF RIGHTS

Case Name: Walgreen Company #03836

Case No. 2013-04366

PLEASE SELECT ONLY 1 OF THE 3 OPTIONS

An Explanation of Rights is attached. If you do not understand these options, please consult with your attorney or contact the attorney for the Prosecution Services Unit at the address/phone number listed at the bottom of this form.

OPTION 1. I do not dispute the allegations of fact in the Amended Administrative Complaint, but do wish to be accorded a hearing, pursuant to Section 120.57(2), Florida Statutes, at which time I will be permitted to submit oral and/or written evidence in mitigation of the complaint to the Board.

OPTION 2. I do not dispute the allegations of fact contained in the Amended Administrative Complaint and waive my right to object or to be heard. I request that the Board enter a final order pursuant to Section 120.57, Florida Statutes.

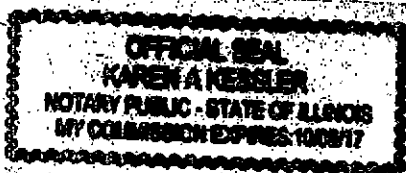
OPTION 3. I do dispute the allegations of fact contained in the Amended Administrative Complaint and request this to be considered a petition for formal hearing, pursuant to Sections 120.569(2)(a) and 120.57(1), Florida Statutes, before an Administrative Law Judge appointed by the Division of Administrative Hearings. I specifically dispute the following paragraphs of the Amended Administrative Complaint:

In addition to the above selection, I also elect the following:

- I accept the terms of the Settlement Agreement, have signed and am returning the Settlement Agreement or I am interested in settling this case.
- I do not wish to continue practicing and have signed and returned the Voluntary Relinquishment of licensure form.

Regardless of which option I have selected, I understand that I will be given notice of time, date, and place when this matter is to be considered by the Board for Final Action. Mediation under Section 120.573, Florida Statutes, is not available in this matter. (Please sign and complete all the information below.)

Patricia Zagami (Patricia Zagami) RPh, JD
 Respondent
 Address: 104 Wilmet Rd, MS #1446
Deerfield IL 60015
 Lic. No. _____
 Phone No. 847-315-2871
 Fax No. 847-315-2645



STATE OF ~~FLORIDA~~ ILLINOIS
COUNTY OF LAKE

Before me personally appeared PATRICIA ZAGAMI, whose identity is known to be by LICENCE (type of identification), and who under oath, acknowledges that his/her signature appears above. Sworn to and subscribed before me this 29th day of MAY, 2014.

Karen A. Kessler
Notary Public
My Commission Expires: 10/18/17

PLEASE MAIL AND/OR FAX COMPLETED FORM TO: Matthew G. Witters, Assistant General Counsel, DOH, Prosecution Services Unit, 4052 Bald Cypress Way, Bin C-65, Tallahassee, Florida 32399-3265. Telephone Number: (850) 245-4444; FAX (850) 245-4683 - TDD 1-800-955-8771.

| | | | |
|--------|----------------------------------|------|------|
| Search | Complaint/Case Number: 201304366 | MAIN | HELP |
|--------|----------------------------------|------|------|

Complaint Cost Summary

Complaint Number: 201304366

Subject's Name: WALGREEN COMPANY

| ***** Cost to Date ***** | | |
|-----------------------------|--------------|-------------------|
| | Hours | Costs |
| Complaint: | 1.30 | \$71.37 |
| Investigation: | 3.40 | \$202.10 |
| Legal: | 7.30 | \$760.14 |
| Compliance: | 0.00 | \$0.00 |
| | ***** | ***** |
| Sub Total: | 12.00 | \$1,033.61 |
| Expenses to Date: | | \$0.00 |
| Prior Amount: | | \$0.00 |
| Total Costs to Date: | | \$1,033.61 |

= \$273.47

STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,
Petitioner,

v.

CASE NO. 2013-04366

WALGREENS COMPANY, #3836
Respondent.

MOTION TO ASSESS COSTS IN ACCORDANCE
WITH SECTION 456.072(4)

COMES NOW the Department of Health, by and through undersigned counsel, and moves the Board of Pharmacy for the entry of a Final Order assessing costs against the Respondent for the investigation and prosecution of this case in accordance with Section 456.072(4), Florida Statutes. As grounds, therefore, the Petitioner states the following:

1. At its next regularly scheduled meeting, the Board of Pharmacy will take up for consideration the above-styled disciplinary action and will enter a Final Order therein.

2. Section 456.072(4), Florida Statutes, states as follows:

In addition to any other discipline imposed through final order, or citation, entered on or

after July 1, 2001, pursuant to this section or discipline imposed through final order, or citation, entered on or after July 1, 2001, for a violation of any practice act, the board, or the department when there is not board, shall assess costs related to the investigation and prosecution of the case. Such costs related to the investigation and prosecution include, but are not limited to, salaries and benefits of personnel, costs related to the time spent by the attorney and other personnel working on the case, and any other expenses incurred by the department for the case. The board, or the department when there is no board, shall determine the amount of costs to be assessed after its consideration of an affidavit of itemized costs and any written objections thereto. .

3. The investigation and prosecution of this case has resulted in costs in the total amount of \$1,033.61 based on the following itemized statement of costs: **Complaint Number: 2013-04366**

Subject's Name: WALGREEN COMPANY

| | ***** Cost to Date ***** | |
|-----------------------------|---------------------------------|-------------------|
| | Hours | Costs |
| Complaint: | 1.30 | \$71.37 |
| Investigation: | 3.40 | \$202.10 |
| Legal: | 7.30 | \$760.14 |
| Compliance: | 0.00 | \$0.00 |
| | ***** | ***** |
| Sub Total: | 12.00 | \$1,033.61 |
| Expenses to Date: | | \$0.00 |
| Prior Amount: | | \$0.00 |
| Total Costs to Date: | | \$1,033.61 |

Therefore, the Petitioner seeks an assessment of costs against the Respondent in the amount of \$273.47 as evidenced in the attached affidavit. (Exhibit A).

4. Should the Respondent file written objections to the assessment of costs, within ten (10) days of the date of this motion, specifying the grounds for the objections and the specific elements of the costs to which the objections are made, the Petitioner requests that the Board determine the amount of costs to be assessed based upon its consideration of the affidavit attached as Exhibit A and any timely-filed written objections.

5. Petitioner requests that the Board grant this motion and assess costs in the amount of \$273.47 as supported by competent, substantial evidence. This assessment of costs is in addition to any other discipline imposed by the Board and is in accordance with Section 456.072(4), Florida Statutes.

WHEREFORE, the Department of Health requests that the Board of Pharmacy enter a Final Order assessing costs against the Respondent in the amount of \$273.47.

DATED this 17 day of June, 2014.


Respectfully submitted,



Matthew G. Witters, Esq.
Assistant General Counsel
DOH Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, FL 32399-3265
Florida Bar #0091245
(850) 245-4444 Telephone, ext. 8172
(850) 245-4683 Fax
Email:matthew.witters@flhealth.gov

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Motion to Assess Costs has been provided by U.S. Mail this 17 day of June, 2014, to Walgreens Company, #3836, Pharmacy Law – Operations & Services, 104 Wilmot Road, MS #1446, Deerfield, IL 60015.



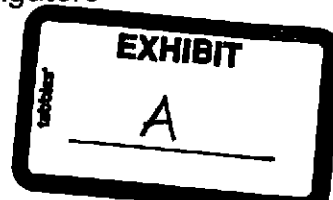
Matthew G. Witters, Esq.
Assistant General Counsel

AFFIDAVIT OF FEES AND COSTS EXPENDED

STATE OF FLORIDA
COUNTY OF LEON:

BEFORE ME, the undersigned authority, personally appeared **SHANE WALTERS** who was sworn and states as follows:

- 1) My name is Shane Walters.
- 2) I am over the age of 18, competent to testify, and make this affidavit upon my own personal knowledge and after review of the records at the Florida Department of Health (DOH).
- 3) I am the Operations and Management Consultant Manager (OMCM) for the Consumer Services and Compliance Management Unit for DOH. The Consumer Services Unit is where all complaints against Florida health care licensees (e.g., medical doctors, dentists, nurses, respiratory therapists) are officially filed. I have been in my current job position for more than one year. My business address is 4052 Bald Cypress Way, Bin C-75 Tallahassee, Florida 32399-3275.
- 4) As OMCM of the Consumer Services and Compliance Management Unit, my job duties include reviewing data in the Time Tracking System and verifying that the amounts correspond. The Time Tracking System is a computer program which records and tracks DOH's costs regarding the investigation and prosecution of cases against Florida health care licensees.
- 5) As of today, DOH's total costs for investigating and prosecuting DOH case number(s) **2013-04366** (Department of Health v **Walgreens Company, #3836**) are **ONE THOUSAND THIRY-THREE DOLLARS AND SIXTY-ONE CENTS (\$1,033.61)**.
- 6) The costs for DOH case number(s) **2013-04366** (Department of Health v **Walgreens Company, #3836**) are summarized in Exhibit 1 (Cost Summary Report), which is attached to this document.
- 7) The itemized costs and expenses for DOH case number(s) **2013-04366** (Department of Health v **Walgreens Company, #3836**) are detailed in Exhibit 2 (Itemized Cost Report and Itemized Expense Report and receipts), which is attached to this document.
- 8) The itemized costs as reflected in Exhibit 2 are determined by the following method: DOH employees who work on cases daily are to keep track of their time in six-minute increments (e.g., investigators



and lawyers). A designated DOH employee in the Consumer Services Unit, Legal Department, and in each area office, inputs the time worked and expenses spent into the Time Tracking System. Time and expenses are charged against a state health care Board (e.g., Florida Board of Medicine, Florida Board of Dentistry, Florida Board of Osteopathic Medicine), and/or a case. If no Board or case can be charged, then the time and expenses are charged as administrative time. The hourly rate of each employee is calculated by formulas established by the Department. (See the Itemized Cost Report)

- 9) Shane Walters, first being duly sworn, states that she has read the foregoing Affidavit and its attachments and the statements contained therein are true and correct to the best of her knowledge and belief.

FURTHER AFFIANT SAYETH NOT.

Shane Walters
Shane Walters, Affiant

State of Florida
County of Leon

Sworn to and subscribed before me this 16th day of June, 2014,
by Shane Walters, who is personally known to me.

Towanda B. Burnett
Notary Signature

Towanda B. Burnett
Name of Notary Printed



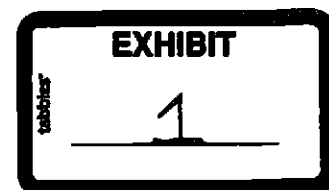
Stamp Commissioned Name of Notary Public:

Complaint Cost Summary

Complaint Number: 201304366

Subject's Name: **WALGREEN COMPANY**

| | ***** Cost to Date ***** | |
|-----------------------------|--------------------------|------------|
| | Hours | Costs |
| Complaint: | 1.30 | \$71.37 |
| Investigation: | 3.40 | \$202.10 |
| Legal: | 7.30 | \$760.14 |
| Compliance: | 0.00 | \$0.00 |
| | ***** | ***** |
| Sub Total: | 12.00 | \$1,033.61 |
| Expenses to Date: | | \$0.00 |
| Prior Amount: | | \$0.00 |
| Total Costs to Date: | | \$1,033.61 |



**Time Tracking System
Itemized Cost by Complaint**

Complaint 201304366

Report Date: 06/16/2014

Page 1 of 2

Staff Code Activity Hours Staff Rate Activity Date Activity Code Activity Description

CONSUMER SERVICES UNIT

| | | | | | |
|------------------|-------------|---------|------------|----|--|
| HA162 | 0.50 | \$54.90 | 03/13/2013 | 78 | INITIAL REVIEW AND ANALYSIS OF COMPLAINT |
| HA168 | 0.50 | \$54.90 | 08/26/2013 | 78 | INITIAL REVIEW AND ANALYSIS OF COMPLAINT |
| HA168 | 0.10 | \$54.90 | 08/28/2013 | 78 | INITIAL REVIEW AND ANALYSIS OF COMPLAINT |
| HA168 | 1.10 | \$54.90 | 09/18/2013 | 76 | REPORT PREPARATION |
| HA168 | 0.20 | \$54.90 | 09/19/2013 | 76 | REPORT PREPARATION |
| HA168 | 0.40 | \$54.90 | 09/20/2013 | 76 | REPORT PREPARATION |
| HA52 | 0.20 | \$54.90 | 09/23/2013 | 2 | OFFICE SUPERVISORY DUTIES |
| Sub Total | 3.00 | | | | \$164.70 |

INVESTIGATIVE SERVICES UNIT

| | | | | | |
|------------------|-------------|---------|------------|----|---------------------------|
| TI117 | 0.60 | \$63.98 | 04/03/2013 | 76 | REPORT PREPARATION |
| TI117 | 0.50 | \$63.98 | 04/03/2013 | 58 | TRAVEL TIME |
| TI117 | 0.60 | \$63.98 | 08/14/2013 | 7 | PRELIMINARY INVESTIGATION |
| Sub Total | 1.70 | | | | \$108.77 |

PROSECUTION SERVICES UNIT

| | | | | | |
|--------|------|----------|------------|----|--|
| HLL90B | 0.30 | \$106.35 | 10/11/2013 | 25 | REVIEW CASE FILE |
| HLL90B | 1.80 | \$106.35 | 10/14/2013 | 25 | REVIEW CASE FILE |
| HLL90B | 0.20 | \$106.35 | 10/14/2013 | 35 | TELEPHONE CALLS |
| HLL90B | 0.40 | \$106.35 | 10/15/2013 | 25 | REVIEW CASE FILE |
| HLL90B | 0.20 | \$106.35 | 10/15/2013 | 35 | TELEPHONE CALLS |
| HLL90B | 0.40 | \$106.35 | 10/15/2013 | 28 | PREPARE OR REVISE ADMINISTRATIVE COMPLAINT |
| HLL90B | 0.30 | \$106.35 | 10/15/2013 | 28 | PREPARE OR REVISE ADMINISTRATIVE COMPLAINT |
| HLL90B | 0.20 | \$101.95 | 10/29/2013 | 38 | REVIEW DISCOVERY REQUESTS/RESPONSES |
| HLL90B | 0.50 | \$101.95 | 11/08/2013 | 35 | TELEPHONE CALLS |
| HLL90B | 0.40 | \$101.95 | 11/08/2013 | 25 | REVIEW CASE FILE |

EXHIBIT

2

**Time Tracking System
Itemized Cost by Complaint**

Complaint 201304366

Report Date 06/16/2014

| Staff Code | Activity Hours | Staff Rate | Cost | Activity Date | Activity Code | Activity Description |
|------------------|----------------|------------|-----------------|---------------|---------------|---|
| HLL90B | 0.20 | \$101.95 | \$20.39 | 12/09/2013 | 37 | REVIEW LETTER |
| HLL90B | 0.20 | \$101.95 | \$20.39 | 12/11/2013 | 89 | PROBABLE CAUSE PREPARATION |
| HLL90B | 0.20 | \$101.95 | \$20.39 | 12/31/2013 | 36 | PREPARATION OR REVISION OF LETTER |
| HLL90B | 0.20 | \$101.95 | \$20.39 | 01/02/2014 | 79 | STIPULATION |
| HLL90B | 0.10 | \$101.95 | \$10.20 | 01/03/2014 | 89 | PROBABLE CAUSE PREPARATION |
| HLL90B | 0.10 | \$101.95 | \$10.20 | 01/09/2014 | 63 | PRESENTATION OF CASES TO PROBABLE CAUSE PANEL |
| HLL90B | 0.10 | \$101.95 | \$10.20 | 01/13/2014 | 36 | PREPARATION OR REVISION OF LETTER |
| HLL90B | 0.10 | \$101.95 | \$10.20 | 01/15/2014 | 90 | POST PROBABLE CAUSE PROCESSING |
| HLL90B | 0.10 | \$101.95 | \$10.20 | 01/22/2014 | 35 | TELEPHONE CALLS |
| HLL90B | 0.30 | \$101.95 | \$30.59 | 01/31/2014 | 35 | TELEPHONE CALLS |
| HLL90B | 0.10 | \$101.95 | \$10.20 | 04/03/2014 | 89 | PROBABLE CAUSE PREPARATION |
| HLL90B | 0.10 | \$101.95 | \$10.20 | 04/03/2014 | 89 | PROBABLE CAUSE PREPARATION |
| HLL90B | 0.20 | \$101.95 | \$20.39 | 04/29/2014 | 89 | PROBABLE CAUSE PREPARATION |
| HLL90B | 0.20 | \$101.95 | \$20.39 | 05/01/2014 | 35 | TELEPHONE CALLS |
| HLL90B | 0.20 | \$101.95 | \$20.39 | 05/07/2014 | 89 | PROBABLE CAUSE PREPARATION |
| HLL90B | 0.10 | \$101.95 | \$10.20 | 05/08/2014 | 63 | PRESENTATION OF CASES TO PROBABLE CAUSE PANEL |
| HLL90B | 0.10 | \$101.95 | \$10.20 | 05/16/2014 | 90 | POST PROBABLE CAUSE PROCESSING |
| Sub Total | 7.30 | | \$760.14 | | | |

| | |
|-------------------|-------------------|
| Total Cost | \$1,033.61 |
|-------------------|-------------------|

Mission:

To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.



Rick Scott
Governor

John W. Armstrong, MD, FACS
State Surgeon General & Secretary

Vision: To be the Healthiest State in the Nation

June 17, 2014

David S. Weinstein, Esq.
Clarke Silvergate, Attorneys at Law
799 Brickell Plaza
Suite 900
Miami, FL 33131

Re: DOH vs. Walgreens Company, #3836
DOH Case Number: 2013-04366

Dear Mr. Weinstein:

I am in receipt of your election of rights requesting a hearing not involving disputed issues of material fact executed by you on May 29, 2014, concerning the above referenced case. This means that the facts alleged in the Amended Administrative Complaint are uncontested. This is an important distinction because, by law, the Board cannot resolve disputes of material fact in this case or any disciplinary case. Since you are requesting a hearing not involving disputed issues of material fact, you are not admitting the facts alleged in the Amended Administrative Complaint, however, you are agreeing not to contest these facts and to limit presentation to legal argument, if any, and to matters in mitigation or extenuation.

Our office is now preparing this case to be presented at the next regularly scheduled meeting of the Florida Board of Pharmacy. Please be advised your case will be set at the convenience of the Department and/or the Board and you will be notified of the date and time approximately two weeks prior to the meeting.

Thank for your attention and cooperation in this matter. Should you have any questions, please feel free to contact this office.

Sincerely,

A handwritten signature in black ink, appearing to read "Matthew G. Witters".

Matthew G. Witters, Esq.
Assistant General Counsel

MGW/aed

Florida Department of Health

Office of the General Counsel • Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65 • Tallahassee, FL 32399-1701
Express mail address: 2585 Merchants Row – Suite 105
PHONE: 850/245-4444 • FAX 850/245-4683

www.FloridasHealth.com

TWITTER: HealthyFLA
FACEBOOK: FLDepartmentofHealth
YOUTUBE: fldoh

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Rick Scott
Governor

John H. Armstrong, MD, FACS
State Surgeon General & Secretary

October 29, 2013

David S. Weinstein, Esquire
Clarke Silvergate, Attorneys at Law
Suite 900
799 Brickell Plaza
Miami, Florida 33131

Re: Complaint No. 2013-04366
Complaint Name: Walgreen's Company Store # 03836

Dear Mr. Weinstein:

Pursuant to Section 456.073(10), Florida Statutes, enclosed is a CD containing a copy the Department's complete investigative file in Complaint No. 2013-04366. Section 456.073(10), Florida Statutes provides in part:

... Upon completion of the investigation and a recommendation by the department to find probable cause, and pursuant to a written request by the subject or the subject's attorney, the department shall provide the subject an opportunity to inspect the investigative file or, at the subject's expense, forward to the subject a copy of the investigative file. Notwithstanding s. 456.057, the subject may inspect or receive a copy of any expert witness report or patient record connected with the investigation if the subject agrees in writing to maintain the confidentiality of any information received under this subsection until 10 days after probable cause is found and to maintain the confidentiality of patient records pursuant to s. 456.057. The subject may file a written response to the information contained in the investigative file. Such response must be filed within 20 days of mailing by the department, unless an extension of time has been granted by the department. . . .

Pursuant to the provisions of Section 456.073(10), Florida Statutes, your written response must be received by no later than twenty (20) days from the date of this letter. Any requests for an extension of time must be made to my office prior to the expiration of the original twenty (20) days.

The password for the CD is: 456. Please call with any questions, 850-245-4444, ext. 8172.

Florida Department of Health
Office of the General Counsel • Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65 • Tallahassee, FL 32399-3265
Express mail address: 2585 Merchants Row – Suite 105
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Governor

John H. Armstrong, MD, FACS

State Surgeon General & Secretary

Respectfully,

A handwritten signature in black ink, appearing to read "Matthew G. Witters".

Matthew G. Witters
Assistant General Counsel

MGW/crl

Enclosures: CD Investigative File (2013-04366)
Invoice #: MQPR14-244

Florida Department of Health

Office of the General Counsel • Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65 • Tallahassee, FL 32399-3265
Express mail address: 2585 Merchants Row – Suite 105
PHONE: 850/245-4444 • FAX 850/245-466X

www.FloridasHealth.com

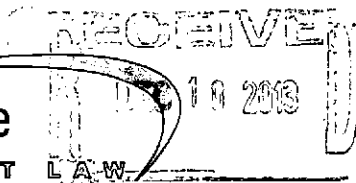
TWITTER: HealthyFLA

FACEBOOK: FLDepartmentofHealth

YOUTUBE: fldoh

Clarke Silvergate

ATTORNEYS AT LAW



Writer's e-mail: dweinstein@cspalaw.com
Writer's Direct Telephone: 305.347.1559

December 6, 2013

Via Email and USPS

Matthew.witters@Flhealth.gov

Matthew Witters, Esquire

Florida Department of Health

Division of Medical Quality Assurance

Bureau of Enforcement

4050 Bald Cypress Way

Tallahassee, FL 32399-7017

RE: Walgreen Co. - Complaint Number(s):
201304363, 201304359, 201304377,
201304374, 201304376 and 201304366

Dear Mr. Witters:

Enclosed please find Walgreen Co. ("Walgreens") written response(s) to the above referenced Complaint Number(s).

If I can be of any further assistance, please do not hesitate to contact me at the email address or phone number listed above.

Sincerely,

A handwritten signature in black ink that reads "David S. Weinstein".

David S. Weinstein, Esquire

Cc: Patty Zagami, Walgreen Co.

RECEIVED-LEGAL
13 DEC 10 PM 2:31

Clarke Silvergate, P.A.

799 Brickell Plaza, Suite 900, Miami, FL 33131 Phone: 305.377.0700 Fax: 305.377.3001 cspalaw.com

Walgreens Store Number 3836 Response to Complaint

1. The Florida Department of Health has alleged that Walgreens #03836 has violated Florida Statutes Sections 465.016(1)(h)(r), 465.023(1)(c)(e), and 465.072(1)(f)(k)(dd).
2. The totalities of the allegations contained in the complaint are based upon a Memorandum of Agreement (MOA) entered into between Walgreen Co. (Walgreens) and the Drug Enforcement Administration (DEA) dated June 11, 2013.
3. This MOA was entered into between Walgreens and the DEA in order to avoid the uncertainty and expense of litigation, and in the furtherance of Walgreens' and the DEA's belief that a settlement of specific administrative matters pending at the time of the MOA was in the public interest.
4. The relevant conduct covered by the MOA included the following:
 - a. Conduct alleged in the November 26, 2012, February 4, 2013, February 11, 2013, and February 19, 2013 Orders to Show Cause (OTSCs) issued to Walgreens #03629, #04727, #06997, #03836, #04391, and #03099, and in DEA's filings in *In the Matter of Walgreen Co.*, Docket Nos. 13-9, 13-10, 13-11, 13-16, 13-18, and 13-20, occurring on or before the effective date of the MOA;
 - b. Failure of Walgreens Pharmacists at the Pharmacies located at Walgreens #03629, #04727, #06997, #03836, #04391, and #03099 to exercise their corresponding responsibility to ensure that controlled substances were dispensed pursuant to prescriptions issued for legitimate medical purposes by practitioners acting in the usual course of their professional practice, as required by 21 C.F.R. § 1306.04(a), and dispensing by the Pharmacies located at Walgreens #03629, #04727, #06997, #03836, #04391, and #03099 of controlled substances pursuant to purported prescriptions that were otherwise invalid under 21 C.F.R. Part 1306, on or before the effective date of the MOA;
 - c. Dispensing by the Pharmacies located at Walgreens #03629, #04727, #06997, #03836, #04391, and #03099 of controlled substances to individuals Walgreens knew or should have known were diverting controlled substances on or before the effective date of the MOA;

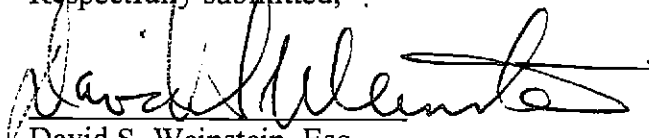
- d. Dispensing by the Pharmacies located at Walgreens #03629, #04727, #06997, #03836, #04391, and #03099 of controlled substances pursuant to prescriptions issued by a physician who did not have a current, valid DEA registration on or before the effective date of the MOA;
 - e. Refusal or negligent failure by the Pharmacies located at Walgreens #03629, #04727, #06997, #03836, #04391, and #03099 to make, keep, or furnish any record, report, notification, declaration, order or order form, statement, invoice, or information required under the CSA and its implementing regulations, including, but not limited to, failure by the Pharmacies located at Walgreens #03629, #04727, #06997, #03836, #04391, and #03099 to maintain accurate records pursuant to 21 C.F.R. Part 1304 and to properly label and/or mark prescriptions pursuant to 21 C.F.R. Part 1306, on or before the effective date of the MOA;
 - f. Conduct inconsistent with the CSA and its implementing regulations on or before the effective date of the MOA, by the Pharmacies located at Walgreens #03629, #04727, #06997, #03836, #04391, and #03099; and
 - g. Failure by any Walgreens registrant, including the Pharmacies located at Walgreens #03629, #04727, #06997, #03836, #04391, and #03099 to adhere to the provisions of the April 7, 2011 Administrative Memorandum of Agreement between Walgreen Co. and DEA.
5. In the MOA Walgreens acknowledged that, (1) certain retail pharmacies did on some occasions dispense certain controlled substances in a manner not fully consistent with its compliance obligations, and (2) its recordkeeping practices regarding the dispensing of controlled substance from certain retail pharmacies utilizing its CPO Facilities as central-fill pharmacies did not require such original prescriptions to be marked "CENTRAL FILL."
6. Under the terms of the MOA Walgreens has the following obligations:
- a. Walgreens agrees to maintain a compliance program in an effort to detect and prevent diversion of controlled substances as required under the CSA and applicable DEA regulations. This program shall include procedures to identify the common signs associated with the diversion of controlled substances. The program shall also include the routine and periodic training of all Walgreens pharmacy employees responsible for dispensing controlled substances on the elements of the compliance program and their responsibilities under the CSA and applicable DEA regulations. This compliance program shall apply to all Walgreens Pharmacies and CPO facilities.
 - b. Walgreens shall implement and maintain policies and procedures in an effort to ensure that prescriptions for controlled substances are only dispensed to authorized individuals pursuant to federal and state law and

regulations. Walgreens shall maintain its current policy that requires all customers to provide identifying information and shall also require valid photo identification as required by and in accordance with controlling state law where the pharmacy is located. Documents maintained by Walgreens pursuant to any obligation under federal and/or state law regarding the verification of an ultimate user's identity shall be kept readily available by the pharmacy, and shall be produced to DEA agents, task force officers or investigators on request.

- c. Walgreens shall direct and train its pharmacists that their corresponding responsibility under federal law requires them not to fill a prescription that such pharmacist knows or has reason to know was issued for other than a legitimate medical purpose or by a practitioner acting outside the usual course of professional practice.
 - d. In connection with Walgreens' recordkeeping obligations, Walgreens agrees to maintain records regarding the dispensing of controlled substances in electronic format, in addition to the regularly maintained paper files, including records relating to which Distribution Center and/or CPO facility shipped the controlled substance to the Pharmacy. These records shall be made available to DEA agents, task force officers or investigators, upon demand, without the need for a warrant or subpoena, provided that the DEA agents, task force officers or investigators present appropriate identification. Walgreens shall provide electronic reports of dispensing on an ad hoc basis in response to DEA requests within a reasonable time.
 - e. Walgreens agrees to the surrender of the DEA registrations to dispense controlled substances for Schedules II-V at Walgreens #03629, #04727, #06997, #03836, #04391, and #03099 until May 26, 2014.
7. Since the date of the entry of the MOA, consistent with the terms of the MOA and as set forth in paragraph 6 above, Walgreens has implemented and maintains:
- a. A compliance program;
 - b. Policies and procedures to ensure that prescriptions for controlled substances are only dispensed to authorized individuals pursuant to federal and state law and regulations;
 - c. Training programs and directions for its pharmacists; and
 - d. Records regarding the dispensing of controlled substances in electronic format, in addition to the regularly maintained paper files, including records relating to which Distribution Center and/or CPO facility shipped the controlled substance to the Pharmacy.

8. At Walgreens' request, DEA and DOJ agreed to disclose the terms of the MOA to any other agency and will represent that the allegations raised by DEA, as defined in the Covered Conduct contained in the MOA, have been adequately addressed.
9. Walgreens believes that the obligations set forth in the MOA and the ongoing compliance with those obligations are sufficient to address the penalties set forth in Florida Statutes, Section 456.072(2) and to protect the public and rehabilitate the licensee.

Respectfully submitted,



David S. Weinstein, Esq.
Florida Bar No. 749214
Clarke Silvergate, P.A.
799 Brickell Plaza, Suite 900
Miami, Florida 33131
Telephone: (305) 377-0700
Facsimile: (305) 377-3001
Counsel for Walgreen Company
dba Walgreens #03836

Clarke Silverglate

ATTORNEYS AT LAW

Writer's e-mail: dweinstein@cspalaw.com
Writer's Direct Telephone: 305.347.1559

October 23, 2013

Via Email and USPS

Matthew.witters@Flhealth.gov

Matthew Witters, Esquire
Florida Department of Health
Division of Medical Quality Assurance
Bureau of Enforcement
4050 Bald Cypress Way
Tallahassee, FL 32399-7017

CONFIDENTIAL

2013 OCT 28 AM 9:31
PRACTITIONER REGULATION
LEGAL

RE: Walgreen Co. – Complaint Number 201304366

Dear Mr. Witters:

Please be advised that Clarke Silverglate PA has been retained as counsel of record for Walgreen Co. ("Walgreens") in the above referenced Complaint Number. I am the primary attorney assigned to this matter.

In connection with our representation of Walgreens against the allegations contained in this Complaint, I am requesting a copy of the investigative file.

If I can be of any further assistance, please do not hesitate to contact me at the email address or phone number listed above.

Sincerely,



David S. Weinstein, Esquire

Cc: Patty Zagami, Walgreen Co.

DOH vs. Walgreen Company dba Walgreens #03836
Case Number 2013-04366

**Acknowledgement of and
Agreement to Maintain Patient Confidentiality**

I, Walgreens #03836, am the Subject of an investigation by the Department of Health. As the Subject of such an investigation, I am entitled to inspect or receive a copy of the investigative report, including any expert witness report or patient records connected with the investigation pursuant to Section 456.073(10), Florida Statutes, if I agree in writing to maintain the confidentiality of any information received under this provision, until 10 days after probable cause is found and to maintain the confidentiality of patient records pursuant to Section 456.057, Florida Statutes.


I understand the cost associated with duplicating x-rays and I want () do not want
(X) to receive a copy of any x-rays that are contained within the investigative file.

SIGNED this _____ day of _____, 2013.

Walgreens # 03836
2013-04366

or

SIGNED this 28th day of October, 2013 on behalf of Walgreens
03836.



David S. Weinstein, Esquire

CONFIDENTIAL AND EXEMPT MATERIALS

**One or more pages have been removed
from this document for security reasons**

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advance to the next document if all
pages have been removed.**

SOME OR ALL PAGES IN THIS DOCUMENT ARE PATIENT RECORDS
AND/OR DOCUMENTS THAT IDENTIFY THE PATIENT BY NAME AND ARE
EXEMPT FROM PUBLIC RECORDS LAWS.

456.057 - Ownership and control of patient records; report or copies of records to be
furnished.—

10)(a)All patient records obtained by the department and any other documents
maintained by the department which identify the patient by name are confidential and exempt
from s. 119.07(1) and shall be used solely for the purpose of the department and the appropriate
regulatory board in its investigation, prosecution, and appeal of disciplinary proceedings. The
records shall not be available to the public as part of the record of investigation for and
prosecution in disciplinary proceedings made available to the public by the department or the
appropriate board.

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HEALTH

Rick Scott
Governor

Mission:

To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.

John H. Armstrong, MD, FACS

Surgeon General & Sec

Vision: To be the Healthiest State in the Nation

STATE OF FLORIDA BOARD OF PHARMACY

DEPARTMENT OF HEALTH,
PETITIONER,

VS.

CASE NO. 201304377

WALGREEN COMPANY,
RESPONDENT.

NOTICE

TO: WALGREEN COMPANY
PO BOX 901
DEERFIELD, IL 60015

PLEASE TAKE NOTICE that a disciplinary hearing will be heard before the BOARD OF PHARMACY on Wednesday, August 13, 2014, commencing at 9 a.m. Although the Respondent is not required to be present, it is in their best interest to attend. This hearing will be held at DoubleTree by Hilton, 100 Fairway Drive, Deerfield Beach, FL 33441, 1(800) 624-3606..

The purpose of the hearing is to consider a motion for: Hearing - No Disputed Material Facts

Note: Cases shown on the agenda as "timed" items may be heard in a different order or may be heard earlier if all parties are present. Cases are scheduled beginning at 9 a.m.; therefore, it is imperative that you arrive promptly at 9 a.m. and be prepared to be at the meeting for several hours until your case is heard.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Hearing has been sent by U.S. Mail to the above address(es) this 10th day of July, 2014.


Board Executive Director
BOARD OF PHARMACY

Florida Department of Health
4052 Bald Cypress Way, Bin #
Tallahassee, FL 32399 -

Florida Department of Health

Division of Medical Quality Assurance
4052 Bald Cypress Way, Bin C10 • Tallahassee, FL 32399-3260
PHONE: (850) 245-4444 • FAX: (850) 245-4791

www.FloridasHealth.com

TWITTER:HealthyFLA
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STATE OF FLORIDA
BOARD OF PHARMACY

DEPARTMENT OF HEALTH,
PETITIONER,

VS. CASE NO. 201304377

WALGREEN COMPANY,
RESPONDENT.

NOTICE

AND: PATRICIA A. ZAGAMI
104 WILMOT ROAD - MS 1434
DEERFIELD, IL 60015

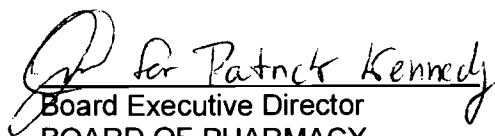
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Board Executive Director
BOARD OF PHARMACY
Florida Department of Health
4052 Bald Cypress Way, Bin #
Tallahassee, FL 32399 -

Florida Department of Health
Division of Medical Quality Assurance • Bureau of HCPR
4052 Bald Cypress Way, Bin C-04 • Tallahassee, FL 32399-1701
PHONE: 850/245-4292 • FAX 850/413-6982

www.FloridasHealth.com
TWITTER: HealthyFLA
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STATE OF FLORIDA
BOARD OF PHARMACY

DEPARTMENT OF HEALTH,
PETITIONER,

VS. CASE NO. 201304377

WALGREEN COMPANY,
RESPONDENT.

NOTICE

AND: DAVID S. WEINSTEIN
799 BRICKELL PLAZA, SUITE 900
CLARKE SILVERGATE, ATTORNEYS AT LAW
MIAMI, FL 33131

PLEASE TAKE NOTICE that a disciplinary hearing will be heard before the BOARD OF PHARMACY on Wednesday, August 13, 2014, commencing at 9 a.m. Although the Respondent is not required to be present, it is in their best interest to attend. This hearing will be held at DoubleTree by Hilton, 100 Fairway Drive, Deerfield Beach, FL 33441, 1(800) 624-3606..

The purpose of the hearing is to consider a motion for: Hearing - No Disputed Material Facts

Note: Cases shown on the agenda as "timed" items may be heard in a different order or may be heard earlier if all parties are present. Cases are scheduled beginning at 9 a.m.; therefore, it is imperative that you arrive promptly at 9 a.m. and be prepared to be at the meeting for several hours until your case is heard.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Hearing has been sent by U.S. Mail to the above address(es) this 10th day of July, 2014.

Board Executive Director
BOARD OF PHARMACY
Florida Department of Health
4052 Bald Cypress Way, Bin #
Tallahassee, FL 32399 -

Florida Department of Health
Division of Medical Quality Assurance • Bureau of HCPR
4052 Bald Cypress Way, Bin C-04 • Tallahassee, FL 32399-1701
PHONE: 850/245-4292 • FAX 850/413-6982

www.FloridasHealth.com
TWITTER:HealthyFLA
FACEBOOK:FLDepartmentofHealth
YOUTUBE: fldoh

Mission:

To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.



Rick Scott
Governor

John H. Armstrong, MD, FACS
State Surgeon General & Secretary

Vision: To be the Healthiest State in the Nation

MEMORANDUM

TO: Patrick W. Kennedy, M.A., Executive Director, Board of Pharmacy
FROM: Matthew Witters, Assistant General Counsel (W)
RE: **Hearing - No Disputed Material Facts**
SUBJECT: DOH v. Walgreen Company
 DOH Case Number 2013-04377
DATE: June 16, 2014 *AB*

Enclosed you will find materials in the above-referenced case to be placed on the agenda for final agency action for the **August 13, 2014**, meeting of the board. The following information is provided in this regard.

Subject: Walgreen Company
Subject's Address of Record: PO Box 901
 Deerfield, IL 60015
Enforcement Address: PO Box 901
 Deerfield, IL 60015
Subject's License No: 7800 **Rank:** PH
Licensure File No: 1068
Initial Licensure Date: 11/18/1981
Board Certification: No
Required to Appear: No
Current IPN/PRN Contract: No
Allegation(s): 456.072(1)(f), FS (2012)
Prior Discipline: None
Probable Cause Panel: January 9, 2014; Glass & Mikhael
 May 8, 2014; Fallon & Glass
Subject's Attorney: David S. Weinstein
 799 Brickell Plaza, Suite 900
 Clarke Silvergate, Attorneys At Law
 Miami, FL 33131
Complainant/Address: Department Of Health
Materials Submitted: Memorandum to the Board
 Motion For Final Order
 Amended Administrative Complaint
 Administrative Complaint
 Motion to Assess Costs with Attachments

Exhibit A – Affidavit of Fees & Costs Expended
Exhibit 1 – Complaint Cost Summary
Exhibit 2 – Itemized Cost by Complaint
Election of Rights
Notification Letter
Respondent Documents
Memorandum of Finding Probable Cause
Final Investigative Report with Exhibits 1-4

GUIDELINES:

Same Penalty as imposed in other jurisdiction or as closely as possible to penalties for similar violation.

PRELIMINARY CASE REMARKS

This is a one count administrative complaint which alleges that the Respondent entered into a settlement agreement with the Drug Enforcement Administration by which Respondent surrendered its registration to dispense Schedule II through Schedule V controlled substances until May 26, 2014.

STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,
Petitioner,

v.

CASE NO. 2013-04377

WALGREEN COMPANY #03099,
Respondent.

MOTION FOR FINAL ORDER AFTER HEARING NOT INVOLVING DISPUTED
ISSUES OF MATERIAL FACTS

COMES NOW, the Petitioner, by and through its undersigned counsel, and moves the Board of Pharmacy for entry of a Final Order in the above-styled cause on a date and time that has been determined and noticed by the Board. As grounds therefore, the Petitioner would state the following:

1. Petitioner previously filed an Administrative Complaint against Respondent alleging that Respondent had violated the provisions of Florida Statutes, as set forth therein. The Department, by filing the Administrative Complaint, is seeking to discipline the Respondent's license to practice as a pharmacy, thereby affecting the Respondent's substantial interests.

2. On or about May 20, 2014, Petitioner served Respondent with the Administrative Complaint via Respondent's address of record with the

Department of Health. The Department, by serving the Respondent with the Administrative Complaint, provided the Respondent written notice of its decision to seek discipline of the Respondent's license to practice as a pharmacy.

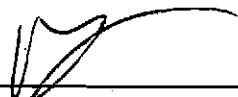
3. The Respondent has filed an Election of Rights Form or other responsive pleading evincing, or has otherwise indicated, that Respondent does not dispute the material facts alleged in the Administrative Complaint.

4. There are no disputed issues of material fact to be resolved by the Board.

5. Respondent has been advised, by a copy of this Motion, that a copy of the investigative file in this case shall be furnished to the Board to establish a prima facie case regarding the violations as set forth in the Administrative Complaint.

WHEREFORE the parties respectfully request the Board of Pharmacy, after allowing the Respondent the opportunity to present oral and/or written evidence in mitigation of the Administrative Complaint, enter a Final Order imposing whatever discipline upon the Respondent's license that the Board deems appropriate.

Respectfully Submitted,




Matthew Witters
Assistant General Counsel
Fla. Bar No. 91245
Florida Department of Health
Office of the General Counsel
4052 Bald Cypress Way, Bin #C65
Tallahassee, FL 32399-3265
Telephone: (850) 245-4444
Facsimile: (850) 245-4683
Email: matthew.witters@flhealth.gov

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing has been provided by U.S. mail this 16 day of

June, 2014, to Walgreen Company, c/o David Weinstein, Esquire, 799 Brickell Plaza, Suite 900, Miami, FL 33131.



Matthew Witters
Assistant General Counsel

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK ANGEL SANDERS
DATE MAY 08 2014

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO. 2013-04377

**WALGREEN COMPANY, d.b.a.,
WALGREENS #03099**

RESPONDENT.

AMENDED ADMINISTRATIVE COMPLAINT

COMES NOW, Petitioner, Department of Health, by and through its undersigned counsel, and files this Amended Administrative Complaint before the Board of Pharmacy against Respondent, Walgreen Company, and in support thereof alleges:

1. Petitioner is the state department charged with regulating the practice of pharmacy pursuant to Section 20.43, Florida Statutes; Chapter 456, Florida Statutes; and Chapter 465, Florida Statutes.
2. At all times material to this Amended Administrative Complaint, Respondent was a permitted community pharmacy within the state of Florida, having been issued permit number PH 7800.

3. Respondent's address of record is Post Office Box 901, Deerfield, Illinois 60015.

4. Respondent's physical location is 1525 Colonial Blvd. Fort Myers, Florida 33907.

5. On or about June 11, 2013, Respondent entered into a settlement agreement with the Drug Enforcement Administration by which Respondent surrendered its registration to dispense Schedule II through Schedule V controlled substances until May 26, 2014.

6. Section 456.072(1)(f), Florida Statutes (2012), provides that a having a license or the authority to practice any regulated profession revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of any jurisdiction, including its agencies or subdivisions, for a violation that would constitute a violation under Florida law. The licensing authority's acceptance of a relinquishment of licensure, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of charges against the license, shall be construed as action against the license.

7. Respondent entered into a settlement agreement with the Drug Enforcement Administration by which the Respondent surrendered its

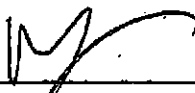
registration to dispense Schedule II through Schedule V controlled substances until May 26, 2014.

8. Based on the foregoing, Respondent has violated Section 456.072(1)(f), Florida Statutes (2012) by having a license or the authority to practice any regulated profession revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of any jurisdiction, including its agencies or subdivisions, for a violation that would constitute a violation under Florida law. The licensing authority's acceptance of a relinquishment of licensure, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of charges against the license, shall be construed as action against the license.

WHEREFORE, Petitioner respectfully requests that the Board of Pharmacy enter an order imposing one or more of the following penalties: permanent revocation or suspension of Respondent's license, restriction of practice, imposition of an administrative fine, issuance of a reprimand, placement of Respondent on probation, corrective action, refund of fees billed or collected, remedial education and/or any other relief that the Board deems appropriate.

SIGNED this 8 day of May, 2014.

JOHN H. ARMSTRONG, MD, FACS
State Surgeon General and
Secretary of Health



Matthew G. Witters
Assistant General Counsel
Fla. Bar No. 0091245
Florida Department of Health
Office of the General Counsel
4052 Bald Cypress Way, Bin #C65
Tallahassee, FL 32399-3265
Telephone: (850) 245-4444
Facsimile: (850) 245-4683
Email: matthew.witters@flhealth.gov

PCP: May 8, 2014
PCP Members: Fallon and Glass

NOTICE OF RIGHTS

Respondent has the right to request a hearing to be conducted in accordance with Section 120.569 and 120.57, Florida Statutes, to be represented by counsel or other qualified representative, to present evidence and argument, to call and cross-examine witnesses and to have subpoena and subpoena duces tecum issued on his or her behalf if a hearing is requested.

NOTICE REGARDING ASSESSMENT OF COSTS

Respondent is placed on notice that Petitioner has incurred costs related to the investigation and prosecution of this matter. Pursuant to Section 456.072(4), Florida Statutes, the Board shall assess costs related to the investigation and prosecution of a disciplinary matter, which may include attorney hours and costs, on the Respondent in addition to any other discipline imposed.

MEMORANDUM OF PROBABLE CAUSE DETERMINATION

TO: Department of Health, Prosecution Services Unit
FROM: Chair, Probable Cause Panel, Florida Board of Pharmacy
RE: Walgreen Company, #03099
Case Number: 2013-04377

MEMBERS: Glass and Fallon

DATE OF PCP: May 8, 2014 AGENDA ITEM: R-10 MW

This matter came before the Probable Cause Panel on the above date. Having reviewed the complete investigative file, recommendations of the Department, and any information submitted by the Subject, and being otherwise fully advised in the premises, the panel finds that:

Probable cause exists and a formal complaint shall be filed for violation of statutes and rules, including but not limited to:

Section 456.072(1)(f), F.S. (2012)

Probable Cause was not found in this case

In lieu of probable cause, issue letter of guidance

Case requires expert review

Case needs further investigation

a)
b)
c)

Upon reconsideration, dismiss

Other

Patrick Perry for Lee Fallon 5/15/2014
Chair, Probable Cause Panel
Board of Pharmacy

STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,
Petitioner,

v.

CASE NO. 2013-04377

WALGREEN COMPANY #03099,
Respondent.

MOTION TO ASSESS COSTS IN ACCORDANCE
WITH SECTION 456.072(4)

COMES NOW the Department of Health, by and through undersigned counsel, and moves the Board of Pharmacy for the entry of a Final Order assessing costs against the Respondent for the investigation and prosecution of this case in accordance with Section 456.072(4), Florida Statutes. As grounds therefore, the Petitioner states the following:

1. At its next regularly scheduled meeting, the Board of Pharmacy will take up for consideration the above-styled disciplinary action and will enter a Final Order therein.

2. Section 456.072(4), Florida Statutes, states as follows:

In addition to any other discipline imposed through final order, or citation, entered on or

after July 1, 2001, pursuant to this section or discipline imposed through final order, or citation, entered on or after July 1, 2001, for a violation of any practice act, the board, or the department when there is not board, shall assess costs related to the investigation and prosecution of the case. Such costs related to the investigation and prosecution include, but are not limited to, salaries and benefits of personnel, costs related to the time spent by the attorney and other personnel working on the case, and any other expenses incurred by the department for the case. The board, or the department when there is no board, shall determine the amount of costs to be assessed after its consideration of an affidavit of itemized costs and any written objections thereto.

3. The investigation and prosecution of this case has resulted in costs in the total amount of \$747.41, based on the following itemized statement of costs:

| ***** Cost to Date ***** | | |
|--------------------------|-------|----------|
| | Hours | Costs |
| Complaint: | 3.75 | \$205.88 |
| Investigation: | 2.60 | \$152.73 |
| Legal: | 3.80 | \$388.80 |
| Compliance: | 0.00 | \$0.00 |
| Sub Total: | 10.15 | \$747.41 |
| Expenses to Date: | | \$0.00 |
| Prior | | \$0.00 |

| | | |
|----------------------|--|----------|
| Amount: | | |
| Total Costs to Date: | | \$747.41 |

Therefore, the Petitioner seeks an assessment of costs against the Respondent in the amount of \$358.61 as evidenced in the attached affidavit. (Exhibit A).

4. Should the Respondent file written objections to the assessment of costs, within ten (10) days of the date of this motion, specifying the grounds for the objections and the specific elements of the costs to which the objections are made, the Petitioner requests that the Board determine the amount of costs to be assessed based upon its consideration of the affidavit attached as Exhibit A and any timely-filed written objections.

5. Petitioner requests that the Board grant this motion and assess costs in the amount of \$358.61 as supported by competent, substantial evidence. This assessment of costs is in addition to any other discipline imposed by the Board and is in accordance with Section 456.072(4), Florida Statutes.

WHEREFORE, the Department of Health requests that the Board of Pharmacy enter a Final Order assessing costs against the Respondent in the amount of \$358.61.

DATED this 16 day of June, 2014.



Matthew Witters
Assistant General Counsel
Fla. Bar No. 91245
Florida Department of Health
Office of the General Counsel
4052 Bald Cypress Way, Bin #C65
Tallahassee, FL 32399-3265
Telephone: (850) 245-4444
Facsimile: (850) 245-4683
Email: matthew.witters@flhealth.gov

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Motion to Assess Costs has been provided by U.S. Mail this 16 day of June, 2014, to Walgreen Company, c/o David Weinstein, Esquire, 799 Brickell Plaza, Suite 900, Miami, FL 33131.



Matthew Witters
Assistant General Counsel

AFFIDAVIT OF FEES AND COSTS EXPENDED

STATE OF FLORIDA
COUNTY OF LEON:

BEFORE ME, the undersigned authority, personally appeared **SHANE WALTERS** who was sworn and states as follows:

- 1) My name is Shane Walters.
- 2) I am over the age of 18, competent to testify, and make this affidavit upon my own personal knowledge and after review of the records at the Florida Department of Health (DOH).
- 3) I am the Operations and Management Consultant Manager (OMCM) for the Consumer Services and Compliance Management Unit for DOH. The Consumer Services Unit is where all complaints against Florida health care licensees (e.g., medical doctors, dentists, nurses, respiratory therapists) are officially filed. I have been in my current job position for more than one year. My business address is 4052 Bald Cypress Way, Bin C-75 Tallahassee, Florida 32399-3275.
- 4) As OMCM of the Consumer Services and Compliance Management Unit, my job duties include reviewing data in the Time Tracking System and verifying that the amounts correspond. The Time Tracking System is a computer program which records and tracks DOH's costs regarding the investigation and prosecution of cases against Florida health care licensees.
- 5) As of today, DOH's total costs for investigating and prosecuting DOH case number(s) **2013-04377** (Department of Health v **WALGREEN COMPANY**) are **SEVEN HUNDRED FORTY-SEVEN DOLLARS AND FORTY-ONE CENTS (\$747.41)**.
- 6) The costs for DOH case number(s) **2013-04377** (Department of Health v **WALGREEN COMPANY**) are summarized in Exhibit 1 (Cost Summary Report), which is attached to this document.
- 7) The itemized costs and expenses for DOH case number(s) **2013-04377** (Department of Health v **WALGREEN COMPANY**) are detailed in Exhibit 2 (Itemized Cost Report and Itemized Expense Report and receipts), which is attached to this document.
- 8) The itemized costs as reflected in Exhibit 2 are determined by the following method: DOH employees who work on cases daily are to keep track of their time in six-minute increments (e.g., investigators



and lawyers). A designated DOH employee in the Consumer Services Unit, Legal Department, and in each area office, inputs the time worked and expenses spent into the Time Tracking System. Time and expenses are charged against a state health care Board (e.g., Florida Board of Medicine, Florida Board of Dentistry, Florida Board of Osteopathic Medicine), and/or a case. If no Board or case can be charged, then the time and expenses are charged as administrative time. The hourly rate of each employee is calculated by formulas established by the Department. (See the Itemized Cost Report)

- 9) Shane Walters, first being duly sworn, states that she has read the foregoing Affidavit and its attachments and the statements contained therein are true and correct to the best of her knowledge and belief.

FURTHER AFFIANT SAYETH NOT.

Shane Walters

Shane Walters, Affiant

State of Florida
County of Leon

Sworn to and subscribed before me this 16th day of June, 2014,
by Shane Walters, who is personally known to me.

Towanda B. Burnett
Notary Signature

Towanda B. Burnett
Name of Notary Printed



Stamp Commissioned Name of Notary Public:

Complaint Cost Summary

Complaint Number: 201304377

Subject's Name: WALGREEN COMPANY

| | ***** Cost to Date ***** | |
|----------------------|--------------------------|----------|
| | Hours | Costs |
| Complaint: | 3.75 | \$205.88 |
| Investigation: | 2.60 | \$152.73 |
| Legal: | 3.80 | \$388.80 |
| Compliance: | 0.00 | \$0.00 |
| | ***** | ***** |
| Sub Total: | 10.15 | \$747.41 |
| Expenses to Date: | | \$0.00 |
| Prior Amount: | | \$0.00 |
| Total Costs to Date: | | \$747.41 |

EXHIBIT

**Time Tracking System
Itemized Cost by Complaint**

Complaint 201304377

Report Date 06/16/2014

Page 1 of 2

| Staff Code | Activity Hours | Staff Rate | Cost | Activity Date | Activity Code | Activity Description |
|------------|----------------|------------|------|---------------|---------------|----------------------|
|------------|----------------|------------|------|---------------|---------------|----------------------|

CONSUMER SERVICES UNIT

| | | | | | | |
|------------------|-------------|---------|-----------------|------------|-----|--|
| HA162 | 0.25 | \$54.90 | \$13.73 | 03/13/2013 | 78 | INITIAL REVIEW AND ANALYSIS OF COMPLAINT |
| HA107 | 0.20 | \$54.90 | \$10.98 | 04/10/2013 | 60 | MISCELLANEOUS |
| HA107 | 0.70 | \$54.90 | \$38.43 | 05/14/2013 | 25 | REVIEW CASE FILE |
| HA107 | 0.50 | \$54.90 | \$27.45 | 05/21/2013 | 25 | REVIEW CASE FILE |
| HA168 | 0.30 | \$54.90 | \$16.47 | 07/10/2013 | 25 | REVIEW CASE FILE |
| HA168 | 0.10 | \$54.90 | \$5.49 | 07/12/2013 | 144 | CSU INVESTIGATIVE WORK |
| HA168 | 0.30 | \$54.90 | \$16.47 | 07/18/2013 | 144 | CSU INVESTIGATIVE WORK |
| HA168 | 0.70 | \$54.90 | \$38.43 | 08/05/2013 | 144 | CSU INVESTIGATIVE WORK |
| HA168 | 0.50 | \$54.90 | \$27.45 | 08/26/2013 | 78 | INITIAL REVIEW AND ANALYSIS OF COMPLAINT |
| HA168 | 0.10 | \$54.90 | \$5.49 | 08/28/2013 | 78 | INITIAL REVIEW AND ANALYSIS OF COMPLAINT |
| HA168 | 1.10 | \$54.90 | \$60.39 | 09/19/2013 | 76 | REPORT PREPARATION |
| HA168 | 0.40 | \$54.90 | \$21.96 | 09/20/2013 | 76 | REPORT PREPARATION |
| HA52 | 0.10 | \$54.90 | \$5.49 | 09/23/2013 | 2 | OFFICE SUPERVISORY DUTIES |
| Sub Total | 5.25 | | \$288.23 | | | |

INVESTIGATIVE SERVICES UNIT

| | | | | | | |
|------------------|-------------|---------|----------------|------------|---|---------------------------|
| FI75 | 0.50 | \$63.98 | \$31.99 | 03/15/2013 | 7 | PRELIMINARY INVESTIGATION |
| FI75 | 0.40 | \$63.98 | \$25.59 | 03/18/2013 | 7 | PRELIMINARY INVESTIGATION |
| FI75 | 0.20 | \$63.98 | \$12.80 | 03/28/2013 | 7 | PRELIMINARY INVESTIGATION |
| Sub Total | 1.10 | | \$70.38 | | | |

PROSECUTION SERVICES UNIT

| | | | | | | |
|--------|------|----------|---------|------------|----|--|
| HLL90B | 0.30 | \$106.35 | \$31.91 | 10/15/2013 | 28 | PREPARE OR REVISE ADMINISTRATIVE COMPLAINT |
| HLL90B | 0.30 | \$101.95 | \$30.59 | 10/29/2013 | 38 | REVIEW DISCOVERY REQUESTS/RESPONSES |
| HLL90B | 0.20 | \$101.95 | \$20.39 | 11/12/2013 | 37 | REVIEW LETTER |
| HLL90B | 0.20 | \$101.95 | \$20.39 | 12/09/2013 | 37 | REVIEW LETTER |

EXHIBIT
2

**Time Tracking System
Itemized Cost by Complaint**

Complaint 201304377

Report Date 06/16/2014

| Staff Code | Activity Hours | Staff Rate | Cost | Activity Date | Activity Code | Activity Description |
|------------------|----------------|------------|-----------------|---------------|---------------|---|
| HLL90B | 0.20 | \$101.95 | \$20.39 | 12/11/2013 | 89 | PROBABLE CAUSE PREPARATION |
| HLL90B | 0.20 | \$101.95 | \$20.39 | 01/02/2014 | 79 | STIPULATION |
| HLL90B | 0.10 | \$101.95 | \$10.20 | 01/03/2014 | 89 | PROBABLE CAUSE PREPARATION |
| HLL90B | 0.10 | \$101.95 | \$10.20 | 01/09/2014 | 63 | PRESENTATION OF CASES TO PROBABLE CAUSE PANEL |
| HLL90B | 0.10 | \$101.95 | \$10.20 | 01/09/2014 | 90 | POST PROBABLE CAUSE PROCESSING |
| HLL90B | 0.10 | \$101.95 | \$10.20 | 01/13/2014 | 36 | PREPARATION OR REVISION OF LETTER |
| HLL90B | 0.10 | \$101.95 | \$10.20 | 01/15/2014 | 90 | POST PROBABLE CAUSE PROCESSING |
| HLL90B | 0.30 | \$101.95 | \$30.59 | 03/24/2014 | 46 | LEGAL RESEARCH |
| HLL90B | 0.60 | \$101.95 | \$61.17 | 03/24/2014 | 35 | TELEPHONE CALLS |
| HLL90B | 0.10 | \$101.95 | \$10.20 | 03/26/2014 | 35 | TELEPHONE CALLS |
| HLL90B | 0.10 | \$101.95 | \$10.20 | 04/03/2014 | 89 | PROBABLE CAUSE PREPARATION |
| HLL90B | 0.10 | \$101.95 | \$10.20 | 04/29/2014 | 89 | PROBABLE CAUSE PREPARATION |
| HLL90B | 0.20 | \$101.95 | \$20.39 | 05/07/2014 | 89 | PROBABLE CAUSE PREPARATION |
| HLL90B | 0.10 | \$101.95 | \$10.20 | 05/08/2014 | 63 | PRESENTATION OF CASES TO PROBABLE CAUSE PANEL |
| HLL90B | 0.30 | \$101.95 | \$30.59 | 05/08/2014 | 35 | TELEPHONE CALLS |
| HLL90B | 0.10 | \$101.95 | \$10.20 | 05/16/2014 | 90 | POST PROBABLE CAUSE PROCESSING |
| Sub Total | 3.80 | | \$388.80 | | | |

| | |
|-------------------|-----------------|
| Total Cost | \$747.41 |
|-------------------|-----------------|

***** CONFIDENTIAL *****
Time Tracking System
Itemized Expense by Complaint
Complaint

Report Date: 06/16/2014

Page 1 of 1

| Staff Code | Expense Date | Expense Amount | Expense Code | Expense Code Description |
|------------|--------------|----------------|--------------|--------------------------|
|------------|--------------|----------------|--------------|--------------------------|

SubTotal
Total Expenses

ELECTION OF RIGHTS

Case Name: Walgreen Company #03099

Case No. 2013-04377

PLEASE SELECT ONLY 1 OF THE 3 OPTIONS

An Explanation of Rights is attached. If you do not understand these options, please consult with your attorney or contact the attorney for the Prosecution Services Unit at the address/phone number listed at the bottom of this form.

OPTION 1. I do not dispute the allegations of fact in the Administrative Complaint, but do wish to be accorded a hearing, pursuant to Section 120.57(2), Florida Statutes, at which time I will be permitted to submit oral and/or written evidence in mitigation of the complaint to the Board.

OPTION 2. I do not dispute the allegations of fact contained in the Administrative Complaint and waive my right to object or to be heard. I request that the Board enter a final order pursuant to Section 120.57, Florida Statutes.

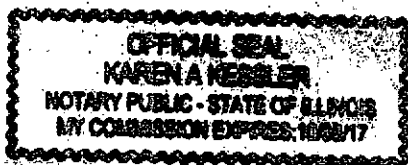
OPTION 3. I do dispute the allegations of fact contained in the Administrative Complaint and request this to be considered a petition for formal hearing, pursuant to Sections 120.569(2)(a) and 120.57(1), Florida Statutes, before an Administrative Law Judge appointed by the Division of Administrative Hearings. I specifically dispute the following paragraphs of the Amended Administrative Complaint:

In addition to the above selection, I also elect the following:

- () I accept the terms of the Settlement Agreement, have signed and am returning the Settlement Agreement or I am interested in settling this case.
- () I do not wish to continue practicing and have signed and returned the Voluntary Relinquishment of licensure form.

Regardless of which option I have selected, I understand that I will be given notice of time, date, and place when this matter is to be considered by the Board for Final Action. Mediation under Section 120.573, Florida Statutes, is not available in this matter. (Please sign and complete all the information below.)

Patricia Zagami (Patricia Zagami), RPh, JD
 Respondent
 Address: 104 Wilcox Rd. MS #1446
Deerfield IL 60015
 Lic. No. _____
 Phone No. 847-315-2871
 Fax No. 847-315-2645



STATE OF ~~FLORIDA~~ ILLINOIS
 COUNTY OF LAKE

Before me personally appeared PATRICIA ZAGAMI, whose identity is known to be by LICENSE (type of identification), and who under oath, acknowledges that his/her signature appears above. Sworn to and subscribed before me this 29th day of MAY, 2014.

Karen A. Kessler
 Notary Public
 My Commission Expires: 10/18/17

PLEASE MAIL AND/OR FAX COMPLETED FORM TO: Matthew G. Witters, Assistant General Counsel, DOH, Prosecution Services Unit, 4052 Bald Cypress Way, Bin C-65, Tallahassee, Florida 32399-3265. Telephone Number: (850) 245-4444; FAX (850) 245-4683 - TDD 1-800-955-8771.

Mission:

To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.



Rick Scott
Governor

John H. Armstrong, MD, FACS
State Surgeon General & Secretary

Vision: To be the Healthiest State in the Nation

June 17, 2014

David Weinstein, Esquire
799 Brickell Plaza, 9th floor
Miami, FL 33131

Re: DOH vs. Walgreen Company #03099
DOH Case Number: 2013-04377

Dear Mr. Weinstein:

I am in receipt of your client's election of rights requesting a hearing not involving disputed issues of material fact, executed by your client on May 29, 2014, concerning the above referenced case. This means that the facts alleged in the Administrative Complaint are uncontested. This is an important distinction because, by law, the Board cannot resolve disputes of material fact in this case or any disciplinary case. Since your client is requesting a hearing not involving disputed issues of material fact, he/she is not admitting the facts alleged in the Administrative Complaint, however, your client is agreeing not to contest these facts and to limit presentation to legal argument, if any, and to matters in mitigation or extenuation.

Our office is now preparing this case to be presented at the next regularly scheduled meeting of the Florida Board of Pharmacy. Please be advised your client's case will be set at the convenience of the Department and/or the Board, and your office will receive notification of the date and time approximately two weeks prior to the meeting.

Thank for your attention and cooperation in this matter. Should you have any questions, please feel free to contact this office.

Sincerely,

A handwritten signature in black ink, appearing to read "Matthew Witters".

Matthew Witters
Assistant General Counsel

MW/ab

Mission:

To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.



Rick Scott
Governor

John H. Armstrong, MD, FACS
State Surgeon General & Secretary

October 29, 2013

David S. Weinstein, Esquire
Clarke Silvergate, Attorneys at Law
Suite 900
799 Brickell Plaza
Miami, Florida 33131

Re: Complaint No. 2013-04377
Complaint Name: Walgreen's Company Store # 03099

Dear Mr. Weinstein:

Pursuant to Section 456.073(10), Florida Statutes, enclosed is a CD containing a copy the Department's complete investigative file in Complaint No. 2013-04377. Section 456.073(10), Florida Statutes provides in part:

... Upon completion of the investigation and a recommendation by the department to find probable cause, and pursuant to a written request by the subject or the subject's attorney, the department shall provide the subject an opportunity to inspect the investigative file or, at the subject's expense, forward to the subject a copy of the investigative file. Notwithstanding s. 456.057, the subject may inspect or receive a copy of any expert witness report or patient record connected with the investigation if the subject agrees in writing to maintain the confidentiality of any information received under this subsection until 10 days after probable cause is found and to maintain the confidentiality of patient records pursuant to s. 456.057. The subject may file a written response to the information contained in the investigative file. Such response must be filed within 20 days of mailing by the department, unless an extension of time has been granted by the department. ...

Pursuant to the provisions of Section 456.073(10), Florida Statutes, your written response must be received by no later than twenty (20) days from the date of this letter. Any requests for an extension of time must be made to my office prior to the expiration of the original twenty (20) days.

The password for the CD is: 456. Please call with any questions, 850-245-4444, ext. 8172.

Florida Department of Health
Office of the General Counsel • Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65 • Tallahassee, FL 32399-3265
Express mail address: 2585 Merchants Row – Suite 105
PHONE: 850/245-4444 • FAX 850/245-466X

www.FloridasHealth.com
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of all people in Florida through integrated
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John H. Armstrong, MD, FACS
State Surgeon General & Secretary

Respectfully,

A handwritten signature in black ink, appearing to read "Matthew G. Witters".

Matthew G. Witters
Assistant General Counsel

MGW/crl

Enclosures: CD Investigative File (2013-04377)
Invoice #: MQPR14-247

Florida Department of Health

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EXEMPT FROM PUBLIC RECORDS LAWS.

456.057 - Ownership and control of patient records; report or copies of records to be
furnished.—

10)(a)All patient records obtained by the department and any other documents
maintained by the department which identify the patient by name are confidential and exempt
from s. 119.07(1) and shall be used solely for the purpose of the department and the appropriate
regulatory board in its investigation, prosecution, and appeal of disciplinary proceedings. The
records shall not be available to the public as part of the record of investigation for and
prosecution in disciplinary proceedings made available to the public by the department or the
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Rick Scott
Governor

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John H. Armstrong, MD, FACS

Surgeon General & Sec

Vision: To be the Healthiest State in the Nation

STATE OF FLORIDA
BOARD OF PHARMACY

DEPARTMENT OF HEALTH,
PETITIONER,

VS.

CASE NO. 201304363

WALGREEN COMPANY,
RESPONDENT.

NOTICE

TO: WALGREEN COMPANY
PO BOX 901
DEERFIELD, IL 60015

PLEASE TAKE NOTICE that a disciplinary hearing will be heard before the BOARD OF PHARMACY on Wednesday, August 13, 2014, commencing at 9 a.m. Although the Respondent is not required to be present, it is in their best interest to attend. This hearing will be held at DoubleTree by Hilton, 100 Fairway Drive, Deerfield Beach, FL 33441, 1(800) 624-3606..

The purpose of the hearing is to consider a motion for: Hearing - No Disputed Material Facts

Note: Cases shown on the agenda as "timed" items may be heard in a different order or may be heard earlier if all parties are present. Cases are scheduled beginning at 9 a.m.; therefore, it is imperative that you arrive promptly at 9 a.m. and be prepared to be at the meeting for several hours until your case is heard.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Hearing has been sent by U.S. Mail to the above address(es) this 10th day of July, 2014.

Board Executive Director
BOARD OF PHARMACY
Florida Department of Health
4052 Bald Cypress Way, Bin #
Tallahassee, FL 32399 -

Florida Department of Health

Division of Medical Quality Assurance
4052 Bald Cypress Way, Bin C10 • Tallahassee, FL 32399-3260
PHONE: (850) 245-4444 • FAX : (850) 245-4791

www.FloridasHealth.com

TWITTER:HealthyFLA
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STATE OF FLORIDA
BOARD OF PHARMACY

DEPARTMENT OF HEALTH,
PETITIONER,

VS. CASE NO. 201304363

WALGREEN COMPANY,
RESPONDENT.

NOTICE

AND: DAVID S. WEINSTEIN
799 BRICKELL PLAZA, 9TH FLOOR
MIAMI, FL 33131


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BOARD OF PHARMACY
Florida Department of Health
4052 Bald Cypress Way, Bin #
Tallahassee, FL 32399 -

Florida Department of Health
Division of Medical Quality Assurance • Bureau of HCPR
4052 Bald Cypress Way, Bin C-04 • Tallahassee, FL 32399-1701
PHONE: 850/245-4292 • FAX 850/413-6982

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STATE OF FLORIDA
BOARD OF PHARMACY

DEPARTMENT OF HEALTH,
PETITIONER,

VS.

CASE NO. 201304363

WALGREEN COMPANY,
RESPONDENT.

NOTICE

AND: PATRICIA A. ZAGAMI
104 WILMOT ROAD - MS 1434
DEERFIELD, IL 60015

PLEASE TAKE NOTICE that a disciplinary hearing will be heard before the BOARD OF PHARMACY on Wednesday, August 13, 2014, commencing at 9 a.m. Although the Respondent is not required to be present, it is in their best interest to attend. This hearing will be held at DoubleTree by Hilton, 100 Fairway Drive, Deerfield Beach, FL 33441, 1(800) 624-3606..

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Hearing has been sent by U.S. Mail to the above address(es) this 10th day of July, 2014.

A handwritten signature in cursive script that reads "Patrick Kennedy".

Board Executive Director
BOARD OF PHARMACY
Florida Department of Health
4052 Bald Cypress Way, Bin #
Tallahassee, FL 32399 -

Florida Department of Health

Division of Medical Quality Assurance • Bureau of HCPR
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MEMORANDUM

TO: Patrick W. Kennedy, M.A., Executive Director, Board of Pharmacy
FROM: Matthew Witters, Assistant General Counsel *W*
RE: **Hearing - No Disputed Material Facts**
SUBJECT: DOH v. Walgreen Company
 DOH Case Number 2013-04363
DATE: June 16, 2014 *AB*

Enclosed you will find materials in the above-referenced case to be placed on the agenda for final agency action for the **August 13, 2014**, meeting of the board. The following information is provided in this regard.

| | |
|-------------------------------------|--|
| Subject: | Walgreen Company |
| Subject's Address of Record: | PO Box 901 Deerfield, IL 60015 |
| Enforcement Address: | PO Box 901 Deerfield, IL 60015 |
| Subject's License No: | 16932 |
| Licensure File No: | 7449 |
| Initial Licensure Date: | 10/22/1999 |
| Board Certification: | No |
| Required to Appear: | No |
| Current IPN/PRN Contract: | N |
| Allegation(s): | 456.07291)(f), FS (2012) |
| Prior Discipline: | None |
| Probable Cause Panel: | January 9, 2014; Glass & Mikhael May 8, 2014; Fallon & Glass |
| Subject's Attorney: | David S. Weinstein 799 Brickell Plaza, 9th Floor Miami, FL 33131 |
| Complainant/Address: | Department Of Health |
| Materials Submitted: | Memorandum to the Board Motion For Final Order Amended Administrative Complaint Administrative Complaint Motion to Assess Costs with Attachments Exhibit A – Affidavit of Fees & Costs Expended Exhibit 1 – Complaint Cost Summary |

Exhibit 2 – Itemized Cost by Complaint
Election of Rights
Board Notification Letter
Respondent Documents
Memorandum of Finding Probable Cause
456 Materials
Final Investigative Report with Exhibits 1-4

GUIDELINES:

Same Penalty as imposed in other jurisdiction or as closely as possible to penalties for similar violation.

PRELIMINARY CASE REMARKS

This is a one count administrative complaint which alleges that the Respondent entered into a settlement agreement with the Drug Enforcement Administration by which Respondent surrendered its registration to dispense Schedule II through Schedule V controlled substances until May 26, 2014.

STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,
Petitioner,

v.

CASE NO. 2013-04363

WALGREEN COMPANY #04727
Respondent.

MOTION FOR FINAL ORDER AFTER HEARING NOT INVOLVING DISPUTED
ISSUES OF MATERIAL FACTS

COMES NOW, the Petitioner, by and through its undersigned counsel, and moves the Board of Pharmacy for entry of a Final Order in the above-styled cause on a date and time that has been determined and noticed by the Board. As grounds therefore, the Petitioner would state the following:

1. Petitioner previously filed an Administrative Complaint against Respondent alleging that Respondent had violated the provisions of Florida Statutes, as set forth therein. The Department, by filing the Administrative Complaint, is seeking to discipline the Respondent's license to practice as a pharmacy, thereby affecting the Respondent's substantial interests.
2. On or about May 20, 2014, Petitioner served Respondent with the Administrative Complaint via Respondent's address of record with the

Department of Health. The Department, by serving the Respondent with the Administrative Complaint, provided the Respondent written notice of its decision to seek discipline of the Respondent's license to practice as a pharmacy.

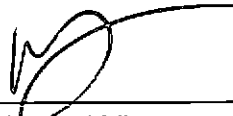
3. The Respondent has filed an Election of Rights Form or other responsive pleading evincing, or has otherwise indicated, that Respondent does not dispute the material facts alleged in the Administrative Complaint.

4. There are no disputed issues of material fact to be resolved by the Board.

5. Respondent has been advised, by a copy of this Motion, that a copy of the investigative file in this case shall be furnished to the Board to establish a prima facie case regarding the violations as set forth in the Administrative Complaint.

WHEREFORE the parties respectfully request the Board of Pharmacy, after allowing the Respondent the opportunity to present oral and/or written evidence in mitigation of the Administrative Complaint, enter a Final Order imposing whatever discipline upon the Respondent's license that the Board deems appropriate.

Respectfully Submitted,



Matthew Witters
Assistant General Counsel
Fla. Bar No. 91245
Florida Department of Health
Office of the General Counsel
4052 Bald Cypress Way, Bin #C65
Tallahassee, FL 32399-3265
Telephone: (850) 245-4444
Facsimile: (850) 245-4683
Email: matthew.witters@flhealth.gov

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing has been provided by U.S. mail this 16 day of

June, 2014, to Walgreen Company #04727, c/o David S. Weinstein, Esquire, 799 Brickell Plaza #900, Miami, FL 33131.



Matthew Witters
Assistant General Counsel

STATE OF FLORIDA
DEPARTMENT OF HEALTH

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK ANGEL SANDERS
DATE MAY 08 2014

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO. 2013-04363

WALGREEN COMPANY, d.b.a.,
WALGREENS #04727

RESPONDENT.

AMENDED ADMINISTRATIVE COMPLAINT

COMES NOW, Petitioner, Department of Health, by and through its undersigned counsel, and files this Amended Administrative Complaint before the Board of Pharmacy against Respondent, Walgreen Company, and in support thereof alleges:

1. Petitioner is the state department charged with regulating the practice of pharmacy pursuant to Section 20.43, Florida Statutes; Chapter 456, Florida Statutes; and Chapter 465, Florida Statutes.

2. At all times material to this Amended Administrative Complaint, Respondent was a permitted community pharmacy within the state of Florida, having been issued permit number PH 16932.

3. Respondent's address of record is Post Office Box 901, Deerfield, Illinois 60015.

4. Respondent's physical location is 4950 South U.S. Highway 1, Ft. Pierce, Florida 34952.

5. On or about June 11, 2013, Respondent entered into a settlement agreement with the DEA by which Respondent surrendered its registration to dispense Schedule II through Schedule V controlled substances until May 26, 2014.

6. Section 456.072(1)(f), Florida Statutes (2012), provides that a having a license or the authority to practice any regulated profession revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of any jurisdiction, including its agencies or subdivisions, for a violation that would constitute a violation under Florida law. The licensing authority's acceptance of a relinquishment of licensure, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of charges against the license, shall be construed as action against the license.

7. Respondent entered into a settlement agreement with the DEA by which the Respondent surrendered its registration to dispense Schedule II through Schedule V controlled substances until May 26, 2014.

8. Based on the foregoing, Respondent has violated Section 456.072(1)(f), Florida Statutes (2012) by having a license or the authority to practice any regulated profession revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of any jurisdiction, including its agencies or subdivisions, for a violation that would constitute a violation under Florida law. The licensing authority's acceptance of a relinquishment of licensure, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of charges against the license, shall be construed as action against the license.

WHEREFORE, Petitioner respectfully requests that the Board of Pharmacy enter an order imposing one or more of the following penalties: permanent revocation or suspension of Respondent's license, restriction of practice, imposition of an administrative fine, issuance of a reprimand, placement of Respondent on probation, corrective action, refund of fees billed or collected, remedial education and/or any other relief that the Board deems appropriate.

SIGNED this 8 day of May, 2014.

JOHN H. ARMSTRONG, MD, FACS
State Surgeon General and
Secretary of Health



Matthew G. Witters
Assistant General Counsel
Fla. Bar No. 0091245
Florida Department of Health
Office of the General Counsel
4052 Bald Cypress Way, Bin #C65
Tallahassee, FL 32399-3265
Telephone: (850) 245-4444
Facsimile: (850) 245-4683
Email: matthew.witters@flhealth.gov

PCP: May 8, 2014
PCP Members: Fallon and Glass

NOTICE OF RIGHTS

Respondent has the right to request a hearing to be conducted in accordance with Section 120.569 and 120.57, Florida Statutes, to be represented by counsel or other qualified representative, to present evidence and argument, to call and cross-examine witnesses and to have subpoena and subpoena duces tecum issued on his or her behalf if a hearing is requested.

NOTICE REGARDING ASSESSMENT OF COSTS

Respondent is placed on notice that Petitioner has incurred costs related to the investigation and prosecution of this matter. Pursuant to Section 456.072(4), Florida Statutes, the Board shall assess costs related to the investigation and prosecution of a disciplinary matter, which may include attorney hours and costs, on the Respondent in addition to any other discipline imposed.

MEMORANDUM OF PROBABLE CAUSE DETERMINATION

TO: Department of Health, Prosecution Services Unit
FROM: Chair, Probable Cause Panel, Florida Board of Pharmacy
RE: Walgreen Company, #04727
Case Number: 2013-04363

MEMBERS: Glass and Fallon

DATE OF PCP: May 8, 2014 **AGENDA ITEM:** R-11 *MW*
.....

This matter came before the Probable Cause Panel on the above date. Having reviewed the complete investigative file, recommendations of the Department, and any information submitted by the Subject, and being otherwise fully advised in the premises, the panel finds that:

- Probable cause exists and a formal complaint shall be filed for violation of statutes and rules, including but not limited to:**
 - Section 456.072(1)(f), F.S. (2012)
- Probable Cause was **not** found in this case
- In lieu of probable cause, issue **letter of guidance**
- Case requires **expert review**
- Case needs **further investigation**
 - a)
 - b)
 - c)
- Upon **reconsideration, dismiss**
- Other** _____

Patricia Kenney for Lee Fallon 5/15/2014
Chair, Probable Cause Panel
Board of Pharmacy

MEMORANDUM OF PROBABLE CAUSE DETERMINATION

TO: Department of Health, Prosecution Services Unit
FROM: Chair, Probable Cause Panel, Florida Board of Pharmacy
RE: Walgreen Company #04727 (MGW)
Case Number: 2013-04363

MEMBERS: Debra Glass and Mark Mikhael

DATE OF PCP: January 9, 2014 **AGENDA ITEM:** A-15

This matter came before the Probable Cause Panel on the above date. Having reviewed the complete investigative file, recommendations of the Department, and any information submitted by the Subject, and being otherwise fully advised in the premises, the panel finds that:

Probable cause exists and a formal complaint shall be filed for violation of statutes and rules, including but not limited to:

Section 465.072(1)(k), Florida Statutes (2012) by violating Section 465.023(1)(c), Florida Statutes (2012) through a violation of Section 465.023(1)(e), Florida Statutes (2012)

Probable Cause was **not** found in this case

In lieu of probable cause, issue **letter of guidance**

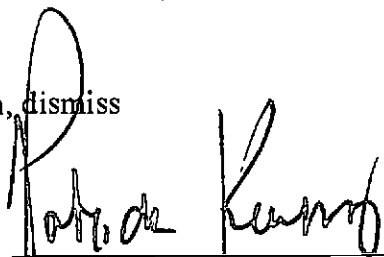
Case requires **expert review**

Case needs **further investigation**

a)
b)

Upon **reconsideration**, dismiss

other



Chair, Probable Cause Panel
Board of Pharmacy

4/18/2014

Date

STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,
Petitioner,

v.

CASE NO. 2013-04363

WALGREEN COMPANY #04727,
Respondent.

MOTION TO ASSESS COSTS IN ACCORDANCE
WITH SECTION 456.072(4)

COMES NOW the Department of Health, by and through undersigned counsel, and moves the Board of Pharmacy for the entry of a Final Order assessing costs against the Respondent for the investigation and prosecution of this case in accordance with Section 456.072(4), Florida Statutes. As grounds therefore, the Petitioner states the following:

1. At its next regularly scheduled meeting, the Board of Pharmacy will take up for consideration the above-styled disciplinary action and will enter a Final Order therein.

2. Section 456.072(4), Florida Statutes, states as follows:

In addition to any other discipline imposed through final order, or citation, entered on or

after July 1, 2001, pursuant to this section or discipline imposed through final order, or citation, entered on or after July 1, 2001, for a violation of any practice act, the board, or the department when there is not board, shall assess costs related to the investigation and prosecution of the case. Such costs related to the investigation and prosecution include, but are not limited to, salaries and benefits of personnel, costs related to the time spent by the attorney and other personnel working on the case, and any other expenses incurred by the department for the case. The board, or the department when there is no board, shall determine the amount of costs to be assessed after its consideration of an affidavit of itemized costs and any written objections thereto. .

3. The investigation and prosecution of this case has resulted in costs in the total amount of \$612.26, based on the following itemized statement of costs:

| | ***** Cost to Date ***** | |
|-------------------|--------------------------|----------|
| | Hours | Costs |
| Complaint: | 2.75 | \$150.98 |
| Investigation: | 3.40 | \$194.84 |
| Legal: | 2.60 | \$266.44 |
| Compliance: | 0.00 | \$0.00 |
| Sub Total: | 8.75 | \$612.26 |
| Expenses to Date: | | \$0.00 |
| Prior | | \$0.00 |

| | | |
|----------------------|--|----------|
| Amount: | | |
| Total Costs to Date: | | \$612.26 |

Therefore, the Petitioner seeks an assessment of costs against the Respondent in the amount of \$345.82 as evidenced in the attached affidavit. (Exhibit A).

4. Should the Respondent file written objections to the assessment of costs, within ten (10) days of the date of this motion, specifying the grounds for the objections and the specific elements of the costs to which the objections are made, the Petitioner requests that the Board determine the amount of costs to be assessed based upon its consideration of the affidavit attached as Exhibit A and any timely-filed written objections.

5. Petitioner requests that the Board grant this motion and assess costs in the amount of \$345.82 as supported by competent, substantial evidence. This assessment of costs is in addition to any other discipline imposed by the Board and is in accordance with Section 456.072(4), Florida Statutes.

WHEREFORE, the Department of Health requests that the Board of Pharmacy enter a Final Order assessing costs against the Respondent in the amount of \$345.82.

DATED this 16 day of June, 2014.



Matthew Witters
Assistant General Counsel
Fla. Bar No. 91245
Florida Department of Health
Office of the General Counsel
4052 Bald Cypress Way, Bin #C65
Tallahassee, FL 32399-3265
Telephone: (850) 245-4444
Facsimile: (850) 245-4683
Email: matthew.witters@flhealth.gov

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Motion to Assess Costs has been provided by U.S. Mail this 16 day of June, 2014, to Walgreen Company, c/o David Weinstein, Esquire, 799 Brickell Plaza, 9th floor, Miami, FL 33131.



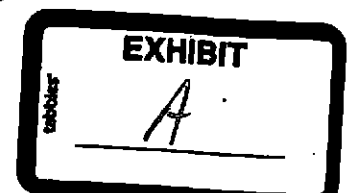
Matthew Witters
Assistant General Counsel

AFFIDAVIT OF FEES AND COSTS EXPENDED

STATE OF FLORIDA
COUNTY OF LEON:

BEFORE ME, the undersigned authority, personally appeared **SHANE WALTERS** who was sworn and states as follows:

- 1) My name is Shane Walters.
- 2) I am over the age of 18, competent to testify, and make this affidavit upon my own personal knowledge and after review of the records at the Florida Department of Health (DOH).
- 3) I am the Operations and Management Consultant Manager (OMCM) for the Consumer Services and Compliance Management Unit for DOH. The Consumer Services Unit is where all complaints against Florida health care licensees (e.g., medical doctors, dentists, nurses, respiratory therapists) are officially filed. I have been in my current job position for more than one year. My business address is 4052 Bald Cypress Way, Bin C-75 Tallahassee, Florida 32399-3275.
- 4) As OMCM of the Consumer Services and Compliance Management Unit, my job duties include reviewing data in the Time Tracking System and verifying that the amounts correspond. The Time Tracking System is a computer program which records and tracks DOH's costs regarding the investigation and prosecution of cases against Florida health care licensees.
- 5) As of today, DOH's total costs for investigating and prosecuting DOH case number(s) **2013-04363** (Department of Health v **WALGREEN COMPANY**) are **SIX HUNDRED TWELVE DOLLARS AND TWENTY-SIX CENTS (\$612.26)**.
- 6) The costs for DOH case number(s) **2013-04363** (Department of Health v **WALGREEN COMPANY**) are summarized in Exhibit 1 (Cost Summary Report), which is attached to this document.
- 7) The itemized costs and expenses for DOH case number(s) **2013-04363** (Department of Health v **WALGREEN COMPANY**) are detailed in Exhibit 2 (Itemized Cost Report and Itemized Expense Report and receipts), which is attached to this document.
- 8) The itemized costs as reflected in Exhibit 2 are determined by the following method: DOH employees who work on cases daily are to keep track of their time in six-minute increments (e.g., investigators



and lawyers). A designated DOH employee in the Consumer Services Unit, Legal Department, and in each area office, inputs the time worked and expenses spent into the Time Tracking System. Time and expenses are charged against a state health care Board (e.g., Florida Board of Medicine, Florida Board of Dentistry, Florida Board of Osteopathic Medicine), and/or a case. If no Board or case can be charged, then the time and expenses are charged as administrative time. The hourly rate of each employee is calculated by formulas established by the Department. (See the Itemized Cost Report)

- 9) Shane Walters, first being duly sworn, states that she has read the foregoing Affidavit and its attachments and the statements contained therein are true and correct to the best of her knowledge and belief.

FURTHER AFFIANT SAYETH NOT.

Shane Walters

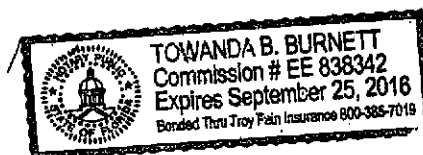
Shane Walters, Affiant

State of Florida
County of Leon

Sworn to and subscribed before me this 16th day of June, 2014,
by Shane Walters, who is personally known to me.

Towanda B. Burnett
Notary Signature

Towanda B. Burnett
Name of Notary Printed



Stamp Commissioned Name of Notary Public:

Complaint Cost Summary

Complaint Number: 201304363

Subject's Name: WALGREEN COMPANY

| | ***** Cost to Date ***** | |
|-----------------------------|--------------------------|-----------------|
| | Hours | Costs |
| Complaint: | 2.75 | \$150.98 |
| Investigation: | 3.40 | \$194.84 |
| Legal: | 2.60 | \$266.44 |
| Compliance: | 0.00 | \$0.00 |
| | ***** | ***** |
| Sub Total: | 8.75 | \$612.26 |
| Expenses to Date: | | \$0.00 |
| Prior Amount: | | \$0.00 |
| Total Costs to Date: | | \$612.26 |

EXHIBIT

tabbier

1

***** CONFIDENTIAL *****
Time Tracking System
Itemized Cost by Complaint

Complaint 201304363

Report Date 06/16/2014

Page 1 of 2

| Staff Code | Activity Hours | Staff Rate | Cost | Activity Date | Activity Code | Activity Description |
|------------|----------------|------------|------|---------------|---------------|----------------------|
|------------|----------------|------------|------|---------------|---------------|----------------------|

CONSUMER SERVICES UNIT

| | | | | | | |
|------------------|-------------|---------|-----------------|------------|-----|--|
| HA162 | 0.50 | \$54.90 | \$27.45 | 03/13/2013 | 78 | INITIAL REVIEW AND ANALYSIS OF COMPLAINT |
| HA162 | 0.50 | \$54.90 | \$27.45 | 03/28/2013 | 7 | PRELIMINARY INVESTIGATION |
| HA162 | 0.05 | \$54.90 | \$2.75 | 05/20/2013 | 35 | TELEPHONE CALLS |
| HA162 | 0.50 | \$54.90 | \$27.45 | 06/12/2013 | 7 | PRELIMINARY INVESTIGATION |
| HA168 | 0.50 | \$54.90 | \$27.45 | 07/10/2013 | 25 | REVIEW CASE FILE |
| HA168 | 0.30 | \$54.90 | \$16.47 | 07/10/2013 | 25 | REVIEW CASE FILE |
| HA168 | 0.10 | \$54.90 | \$5.49 | 07/12/2013 | 144 | CSU INVESTIGATIVE WORK |
| HA168 | 0.30 | \$54.90 | \$16.47 | 07/18/2013 | 144 | CSU INVESTIGATIVE WORK |
| HA168 | 0.30 | \$54.90 | \$16.47 | 08/05/2013 | 144 | CSU INVESTIGATIVE WORK |
| HA168 | 0.50 | \$54.90 | \$27.45 | 08/26/2013 | 78 | INITIAL REVIEW AND ANALYSIS OF COMPLAINT |
| HA168 | 0.10 | \$54.90 | \$5.49 | 08/28/2013 | 78 | INITIAL REVIEW AND ANALYSIS OF COMPLAINT |
| HA168 | 1.10 | \$54.90 | \$60.39 | 09/19/2013 | 76 | REPORT PREPARATION |
| HA168 | 0.40 | \$54.90 | \$21.96 | 09/20/2013 | 76 | REPORT PREPARATION |
| HA52 | 0.10 | \$54.90 | \$5.49 | 09/23/2013 | 2 | OFFICE SUPERVISORY DUTIES |
| Sub Total | 5.25 | | \$288.23 | | | |

INVESTIGATIVE SERVICES UNIT

| | | | | | | |
|------------------|-------------|---------|----------------|------------|---|---------------------------|
| WI89 | 0.20 | \$63.98 | \$12.80 | 03/21/2013 | 7 | PRELIMINARY INVESTIGATION |
| WI89 | 0.50 | \$63.98 | \$31.99 | 03/22/2013 | 7 | PRELIMINARY INVESTIGATION |
| WI89 | 0.20 | \$63.98 | \$12.80 | 03/26/2013 | 7 | PRELIMINARY INVESTIGATION |
| Sub Total | 0.90 | | \$57.59 | | | |

PROSECUTION SERVICES UNIT

| | | | | | | |
|--------|------|----------|---------|------------|----|--|
| HLL90B | 0.30 | \$106.35 | \$31.91 | 10/15/2013 | 28 | PREPARE OR REVISE ADMINISTRATIVE COMPLAINT |
| HLL90B | 0.30 | \$101.95 | \$30.59 | 10/28/2013 | 60 | MISCELLANEOUS |
| HLL90B | 0.20 | \$101.95 | \$20.39 | 10/29/2013 | 38 | REVIEW DISCOVERY REQUESTS/RESPONSES |



**Time Tracking System
Itemized Cost by Complaint**

Complaint 201304363

Report Date 06/16/2014

| Staff Code | Activity Hours | Staff Rate | Cost | Activity Date | Activity Code | Activity Description |
|------------------|----------------|------------|-----------------|---------------|---------------|---|
| HLL90B | 0.20 | \$101.95 | \$20.39 | 12/09/2013 | 37 | REVIEW LETTER |
| HLL90B | 0.20 | \$101.95 | \$20.39 | 12/09/2013 | 37 | REVIEW LETTER |
| HLL90B | 0.20 | \$101.95 | \$20.39 | 12/11/2013 | 89 | PROBABLE CAUSE PREPARATION |
| HLL90B | 0.20 | \$101.95 | \$20.39 | 01/02/2014 | 79 | STIPULATION |
| HLL90B | 0.10 | \$101.95 | \$10.20 | 01/03/2014 | 89 | PROBABLE CAUSE PREPARATION |
| HLL90B | 0.10 | \$101.95 | \$10.20 | 01/09/2014 | 63 | PRESENTATION OF CASES TO PROBABLE CAUSE PANEL |
| HLL90B | 0.10 | \$101.95 | \$10.20 | 01/09/2014 | 90 | POST PROBABLE CAUSE PROCESSING |
| HLL90B | 0.10 | \$101.95 | \$10.20 | 01/13/2014 | 36 | PREPARATION OR REVISION OF LETTER |
| HLL90B | 0.10 | \$101.95 | \$10.20 | 01/15/2014 | 90 | POST PROBABLE CAUSE PROCESSING |
| HLL90B | 0.10 | \$101.95 | \$10.20 | 04/29/2014 | 89 | PROBABLE CAUSE PREPARATION |
| HLL90B | 0.20 | \$101.95 | \$20.39 | 05/07/2014 | 89 | PROBABLE CAUSE PREPARATION |
| HLL90B | 0.10 | \$101.95 | \$10.20 | 05/08/2014 | 63 | PRESENTATION OF CASES TO PROBABLE CAUSE PANEL |
| HLL90B | 0.10 | \$101.95 | \$10.20 | 05/16/2014 | 90 | POST PROBABLE CAUSE PROCESSING |
| Sub Total | 2.60 | | \$266.44 | | | |

| | |
|-------------------|-----------------|
| Total Cost | \$612.26 |
|-------------------|-----------------|

ELECTION OF RIGHTS

Case Name: Walgreen Company #04727

Case No. 2013-04363

PLEASE SELECT ONLY 1 OF THE 3 OPTIONS

An Explanation of Rights is attached. If you do not understand these options, please consult with your attorney or contact the attorney for the Prosecution Services Unit at the address/phone number listed at the bottom of this form.

OPTION 1. [X] I do not dispute the allegations of fact in the Amended Administrative Complaint, but do wish to be accorded a hearing, pursuant to Section 120.57(2), Florida Statutes, at which time I will be permitted to submit oral and/or written evidence in mitigation of the complaint to the Board.

OPTION 2. [] I do not dispute the allegations of fact contained in the Amended Administrative Complaint and waive my right to object or to be heard. I request that the Board enter a final order pursuant to Section 120.57, Florida Statutes.

OPTION 3. [] I do dispute the allegations of fact contained in the Amended Administrative Complaint and request this to be considered a petition for formal hearing, pursuant to Sections 120.569(2)(a) and 120.57(1), Florida Statutes, before an Administrative Law Judge appointed by the Division of Administrative Hearings. I specifically dispute the following paragraphs of the Amended Administrative Complaint:

In addition to the above selection, I also elect the following:

- () I accept the terms of the Settlement Agreement, have signed and am returning the Settlement Agreement or I am interested in settling this case.
() I do not wish to continue practicing and have signed and returned the Voluntary Relinquishment of licensure form.

Regardless of which option I have selected, I understand that I will be given notice of time, date, and place when this matter is to be considered by the Board for Final Action. Mediation under Section 120.573, Florida Statutes, is not available in this matter.

(Please sign and complete all the information below.)

[Signature] (Patricia Zagami) RPh, JD

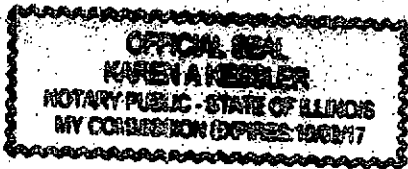
Respondent Address: 104 Wilmot Rd., MS # 144b

Deerfield IL 60015

Lic. No.

Phone No. 847-315-2871

Fax No. 847-315-2646



STATE OF ILLINOIS COUNTY OF LAKE

Before me personally appeared PATRICIA ZAGAMI, whose identity is known to be by License (type of identification), and who under oath, acknowledges that his/her signature appears above. Sworn to and subscribed before me this 29th day of MAY, 2014.

Karen A. Kessler

Notary Public

My Commission Expires: 10/31/17

PLEASE MAIL AND/OR FAX COMPLETED FORM TO: Matthew G. Witters, Assistant General Counsel, DOH, Prosecution Services Unit, 4052 Bald Cypress Way, Bin C-65, Tallahassee, Florida 32399-3265. Telephone Number: (850) 245-4444; FAX (850) 245-4683 - TDD 1-800-955-8771.

Mission:

To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.



Rick Scott
Governor

John H. Armstrong, MD, FACS
State Surgeon General & Secretary

Vision: To be the Healthiest State in the Nation

June 17, 2014

David Weinstein, Esquire
799 Brickell Plaza, 9th floor
Miami, FL 33131

Re: DOH vs. Walgreen Company #04727
DOH Case Number: 2013-04363

Dear Mr. Weinstein:

I am in receipt of your client's election of rights requesting a hearing not involving disputed issues of material fact, executed by your client on May 29, 2014, concerning the above referenced case. This means that the facts alleged in the Administrative Complaint are uncontested. This is an important distinction because, by law, the Board cannot resolve disputes of material fact in this case or any disciplinary case. Since your client is requesting a hearing not involving disputed issues of material fact, he/she is not admitting the facts alleged in the Administrative Complaint, however, your client is agreeing not to contest these facts and to limit presentation to legal argument, if any, and to matters in mitigation or extenuation.

Our office is now preparing this case to be presented at the next regularly scheduled meeting of the Florida Board of Pharmacy. Please be advised your client's case will be set at the convenience of the Department and/or the Board, and your office will receive notification of the date and time approximately two weeks prior to the meeting.

Thank for your attention and cooperation in this matter. Should you have any questions, please feel free to contact this office.

Sincerely,


Matthew Witters
Assistant General Counsel

MW/ab

Florida Department of Health

Office of the General Counsel • Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65 • Tallahassee, FL 32399-1701
Express mail address: 2585 Merchants Row – Suite 105
PHONE: 850/245-4444 • FAX 850/245-4683

www.FloridasHealth.com

TWITTER: HealthyFLA
FACEBOOK: FLDepartmentofHealth
YOUTUBE: fldoh

Mission:

To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.



Rick Scott
Governor

John H. Armstrong, MD, FACS
State Surgeon General & Secretary

October 29, 2013

David S. Weinstein, Esquire
Clarke Silvergate, Attorneys at Law
Suite 900
799 Brickell Plaza
Miami, Florida 33131

Re: Complaint No. 2013-04363
Complaint Name: Walgreen's Company Store # 04727

Dear Mr. Weinstein:

Pursuant to Section 456.073(10), Florida Statutes, enclosed is a CD containing a copy the Department's complete investigative file in Complaint No. 2013-04363. Section 456.073(10), Florida Statutes provides in part:

... Upon completion of the investigation and a recommendation by the department to find probable cause, and pursuant to a written request by the subject or the subject's attorney, the department shall provide the subject an opportunity to inspect the investigative file or, at the subject's expense, forward to the subject a copy of the investigative file. Notwithstanding s. 456.057, the subject may inspect or receive a copy of any expert witness report or patient record connected with the investigation if the subject agrees in writing to maintain the confidentiality of any information received under this subsection until 10 days after probable cause is found and to maintain the confidentiality of patient records pursuant to s. 456.057. The subject may file a written response to the information contained in the investigative file. Such response must be filed within 20 days of mailing by the department, unless an extension of time has been granted by the department. ...

Pursuant to the provisions of Section 456.073(10), Florida Statutes, your written response must be received by no later than twenty (20) days from the date of this letter. Any requests for an extension of time must be made to my office prior to the expiration of the original twenty (20) days.

The password for the CD is: 456. Please call with any questions, 850-245-4444, ext. 8172.

Florida Department of Health
Office of the General Counsel • Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65 • Tallahassee, FL 32399-3265
Express mail address: 2585 Merchants Row - Suite 105
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Rick Scott
Governor

John H. Armstrong, MD, FACS
State Surgeon General & Secretary

Respectfully,

A handwritten signature in black ink, appearing to read "Matthew G. Witters".

Matthew G. Witters
Assistant General Counsel

MGW/crl

Enclosures: CD Investigative File (2013-04363)
Invoice #: MQPR14-243

Florida Department of Health

Office of the General Counsel • Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65 • Tallahassee, FL 32399-3265
Express mail address: 2585 Merchants Row – Suite 105
PHONE: 850/245-4444 • FAX 850/245-466X

www.FloridasHealth.com

TWITTER: HealthyFLA
FACEBOOK: FLDepartmentofHealth
YOUTUBE: fldoh

Clarke Silverglate
ATTORNEYS AT LAW



Writer's e-mail: dweinstein@cspalaw.com
Writer's Direct Telephone: 305.347.1559

December 6, 2013

Via Email and USPS
Matthew.witters@Flhealth.gov
Matthew Witters, Esquire
Florida Department of Health
Division of Medical Quality Assurance
Bureau of Enforcement
4050 Bald Cypress Way
Tallahassee, FL 32399-7017

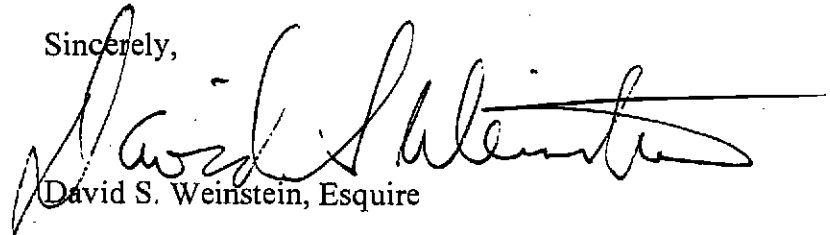
RE: Walgreen Co. – Complaint Number(s):
201304363, 201304359, 201304377,
201304374, 201304376 and 201304366

Dear Mr. Witters:

Enclosed please find Walgreen Co. ("Walgreens") written response(s) to the above referenced Complaint Number(s).

If I can be of any further assistance, please do not hesitate to contact me at the email address or phone number listed above.

Sincerely,



David S. Weinstein, Esquire

Cc: Patty Zagami, Walgreen Co.

RECEIVED-LEGAL
13 DEC 10 PM 2:31

Walgreens Store Number 4727 Response to Complaint

1. The Florida Department of Health has alleged that Walgreens #04727 has violated Florida Statutes Sections 465.016(1)(h)(r), 465.023(1)(c)(e), and 465.072(1)(f)(k)(dd).
2. The totalities of the allegations contained in the complaint are based upon a Memorandum of Agreement (MOA) entered into between Walgreen Co. (Walgreens) and the Drug Enforcement Administration (DEA) dated June 11, 2013.
3. This MOA was entered into between Walgreens and the DEA in order to avoid the uncertainty and expense of litigation, and in the furtherance of Walgreens' and the DEA's belief that a settlement of specific administrative matters pending at the time of the MOA was in the public interest.
4. The relevant conduct covered by the MOA included the following:
 - a. Conduct alleged in the November 26, 2012, February 4, 2013, February 11, 2013, and February 19, 2013 Orders to Show Cause (OTSCs) issued to Walgreens #03629, #04727, #06997, #03836, #04391, and #03099, and in DEA's filings in *In the Matter of Walgreen Co.*, Docket Nos. 13-9, 13-10, 13-11, 13-16, 13-18, and 13-20, occurring on or before the effective date of the MOA;
 - b. Failure of Walgreens Pharmacists at the Pharmacies located at Walgreens #03629, #04727, #06997, #03836, #04391, and #03099 to exercise their corresponding responsibility to ensure that controlled substances were dispensed pursuant to prescriptions issued for legitimate medical purposes by practitioners acting in the usual course of their professional practice, as required by 21 C.F.R. § 1306.04(a), and dispensing by the Pharmacies located at Walgreens #03629, #04727, #06997, #03836, #04391, and #03099 of controlled substances pursuant to purported prescriptions that were otherwise invalid under 21 C.F.R. Part 1306, on or before the effective date of the MOA;
 - c. Dispensing by the Pharmacies located at Walgreens #03629, #04727, #06997, #03836, #04391, and #03099 of controlled substances to individuals Walgreens knew or should have known were diverting controlled substances on or before the effective date of the MOA;

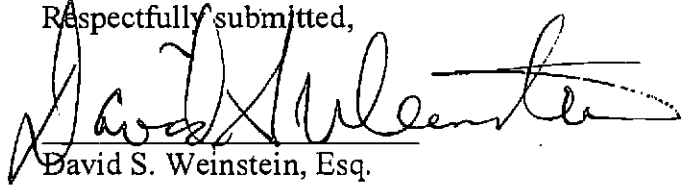
- d. Dispensing by the Pharmacies located at Walgreens #03629, #04727, #06997, #03836, #04391, and #03099 of controlled substances pursuant to prescriptions issued by a physician who did not have a current, valid DEA registration on or before the effective date of the MOA;
 - e. Refusal or negligent failure by the Pharmacies located at Walgreens #03629, #04727, #06997, #03836, #04391, and #03099 to make, keep, or furnish any record, report, notification, declaration, order or order form, statement, invoice, or information required under the CSA and its implementing regulations, including, but not limited to, failure by the Pharmacies located at Walgreens #03629, #04727, #06997, #03836, #04391, and #03099 to maintain accurate records pursuant to 21 C.F.R. Part 1304 and to properly label and/or mark prescriptions pursuant to 21 C.F.R. Part 1306, on or before the effective date of the MOA;
 - f. Conduct inconsistent with the CSA and its implementing regulations on or before the effective date of the MOA, by the Pharmacies located at Walgreens #03629, #04727, #06997, #03836, #04391, and #03099; and
 - g. Failure by any Walgreens registrant, including the Pharmacies located at Walgreens #03629, #04727, #06997, #03836, #04391, and #03099 to adhere to the provisions of the April 7, 2011 Administrative Memorandum of Agreement between Walgreen Co. and DEA.
5. In the MOA Walgreens acknowledged that, (1) certain retail pharmacies did on some occasions dispense certain controlled substances in a manner not fully consistent with its compliance obligations, and (2) its recordkeeping practices regarding the dispensing of controlled substance from certain retail pharmacies utilizing its CPO Facilities as central-fill pharmacies did not require such original prescriptions to be marked "CENTRAL FILL."
 6. Under the terms of the MOA Walgreens has the following obligations:
 - a. Walgreens agrees to maintain a compliance program in an effort to detect and prevent diversion of controlled substances as required under the CSA and applicable DEA regulations. This program shall include procedures to identify the common signs associated with the diversion of controlled substances. The program shall also include the routine and periodic training of all Walgreens pharmacy employees responsible for dispensing controlled substances on the elements of the compliance program and their responsibilities under the CSA and applicable DEA regulations. This compliance program shall apply to all Walgreens Pharmacies and CPO facilities.
 - b. Walgreens shall implement and maintain policies and procedures in an effort to ensure that prescriptions for controlled substances are only dispensed to authorized individuals pursuant to federal and state law and

regulations. Walgreens shall maintain its current policy that requires all customers to provide identifying information and shall also require valid photo identification as required by and in accordance with controlling state law where the pharmacy is located. Documents maintained by Walgreens pursuant to any obligation under federal and/or state law regarding the verification of an ultimate user's identity shall be kept readily available by the pharmacy, and shall be produced to DEA agents, task force officers or investigators on request.

- c. Walgreens shall direct and train its pharmacists that their corresponding responsibility under federal law requires them not to fill a prescription that such pharmacist knows or has reason to know was issued for other than a legitimate medical purpose or by a practitioner acting outside the usual course of professional practice.
 - d. In connection with Walgreens' recordkeeping obligations, Walgreens agrees to maintain records regarding the dispensing of controlled substances in electronic format, in addition to the regularly maintained paper files, including records relating to which Distribution Center and/or CPO facility shipped the controlled substance to the Pharmacy. These records shall be made available to DEA agents, task force officers or investigators, upon demand, without the need for a warrant or subpoena, provided that the DEA agents, task force officers or investigators present appropriate identification. Walgreens shall provide electronic reports of dispensing on an ad hoc basis in response to DEA requests within a reasonable time.
 - e. Walgreens agrees to the surrender of the DEA registrations to dispense controlled substances for Schedules II-V at Walgreens #03629, #04727, #06997, #03836, #04391, and #03099 until May 26, 2014.
7. Since the date of the entry of the MOA, consistent with the terms of the MOA and as set forth in paragraph 6 above, Walgreens has implemented and maintains:
- a. A compliance program;
 - b. Policies and procedures to ensure that prescriptions for controlled substances are only dispensed to authorized individuals pursuant to federal and state law and regulations;
 - c. Training programs and directions for its pharmacists; and
 - d. Records regarding the dispensing of controlled substances in electronic format, in addition to the regularly maintained paper files, including records relating to which Distribution Center and/or CPO facility shipped the controlled substance to the Pharmacy.

8. At Walgreens' request, DEA and DOJ agreed to disclose the terms of the MOA to any other agency and will represent that the allegations raised by DEA, as defined in the Covered Conduct contained in the MOA, have been adequately addressed.
9. Walgreens believes that the obligations set forth in the MOA and the ongoing compliance with those obligations are sufficient to address the penalties set forth in Florida Statutes, Section 456.072(2) and to protect the public and rehabilitate the licensee.

Respectfully submitted,



David S. Weinstein, Esq.
Florida Bar No. 749214
Clarke Silvergate, P.A.
799 Brickell Plaza, Suite 900
Miami, Florida 33131
Telephone: (305) 377-0700
Facsimile: (305) 377-3001
Counsel for Walgreen Company
dba Walgreens #04727

CONFIDENTIAL AND EXEMPT MATERIALS

**One or more pages have been removed
from this document for security reasons**

**Scroll down to see the available pages or
advance to the next document if all
pages have been removed.**

SOME OR ALL PAGES IN THIS DOCUMENT ARE PATIENT RECORDS
AND/OR DOCUMENTS THAT IDENTIFY THE PATIENT BY NAME AND ARE
EXEMPT FROM PUBLIC RECORDS LAWS.

456.057 - Ownership and control of patient records; report or copies of records to be
furnished.—

10)(a)All patient records obtained by the department and any other documents
maintained by the department which identify the patient by name are confidential and exempt
from s. 119.07(1) and shall be used solely for the purpose of the department and the appropriate
regulatory board in its investigation, prosecution, and appeal of disciplinary proceedings. The
records shall not be available to the public as part of the record of investigation for and
prosecution in disciplinary proceedings made available to the public by the department or the
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CONFIDENTIAL AND EXEMPT MATERIALS

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CONFIDENTIAL AND EXEMPT MATERIALS

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appropriate board.

CONFIDENTIAL AND EXEMPT MATERIALS

**One or more pages have been removed
from this document for security reasons**

**Scroll down to see the available pages or
advance to the next document if all
pages have been removed.**

SOME OR ALL PAGES IN THIS DOCUMENT ARE PATIENT RECORDS
AND/OR DOCUMENTS THAT IDENTIFY THE PATIENT BY NAME AND ARE
EXEMPT FROM PUBLIC RECORDS LAWS.

456.057 - Ownership and control of patient records; report or copies of records to be
furnished.—

10)(a)All patient records obtained by the department and any other documents
maintained by the department which identify the patient by name are confidential and exempt
from s. 119.07(1) and shall be used solely for the purpose of the department and the appropriate
regulatory board in its investigation, prosecution, and appeal of disciplinary proceedings. The
records shall not be available to the public as part of the record of investigation for and
prosecution in disciplinary proceedings made available to the public by the department or the
appropriate board.

HEALTH

Rick Scott
Governor

Mission:

To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.

John H. Armstrong, MD, FACS
Surgeon General & Sec

Vision: To be the **Healthiest State** in the Nation

STATE OF FLORIDA
BOARD OF PHARMACY

DEPARTMENT OF HEALTH,
PETITIONER,

VS.

CASE NO. 201304376

WALGREEN COMPANY,
RESPONDENT.

NOTICE

TO: WALGREEN COMPANY
PO BOX 901
DEERFIELD, IL 60015

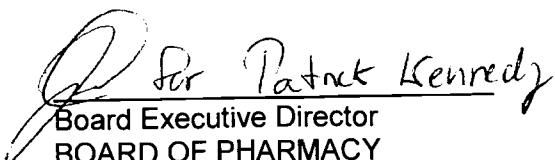
PLEASE TAKE NOTICE that a disciplinary hearing will be heard before the BOARD OF PHARMACY on Wednesday, August 13, 2014, commencing at 9 a.m. Although the Respondent is not required to be present, it is in their best interest to attend. This hearing will be held at DoubleTree by Hilton, 100 Fairway Drive, Deerfield Beach, FL 33441, 1(800) 624-3606..

The purpose of the hearing is to consider a motion for: Hearing - No Disputed Material Facts

Note: Cases shown on the agenda as "timed" items may be heard in a different order or may be heard earlier if all parties are present. Cases are scheduled beginning at 9 a.m.; therefore, it is imperative that you arrive promptly at 9 a.m. and be prepared to be at the meeting for several hours until your case is heard.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Hearing has been sent by U.S. Mail to the above address(es) this 10th day of July, 2014.


Board Executive Director
BOARD OF PHARMACY

Florida Department of Health
4052 Bald Cypress Way, Bin #
Tallahassee, FL 32399 -

Florida Department of Health

Division of Medical Quality Assurance
4052 Bald Cypress Way, Bin C10 • Tallahassee, FL 32399-3260
PHONE: (850) 245-4444 • FAX : (850) 245-4791

www.FloridasHealth.com

TWITTER:HealthyFLA
FACEBOOK:FLDepartmentofHealth
YOUTUBE: fldoh

Mission:

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Rick Scott
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John H. Armstrong, MD, FACS
State Surgeon General & Secretary

Vision: To be the Healthiest State in the Nation

STATE OF FLORIDA
BOARD OF PHARMACY

DEPARTMENT OF HEALTH,
PETITIONER,

VS.

CASE NO. 201304376

WALGREEN COMPANY,
RESPONDENT.

NOTICE

AND: DAVID S. WEINSTEIN
799 BRICKELL PLAZA, SUITE 900
CLARKE SILVERGATE, ATTORNEYS AT LAW
MIAMI, FL 33131

PLEASE TAKE NOTICE that a disciplinary hearing will be heard before the BOARD OF PHARMACY on Wednesday, August 13, 2014, commencing at 9 a.m. Although the Respondent is not required to be present, it is in their best interest to attend. This hearing will be held at DoubleTree by Hilton, 100 Fairway Drive, Deerfield Beach, FL 33441, 1(800) 624-3606..

The purpose of the hearing is to consider a motion for: Hearing - No Disputed Material Facts

Note: Cases shown on the agenda as "timed" items may be heard in a different order or may be heard earlier if all parties are present. Cases are scheduled beginning at 9 a.m.; therefore, it is imperative that you arrive promptly at 9 a.m. and be prepared to be at the meeting for several hours until your case is heard.

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Board Executive Director
BOARD OF PHARMACY
Florida Department of Health
4052 Bald Cypress Way, Bin #
Tallahassee, FL 32399 -

Florida Department of Health
Division of Medical Quality Assurance • Bureau of HCPR
4052 Bald Cypress Way, Bin C-04 • Tallahassee, FL 32399-1701
PHONE: 850/245-4292 • FAX 850/413-6982

www.FloridasHealth.com
TWITTER: HealthyFLA
FACEBOOK: FLDepartmentofHealth
YOUTUBE: fldoh

Mission:

To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.

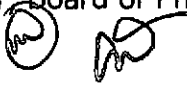


Rick Scott
Governor

John H. Armstrong, MD, FACS
Surgeon General & Secretary

Vision: To be the Healthiest State in the Nation

MEMORANDUM

TO: Patrick W. Kennedy, M.A., Executive Director - Board of Pharmacy
FROM: Matthew Witters, Assistant General Counsel 
RE: **Hearing - No Disputed Material Facts**
SUBJECT: DOH v. Walgreens Company, #6997
 DOH Case Number 2013-04376
DATE: June 16, 2014

Enclosed you will find materials in the above-referenced case to be placed on the agenda for final agency action for the **August 12-13, 2014** meeting of the board. The following information is provided in this regard.

Subject: Walgreens Company, #6997
Subject's Address of Record: P.O. Box 901
 Deerfield, IL 60015
Enforcement Address: P.O. Box 901
 Deerfield, IL 60015
Subject's License No: 19501 **Rank:** PH
Licensure File No: 11474
Initial Licensure Date: 9/10/2003
Board Certification: None
Required to Appear: No
Current IPN/PRN Contract: No
Allegation(s): For Amended Administrative Complaint -
 Section 456.072(1)(f), F.S. (2012)
Prior Discipline: None
Probable Cause Panel: May 8, 2014: Fallon and Glass; January 9, 2014: Glass
 and Mikhael
Subject's Attorney: David S. Weinstein, Esq.
 Clarke Silvergate, Attorneys at Law
 799 Brickell Plaza
 Suite 900
 Miami, FL 33131
Complainant/Address: Department of Health
Materials Submitted: Memorandum to the Board
 Amended Administrative Complaint

Memorandum of Finding Probable Cause
Respondent's Request for Hearing Not Involving
Disputed Issues of Material Facts
Election of Rights
Cost Summary Report
Motion to Assess Costs with Attachments
Correspondence to Respondent from Petitioner
Correspondence from Respondent
Final Investigative Report with Exhibits 1-4

MGW/aed

GUIDELINES:

Same Penalty as imposed in other jurisdiction or as closely as possible to penalties for similar violation.

PRELIMINARY CASE REMARKS

This is a one count administrative complaint which alleges that the Respondent entered into a settlement agreement with the Drug Enforcement Administration by which Respondent surrendered its registration to dispense Schedule II through Schedule V controlled substances until May 26, 2014.

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK ANGEL SANDERS
DATE MAY 08 2014

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO. 2013-04376

**WALGREEN COMPANY, d.b.a.,
WALGREENS #06997**

RESPONDENT.

AMENDED ADMINISTRATIVE COMPLAINT

COMES NOW, Petitioner, Department of Health, by and through its undersigned counsel, and files this Amended Administrative Complaint before the Board of Pharmacy against Respondent, Walgreen Company, and in support thereof alleges:

1. Petitioner is the state department charged with regulating the practice of pharmacy pursuant to Section 20.43, Florida Statutes; Chapter 456, Florida Statutes; and Chapter 465, Florida Statutes.

2. At all times material to this Amended Administrative Complaint, Respondent was a permitted community pharmacy within the state of Florida, having been issued permit number PH 19501.



3. Respondent's address of record is Post Office Box 901, Deerfield, Illinois 60015.

4. Respondent's physical location is 785 Lockwood Blvd., Oviedo, Florida 32765.

5. On or about June 11, 2013, Respondent entered into a settlement agreement with the Drug Enforcement Administration by which Respondent surrendered its registration to dispense Schedule II through Schedule V controlled substances until May 26, 2014.

6. Section 456.072(1)(f), Florida Statutes (2012), provides that a having a license or the authority to practice any regulated profession revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of any jurisdiction, including its agencies or subdivisions, for a violation that would constitute a violation under Florida law. The licensing authority's acceptance of a relinquishment of licensure, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of charges against the license, shall be construed as action against the license.

7. Respondent entered into a settlement agreement with the Drug Enforcement Administration by which the Respondent surrendered its

registration to dispense Schedule II through Schedule V controlled substances until May 26, 2014.

8. Based on the foregoing, Respondent has violated Section 456.072(1)(f), Florida Statutes (2012) by having a license or the authority to practice any regulated profession revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of any jurisdiction, including its agencies or subdivisions, for a violation that would constitute a violation under Florida law. The licensing authority's acceptance of a relinquishment of licensure, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of charges against the license, shall be construed as action against the license.

WHEREFORE, Petitioner respectfully requests that the Board of Pharmacy enter an order imposing one or more of the following penalties: permanent revocation or suspension of Respondent's license, restriction of practice, imposition of an administrative fine, issuance of a reprimand, placement of Respondent on probation, corrective action, refund of fees billed or collected, remedial education and/or any other relief that the Board deems appropriate.

SIGNED this 8 day of May, 2014.

JOHN H. ARMSTRONG, MD, FACS
State Surgeon General and
Secretary of Health



Matthew G. Witters
Assistant General Counsel
Fla. Bar No. 0091245
Florida Department of Health
Office of the General Counsel
4052 Bald Cypress Way, Bin #C65
Tallahassee, FL 32399-3265
Telephone: (850) 245-4444
Facsimile: (850) 245-4683
Email: matthew.witters@flhealth.gov

PCP: May 8, 2014
PCP Members: Fallon and Glass

NOTICE OF RIGHTS

Respondent has the right to request a hearing to be conducted in accordance with Section 120.569 and 120.57, Florida Statutes, to be represented by counsel or other qualified representative, to present evidence and argument, to call and cross-examine witnesses and to have subpoena and subpoena duces tecum issued on his or her behalf if a hearing is requested.

NOTICE REGARDING ASSESSMENT OF COSTS

Respondent is placed on notice that Petitioner has incurred costs related to the investigation and prosecution of this matter. Pursuant to Section 456.072(4), Florida Statutes, the Board shall assess costs related to the investigation and prosecution of a disciplinary matter, which may include attorney hours and costs, on the Respondent in addition to any other discipline imposed.


7196 9008 9111 2484 6200

TO:

Walgreen Company #06997
2013-04376
ab/MW - Amended AC
Sent 5/16/14

David S. Weinstein, Esquire
799 Brickell Plaza #900
Miami, FL 33131

| | | |
|---------|---|------------------|
| SERVICE | Return Receipt Fee | |
| | Restricted Delivery | |
| | Total Postage & Fees | |
| | USPS® Receipt for Certified Mail™ No Insurance Coverage Provided Do Not Use for International Mail | |
| | | POSTMARK OR DATE |

| | | | |
|--|--|--|--|
| 2. Article Number | | COMPLETE THIS SECTION ON DELIVERY | |
|  7196 9008 9111 2484 6200 | | A. Received by (Please Print Clearly) <i>Kevin Almeida</i> | B. Date of Delivery <i>5-20-14</i> |
| 3. Service Type CERTIFIED MAIL™ | | C. Signature <i>[Signature]</i> | <input type="checkbox"/> Agent <input type="checkbox"/> Addressee |
| 4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes | | D. Is delivery address different from item 1? If YES, enter delivery address below: | |
| 1. Article Addressed to: | | 2014 MAY 28 AM 8:10 MIAMI FL 33131 LEGAL | |
| David S. Weinstein, Esquire 799 Brickell Plaza #900 Miami, FL 33131 Case No 2013-04376 ab/M. Witters | | | |

MEMORANDUM OF PROBABLE CAUSE DETERMINATION

TO: Department of Health, Prosecution Services Unit
FROM: Chair, Probable Cause Panel, Florida Board of Pharmacy
RE: Walgreen Company, #06997
Case Number: 2013-04376

MEMBERS: Glass and Fallon

DATE OF PCP: May 8, 2014 AGENDA ITEM: R-07 MW

This matter came before the Probable Cause Panel on the above date. Having reviewed the complete investigative file, recommendations of the Department, and any information submitted by the Subject, and being otherwise fully advised in the premises, the panel finds that:

Probable cause exists and a formal complaint shall be filed for violation of statutes and rules, including but not limited to:

Section 456.072(1)(f), F.S. (2012)

Probable Cause was not found in this case

In lieu of probable cause, issue letter of guidance

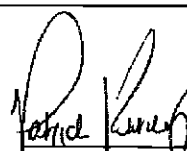
Case requires expert review

Case needs further investigation

- a)
- b)
- c)

Upon reconsideration, dismiss

Other


Lee Fallon 5/15/2014
Chair, Probable Cause Panel
Board of Pharmacy

MEMORANDUM OF PROBABLE CAUSE DETERMINATION

TO: Department of Health, Prosecution Services Unit
FROM: Chair, Probable Cause Panel, Florida Board of Pharmacy
RE: Walgreen Company # 06997 (MGW)
Case Number: 2013-04376
MEMBERS: Debra Glass and Mark Mikhael

DATE OF PCP: January 9, 2014 **AGENDA ITEM:** A-16
.....
This matter came before the Probable Cause Panel on the above date. Having reviewed the complete investigative file, recommendations of the Department, and any information submitted by the Subject, and being otherwise fully advised in the premises, the panel finds that:

Probable cause exists and a formal complaint shall be filed for violation of statutes and rules, including but not limited to:

Section 465.072(1)(k), Florida Statutes (2012) by violating Section 465.023(1)(c), Florida Statutes (2012) through a violation of Section 465.023(1)(e), Florida Statutes (2012)

- Probable Cause was not found in this case
- In lieu of probable cause, issue letter of guidance
- Case requires expert review
- Case needs further investigation
 - a)
 - b)
- Upon reconsideration, dismiss
- other

Suey Collins for Debra Glass 20 Jan 2014
Chair, Probable Cause Panel Date
Board of Pharmacy

STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,
Petitioner,

v.

CASE NO. 2013-04376

WALGREENS COMPANY, #6997,
Respondent.

MOTION FOR FINAL ORDER AFTER HEARING NOT INVOLVING DISPUTED
ISSUES OF MATERIAL FACTS

COMES NOW, the Petitioner, by and through its undersigned counsel, and moves the Board of Pharmacy for entry of a Final Order in the above-styled cause on a date and time that has been determined and noticed by the Board. As grounds therefore, the Petitioner would state the following:

1. Petitioner previously filed an Administrative Complaint against Respondent alleging that Respondent had violated the provisions of Florida Statutes, as set forth therein. The Department, by filing the Administrative Complaint, is seeking to discipline the Respondent's license to practice as a community pharmacy, thereby affecting the Respondent's substantial interests.

2. On or about May 20, 2014, Petitioner served Respondent with the Amended Administrative Complaint via Respondent's address of record with the Department of Health. The Department, by serving the Respondent with the Amended Administrative Complaint, provided the Respondent written notice of its decision to seek discipline of the Respondent's license to practice as a community pharmacy.

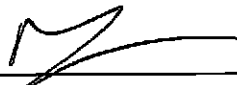
3. The Respondent has filed an Election of Rights Form or other responsive pleading evincing, or has otherwise indicated, that Respondent does not dispute the material facts alleged in the Administrative Complaint.

4. There are no disputed issues of material fact to be resolved by the Board.

5. Respondent has been advised, by a copy of this Motion, that a copy of the investigative file in this case shall be furnished to the Board to establish a prima facie case regarding the violations as set forth in the Administrative Complaint.

WHEREFORE the parties respectfully request the Board of Pharmacy, after allowing the Respondent the opportunity to present oral and/or written evidence in mitigation of the Administrative Complaint, enter a Final Order imposing whatever discipline upon the Respondent's license that the Board deems appropriate.

Respectfully Submitted,



Matthew G. Witters, Esq.
Assistant General Counsel
Fla. Bar No. 0091245
Florida Department of Health
Office of the General Counsel
4052 Bald Cypress Way, Bin #C65
Tallahassee, FL 32399-3265
Telephone: (850) 245-4444, ext. 8172
Facsimile: (850) 245-4683
Email: matthew.witters@flhealth.gov

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing has been provided by U.S. mail this ____ day of _____, 2014, to Walgreens Company, #6997, Pharmacy Law – Operations & Services, 104 Wilmot Road, MS #1446, Deerfield, IL 60015.

Matthew G. Witters, Esq.
Assistant General Counsel

Walgreens

Pharmacy Law - Operations
& Services
104 Wilmot Road, MS #1446
Deerfield, IL 60015

May 29, 2014

Via Facsimile (850) 245-4683

Matthew G. Witters, Assistant General Counsel
Florida Department of Health
Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, FL 32399-3265

Re: DOH v. Walgreens #3099, #3629, #3836, #4391, #4727, and #6997

Dear Mr. Witters:

Attached please find Walgreens Elections of Rights for the above referenced cases. If you have any questions regarding the attached documents, please feel free to contact me:

Sincerely,



Patricia A. Zagami, R.Ph.
Attorney
(847) 315-2871

EVERY DAY WE HELP PEOPLE GET, STAY AND LIVE WELL.

ELECTION OF RIGHTS

Case Name: Walgreen Company #06997

Case No. 2013-04376

PLEASE SELECT ONLY 1 OF THE 3 OPTIONS

An Explanation of Rights is attached. If you do not understand these options, please consult with your attorney or contact the attorney for the Prosecution Services Unit at the address/phone number listed at the bottom of this form.

OPTION 1. I do not dispute the allegations of fact in the Amended Administrative Complaint, but do wish to be accorded a hearing, pursuant to Section 120.57(2), Florida Statutes, at which time I will be permitted to submit oral and/or written evidence in mitigation of the complaint to the Board.

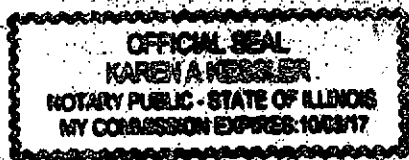
OPTION 2. I do not dispute the allegations of fact contained in the Amended Administrative Complaint and waive my right to object or to be heard. I request that the Board enter a final order pursuant to Section 120.57, Florida Statutes.

OPTION 3. I do dispute the allegations of fact contained in the Amended Administrative Complaint and request this to be considered a petition for formal hearing, pursuant to Sections 120.569(2)(a) and 120.57(1), Florida Statutes, before an Administrative Law Judge appointed by the Division of Administrative Hearings. I specifically dispute the following paragraphs of the Amended Administrative Complaint:

In addition to the above selection, I also elect the following:

- () I accept the terms of the Settlement Agreement, have signed and am returning the Settlement Agreement or I am interested in settling this case.
() I do not wish to continue practicing and have signed and returned the Voluntary Relinquishment of licensure form.

Regardless of which option I have selected, I understand that I will be given notice of time, date, and place when this matter is to be considered by the Board for Final Action. Mediation under Section 120.573, Florida Statutes, is not available in this matter. (Please sign and complete all the information below.)



Respondent: Patricia Zagami RPh, JD
Address: 104 W. Lomat Rd., MS #1446
Deerfield, IL 60015
Lic. No.
Phone No. 847-315-2871
Fax No. 847-315-2645

STATE OF ILLINOIS
COUNTY OF LAKE

Before me, personally appeared PATRICIA ZAGAMI whose identity is known to be by LICENSE (type of identification), and who under oath, acknowledges that his/her signature appears above. Sworn to and subscribed before me this 29th day of MAY, 2014.

Karen A. Kessler
Notary Public

My Commission Expires: 10/18/17

PLEASE MAIL AND/OR FAX COMPLETED FORM TO: Matthew G. Witters, Assistant General Counsel, DOH, Prosecution Services Unit, 4052 Bald Cypress Way, Bin C-65, Tallahassee, Florida 32399-3265. Telephone Number: (850) 245-4444; FAX (850) 245-4683 - TDD 1-800-955-8771.

| | | | |
|-------------------------------------|----------------------------------|----------------------|----------------------|
| <input type="text" value="Search"/> | Complaint/Case Number: 201304376 | MAIN | HELP |
|-------------------------------------|----------------------------------|----------------------|----------------------|

Complaint Cost Summary

Complaint Number: 201304376

Subject's Name: WALGREEN COMPANY

| | ***** Cost to Date ***** | |
|-----------------------------|--------------------------|----------|
| | Hours | Costs |
| Complaint: | 1.05 | \$57.65 |
| Investigation: | 8.10 | \$504.63 |
| Legal: | 4.20 | \$434.41 |
| Compliance: | 0.00 | \$0.00 |
| | ***** | ***** |
| Sub Total: | 13.35 | \$996.69 |
| Expenses to Date: | | \$0.00 |
| Prior Amount: | | \$0.00 |
| Total Costs to Date: | | \$996.69 |

= 562.28

STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,
Petitioner,

v.

CASE NO. 2013-04376

WALGREENS COMPANY, #6997
Respondent.

MOTION TO ASSESS COSTS IN ACCORDANCE
WITH SECTION 456.072(4)

COMES NOW the Department of Health, by and through undersigned counsel, and moves the Board of Pharmacy for the entry of a Final Order assessing costs against the Respondent for the investigation and prosecution of this case in accordance with Section 456.072(4), Florida Statutes. As grounds, therefore, the Petitioner states the following:

1. At its next regularly scheduled meeting, the Board of Pharmacy will take up for consideration the above-styled disciplinary action and will enter a Final Order therein.

2. Section 456.072(4), Florida Statutes, states as follows:

In addition to any other discipline imposed through final order, or citation, entered on or

after July 1, 2001, pursuant to this section or discipline imposed through final order, or citation, entered on or after July 1, 2001, for a violation of any practice act, the board, or the department when there is not board, shall assess costs related to the investigation and prosecution of the case. Such costs related to the investigation and prosecution include, but are not limited to, salaries and benefits of personnel, costs related to the time spent by the attorney and other personnel working on the case, and any other expenses incurred by the department for the case. The board, or the department when there is no board, shall determine the amount of costs to be assessed after its consideration of an affidavit of itemized costs and any written objections thereto.

3. The investigation and prosecution of this case has resulted in costs in the total amount of \$996.69 based on the following itemized statement of costs: Complaint Number: 2013-04376

Subject's Name: WALGREEN COMPANY

| | ***** Cost to Date ***** | |
|-----------------------------|--------------------------|----------|
| | Hours | Costs |
| Complaint: | 1.05 | \$57.65 |
| Investigation: | 8.10 | \$504.63 |
| Legal: | 4.20 | \$434.41 |
| Compliance: | 0.00 | \$0.00 |
| | ***** | ***** |
| Sub Total: | 13.35 | \$996.69 |
| Expenses to Date: | | \$0.00 |
| Prior Amount: | | \$0.00 |
| Total Costs to Date: | | \$996.69 |

Therefore, the Petitioner seeks an assessment of costs against the Respondent in the amount of \$562.28 as evidenced in the attached affidavit. (Exhibit A).

4. Should the Respondent file written objections to the assessment of costs, within ten (10) days of the date of this motion, specifying the grounds for the objections and the specific elements of the costs to which the objections are made, the Petitioner requests that the Board determine the amount of costs to be assessed based upon its consideration of the affidavit attached as Exhibit A and any timely-filed written objections.

5. Petitioner requests that the Board grant this motion and assess costs in the amount of \$562.28 as supported by competent, substantial evidence. This assessment of costs is in addition to any other discipline imposed by the Board and is in accordance with Section 456.072(4), Florida Statutes.

WHEREFORE, the Department of Health requests that the Board of Pharmacy enter a Final Order assessing costs against the Respondent in the amount of \$562.28.

DATED this 17 day of June, 2014.

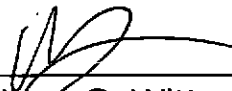
Respectfully submitted,



Matthew G. Witters, Esq.
Assistant General Counsel
DOH Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, FL 32399-3265
Florida Bar #0091245
(850) 245-4444 Telephone, ext. 8172
(850) 245-4683 Fax
Email:matthew.witters@flhealth.gov

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Motion to Assess Costs has been provided by U.S. Mail this 17 day of June, 2014, to Walgreens Company, #6997, Pharmacy Law - Operations & Services, 104 Wilmot Road, MS #1446, Deerfield, IL 60015.



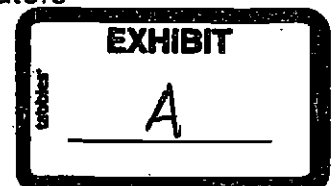
Matthew G. Witters, Esq.
Assistant General Counsel

AFFIDAVIT OF FEES AND COSTS EXPENDED

STATE OF FLORIDA
COUNTY OF LEON:

BEFORE ME, the undersigned authority, personally appeared **SHANE WALTERS** who was sworn and states as follows:

- 1) My name is Shane Walters.
- 2) I am over the age of 18, competent to testify, and make this affidavit upon my own personal knowledge and after review of the records at the Florida Department of Health (DOH).
- 3) I am the Operations and Management Consultant Manager (OMCM) for the Consumer Services and Compliance Management Unit for DOH. The Consumer Services Unit is where all complaints against Florida health care licensees (e.g., medical doctors, dentists, nurses, respiratory therapists) are officially filed. I have been in my current job position for more than one year. My business address is 4052 Bald Cypress Way, Bin C-75 Tallahassee, Florida 32399-3275.
- 4) As OMCM of the Consumer Services and Compliance Management Unit, my job duties include reviewing data in the Time Tracking System and verifying that the amounts correspond. The Time Tracking System is a computer program which records and tracks DOH's costs regarding the investigation and prosecution of cases against Florida health care licensees.
- 5) As of today, DOH's total costs for investigating and prosecuting DOH case number(s) **2013-04376** (Department of Health v **Walgreens Company, #6997**) are **NINE HUNDRED NINETY-SIX DOLLARS AND SIXTY-NINE CENTS (\$996.69)**.
- 6) The costs for DOH case number(s) **2013-04376** (Department of Health v **Walgreens Company, #6997**) are summarized in Exhibit 1 (Cost Summary Report), which is attached to this document.
- 7) The itemized costs and expenses for DOH case number(s) **2013-04376** (Department of Health v **Walgreens Company, #6997**) are detailed in Exhibit 2 (Itemized Cost Report and Itemized Expense Report and receipts), which is attached to this document.
- 8) The itemized costs as reflected in Exhibit 2 are determined by the following method: DOH employees who work on cases daily are to keep track of their time in six-minute increments (e.g., investigators



and lawyers). A designated DOH employee in the Consumer Services Unit, Legal Department, and in each area office, inputs the time worked and expenses spent into the Time Tracking System. Time and expenses are charged against a state health care Board (e.g., Florida Board of Medicine, Florida Board of Dentistry, Florida Board of Osteopathic Medicine), and/or a case. If no Board or case can be charged, then the time and expenses are charged as administrative time. The hourly rate of each employee is calculated by formulas established by the Department. (See the Itemized Cost Report)

- 9) Shane Walters, first being duly sworn, states that she has read the foregoing Affidavit and its attachments and the statements contained therein are true and correct to the best of her knowledge and belief.

FURTHER AFFIANT SAYETH NOT.

Shane Walters
Shane Walters, Affiant

State of Florida
County of Leon

Sworn to and subscribed before me this 16th day of June, 2014,
by Shane Walters, who is personally known to me.

Towanda B. Burnett
Notary Signature

Towanda B. Burnett
Name of Notary Printed



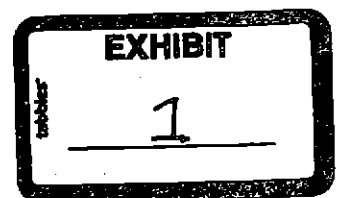
Stamp Commissioned Name of Notary Public:

Complaint Cost Summary

Complaint Number: 201304376

Subject's Name: **WALGREEN COMPANY**

| | ***** Cost to Date ***** | |
|----------------------|--------------------------|----------|
| | Hours | Costs |
| Complaint: | 1.05 | \$57.65 |
| Investigation: | 8.10 | \$504.63 |
| Legal: | 4.20 | \$434.41 |
| Compliance: | 0.00 | \$0.00 |
| | ***** | ***** |
| Sub Total: | 13.35 | \$996.69 |
| Expenses to Date: | | \$0.00 |
| Prior Amount: | | \$0.00 |
| Total Costs to Date: | | \$996.69 |





*** CONFIDENTIAL ***

**Time Tracking System
Itemized Cost by Complaint**

Complaint 201304376

Report Date 06/16/2014

Page 1 of 2

| Staff Code | Activity Hours | Staff Rate | Cost | Activity Date | Activity Code | Activity Description |
|------------|----------------|------------|------|---------------|---------------|----------------------|
|------------|----------------|------------|------|---------------|---------------|----------------------|

CONSUMER SERVICES UNIT

| | | | | | | |
|------------------|-------------|---------|-----------------|------------|----|--|
| HA162 | 0.25 | \$54.90 | \$13.73 | 03/13/2013 | 78 | INITIAL REVIEW AND ANALYSIS OF COMPLAINT |
| HA168 | 0.10 | \$54.90 | \$5.49 | 08/23/2013 | 35 | TELEPHONE CALLS |
| HA168 | 0.50 | \$54.90 | \$27.45 | 08/26/2013 | 78 | INITIAL REVIEW AND ANALYSIS OF COMPLAINT |
| HA168 | 0.10 | \$54.90 | \$5.49 | 08/28/2013 | 78 | INITIAL REVIEW AND ANALYSIS OF COMPLAINT |
| HA168 | 1.10 | \$54.90 | \$60.39 | 09/19/2013 | 76 | REPORT PREPARATION |
| HA168 | 0.40 | \$54.90 | \$21.96 | 09/20/2013 | 76 | REPORT PREPARATION |
| HA52 | 0.10 | \$54.90 | \$5.49 | 09/23/2013 | 2 | OFFICE SUPERVISORY DUTIES |
| Sub Total | 2.55 | | \$140.00 | | | |

INVESTIGATIVE SERVICES UNIT

| | | | | | | |
|------------------|-------------|---------|-----------------|------------|----|----------------------------|
| OI119 | 0.90 | \$63.98 | \$57.58 | 04/09/2013 | 7 | PRELIMINARY INVESTIGATION |
| OI119 | 1.10 | \$63.98 | \$70.38 | 04/10/2013 | 7 | PRELIMINARY INVESTIGATION |
| OI119 | 0.30 | \$63.98 | \$19.19 | 04/10/2013 | 4 | ROUTINE INVESTIGATIVE WORK |
| OI119 | 0.30 | \$63.98 | \$19.19 | 04/11/2013 | 4 | ROUTINE INVESTIGATIVE WORK |
| OI119 | 0.20 | \$63.98 | \$12.80 | 04/12/2013 | 4 | ROUTINE INVESTIGATIVE WORK |
| OI119 | 0.20 | \$63.98 | \$12.80 | 04/19/2013 | 4 | ROUTINE INVESTIGATIVE WORK |
| OI119 | 0.20 | \$63.98 | \$12.80 | 04/30/2013 | 4 | ROUTINE INVESTIGATIVE WORK |
| OI119 | 0.20 | \$63.98 | \$12.80 | 05/02/2013 | 7 | PRELIMINARY INVESTIGATION |
| OI119 | 1.20 | \$63.98 | \$76.78 | 05/08/2013 | 76 | REPORT PREPARATION |
| OI119 | 0.80 | \$63.98 | \$51.18 | 05/10/2013 | 7 | PRELIMINARY INVESTIGATION |
| OI119 | 0.20 | \$63.98 | \$12.80 | 05/31/2013 | 7 | PRELIMINARY INVESTIGATION |
| OI119 | 0.40 | \$63.98 | \$25.59 | 06/12/2013 | 6 | SUPPLEMENTAL INVESTIGATION |
| OI119 | 0.60 | \$63.98 | \$38.39 | 06/18/2013 | 7 | PRELIMINARY INVESTIGATION |
| Sub Total | 6.60 | | \$422.28 | | | |

PROSECUTION SERVICES UNIT

EXHIBIT
2

**Time Tracking System
Itemized Cost by Complaint**

Complaint 201304376

Report Date 06/16/2014

| Staff Code | Activity Hours | Staff Rate | Cost | Activity Date | Activity Code | Activity Description |
|------------------|----------------|------------|-----------------|---------------|---------------|---|
| HLL90B | 0.20 | \$106.35 | \$21.27 | 10/02/2013 | 35 | TELEPHONE CALLS |
| HLL90B | 0.70 | \$106.35 | \$74.45 | 10/14/2013 | 25 | REVIEW CASE FILE |
| HLL90B | 0.50 | \$106.35 | \$53.18 | 10/14/2013 | 28 | PREPARE OR REVISE ADMINISTRATIVE COMPLAINT |
| HLL90B | 0.30 | \$101.95 | \$30.59 | 10/29/2013 | 38 | REVIEW DISCOVERY REQUESTS/RESPONSES |
| HLL90B | 0.40 | \$101.95 | \$40.78 | 12/09/2013 | 37 | REVIEW LETTER |
| HLL90B | 0.20 | \$101.95 | \$20.39 | 12/11/2013 | 89 | PROBABLE CAUSE PREPARATION |
| HLL90B | 0.20 | \$101.95 | \$20.39 | 01/02/2014 | 79 | STIPULATION |
| HLL90B | 0.10 | \$101.95 | \$10.20 | 01/03/2014 | 89 | PROBABLE CAUSE PREPARATION |
| HLL90B | 0.10 | \$101.95 | \$10.20 | 01/09/2014 | 63 | PRESENTATION OF CASES TO PROBABLE CAUSE PANEL |
| HLL90B | 0.10 | \$101.95 | \$10.20 | 01/09/2014 | 90 | POST PROBABLE CAUSE PROCESSING |
| HLL90B | 0.30 | \$101.95 | \$30.59 | 01/10/2014 | 35 | TELEPHONE CALLS |
| HLL90B | 0.10 | \$101.95 | \$10.20 | 01/13/2014 | 36 | PREPARATION OR REVISION OF LETTER |
| HLL90B | 0.10 | \$101.95 | \$10.20 | 01/15/2014 | 90 | POST PROBABLE CAUSE PROCESSING |
| HLL90B | 0.40 | \$101.95 | \$40.78 | 03/28/2014 | 35 | TELEPHONE CALLS |
| HLL90B | 0.10 | \$101.95 | \$10.20 | 04/03/2014 | 89 | PROBABLE CAUSE PREPARATION |
| HLL90B | 0.20 | \$101.95 | \$20.39 | 05/07/2014 | 89 | PROBABLE CAUSE PREPARATION |
| HLL90B | 0.10 | \$101.95 | \$10.20 | 05/08/2014 | 63 | PRESENTATION OF CASES TO PROBABLE CAUSE PANEL |
| HLL90B | 0.10 | \$101.95 | \$10.20 | 05/16/2014 | 90 | POST PROBABLE CAUSE PROCESSING |
| Sub Total | 4.20 | | \$434.41 | | | |

| | |
|-------------------|-----------------|
| Total Cost | \$996.69 |
|-------------------|-----------------|

Mission:

To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.



Rick Scott
Governor

John H. Armstrong, MD, FACS
State Surgeon General & Secretary

Vision: To be the Healthiest State in the Nation

June 17, 2014

David S. Weinstein, Esq.
Clarke Silvergate, Attorneys at Law
799 Brickell Plaza
Suite 900
Miami, FL 33131

Re: DOH vs. Walgreens Company, #6997
DOH Case Number: 2013-04376

Dear Mr. Weinstein:

I am in receipt of your election of rights requesting a hearing not involving disputed issues of material fact executed by you on May 29, 2014, concerning the above referenced case. This means that the facts alleged in the Amended Administrative Complaint are uncontested. This is an important distinction because, by law, the Board cannot resolve disputes of material fact in this case or any disciplinary case. Since you are requesting a hearing not involving disputed issues of material fact, you are not admitting the facts alleged in the Amended Administrative Complaint, however, you are agreeing not to contest these facts and to limit presentation to legal argument, if any, and to matters in mitigation or extenuation.

Our office is now preparing this case to be presented at the next regularly scheduled meeting of the Florida Board of Pharmacy. Please be advised your case will be set at the convenience of the Department and/or the Board and you will be notified of the date and time approximately two weeks prior to the meeting.

Thank for your attention and cooperation in this matter. Should you have any questions, please feel free to contact this office.

Sincerely,

Matthew G. Witters, Esq.
Assistant General Counsel

MGW/aed

Florida Department of Health

Office of the General Counsel • Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65 • Tallahassee, FL 32399-1701
Express mail address: 2585 Merchants Row – Suite 105
PHONE: 850/245-4444 • FAX 850/245-4683

www.FloridasHealth.com

TWITTER: HealthyFLA
FACEBOOK: FLDepartmentofHealth
YOUTUBE: fidoh

Mission:

To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.



Rick Scott
Governor

John H. Armstrong, MD, FACS
State Surgeon General & Secretary

October 29, 2013

David S. Weinstein, Esquire
Clarke Silvergate, Attorneys at Law
Suite 900
799 Brickell Plaza
Miami, Florida 33131

Re: Complaint No. 2013-04376
Complaint Name: Walgreen's Company Store # 06997

Dear Mr. Weinstein:

Pursuant to Section 456.073(10), Florida Statutes, enclosed is a CD containing a copy the Department's complete investigative file in Complaint No. 2013-04376. Section 456.073(10), Florida Statutes provides in part:

... Upon completion of the investigation and a recommendation by the department to find probable cause, and pursuant to a written request by the subject or the subject's attorney, the department shall provide the subject an opportunity to inspect the investigative file or, at the subject's expense, forward to the subject a copy of the investigative file. Notwithstanding s. 456.057, the subject may inspect or receive a copy of any expert witness report or patient record connected with the investigation if the subject agrees in writing to maintain the confidentiality of any information received under this subsection until 10 days after probable cause is found and to maintain the confidentiality of patient records pursuant to s. 456.057. The subject may file a written response to the information contained in the investigative file. Such response must be filed within 20 days of mailing by the department, unless an extension of time has been granted by the department. ...

Pursuant to the provisions of Section 456.073(10), Florida Statutes, your written response must be received by no later than twenty (20) days from the date of this letter. Any requests for an extension of time must be made to my office prior to the expiration of the original twenty (20) days.

The password for the CD is: 456. Please call with any questions, 850-245-4444, ext. 8172.

Florida Department of Health
Office of the General Counsel - Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65 • Tallahassee, FL 32399-3265
Express mail address: 2585 Merchants Row - Suite 105
PHONE: 850/245-4444 • FAX 850/245-466X

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Mission:

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Rick Scott
Governor

John H. Armstrong, MD, FACS
State Surgeon General & Secretary

Respectfully,

A handwritten signature in black ink, appearing to read "Matthew G. Witters".

Matthew G. Witters
Assistant General Counsel

MGW/crl

Enclosures: CD Investigative File (2013-04376)
Invoice #: MQPR14-246

Florida Department of Health
Office of the General Counsel • Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65 • Tallahassee, FL 32399-3265
Express mail address: 2585 Merchants Row – Suite 105
PHONE: 850/245-4444 • FAX 850/245-466X

www.FloridasHealth.com
TWITTER: HealthyFLA
FACEBOOK: FLDepartmentofHealth
YOUTUBE: fldoh

October 23, 2013

Via Email and USPS
Matthew.witters@Flhealth.gov
Matthew Witters, Esquire
Florida Department of Health
Division of Medical Quality Assurance
Bureau of Enforcement
4050 Bald Cypress Way
Tallahassee, FL 32399-7017

RE: Walgreen Co. – Complaint Number 201304376

Dear Mr. Witters:

Please be advised that Clarke Silverglate PA has been retained as counsel of record for Walgreen Co. ("Walgreens") in the above referenced Complaint Number. I am the primary attorney assigned to this matter.

In connection with our representation of Walgreens against the allegations contained in this Complaint, I am requesting a copy of the investigative file.

If I can be of any further assistance, please do not hesitate to contact me at the email address or phone number listed above.

Sincerely,


David S. Weinstein, Esquire

Cc: Patty Zagami, Walgreen Co.

CONFIDENTIAL

PRACTITIONER REGULATION
LEGAL

2013 OCT 28 AM 9:31

Clarke Silverglate

ATTORNEYS AT LAW



Writer's e-mail: dweinstein@cspalaw.com
Writer's Direct Telephone: 305.347.1559

December 6, 2013

Via Email and USPS

Matthew.witters@Flhealth.gov

Matthew Witters, Esquire

Florida Department of Health

Division of Medical Quality Assurance

Bureau of Enforcement

4050 Bald Cypress Way

Tallahassee, FL 32399-7017

RE: Walgreen Co. – Complaint Number(s):
201304363, 201304359, 201304377,
201304374, 201304376 and 201304366

Dear Mr. Witters:

Enclosed please find Walgreen Co. ("Walgreens") written response(s) to the above referenced Complaint Number(s).

If I can be of any further assistance, please do not hesitate to contact me at the email address or phone number listed above.

Sincerely,

A handwritten signature in black ink, appearing to read "David S. Weinstein".

David S. Weinstein, Esquire

Cc: Patty Zagami, Walgreen Co.

RECEIVED-LEGAL
13 DEC 10 PM 2:31

Clarke Silverglate, P.A.

799 Brickell Plaza, Suite 900, Miami, FL 33131 Phone: 305.377.0700 Fax: 305.377.3001 cspalaw.com

Walgreens Store Number 6997 Response to Complaint

1. The Florida Department of Health has alleged that Walgreens #06997 has violated Florida Statutes Sections 465.016(1)(h)(r), 465.023(1)(c)(e), and 465.072(1)(f)(k)(dd).
2. The totalities of the allegations contained in the complaint are based upon a Memorandum of Agreement (MOA) entered into between Walgreen Co. (Walgreens) and the Drug Enforcement Administration (DEA) dated June 11, 2013.
3. This MOA was entered into between Walgreens and the DEA in order to avoid the uncertainty and expense of litigation, and in the furtherance of Walgreens' and the DEA's belief that a settlement of specific administrative matters pending at the time of the MOA was in the public interest.
4. The relevant conduct covered by the MOA included the following:
 - a. Conduct alleged in the November 26, 2012, February 4, 2013, February 11, 2013, and February 19, 2013 Orders to Show Cause (OTSCs) issued to Walgreens #03629, #04727, #06997, #03836, #04391, and #03099, and in DEA's filings in *In the Matter of Walgreen Co.*, Docket Nos. 13-9, 13-10, 13-11, 13-16, 13-18, and 13-20, occurring on or before the effective date of the MOA;
 - b. Failure of Walgreens Pharmacists at the Pharmacies located at Walgreens #03629, #04727, #06997, #03836, #04391, and #03099 to exercise their corresponding responsibility to ensure that controlled substances were dispensed pursuant to prescriptions issued for legitimate medical purposes by practitioners acting in the usual course of their professional practice, as required by 21 C.F.R. § 1306.04(a), and dispensing by the Pharmacies located at Walgreens #03629, #04727, #06997, #03836, #04391, and #03099 of controlled substances pursuant to purported prescriptions that were otherwise invalid under 21 C.F.R. Part 1306, on or before the effective date of the MOA;
 - c. Dispensing by the Pharmacies located at Walgreens #03629, #04727, #06997, #03836, #04391, and #03099 of controlled substances to individuals Walgreens knew or should have known were diverting controlled substances on or before the effective date of the MOA;

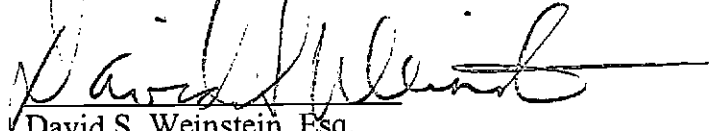
- d. Dispensing by the Pharmacies located at Walgreens #03629, #04727, #06997, #03836, #04391, and #03099 of controlled substances pursuant to prescriptions issued by a physician who did not have a current, valid DEA registration on or before the effective date of the MOA;
 - e. Refusal or negligent failure by the Pharmacies located at Walgreens #03629, #04727, #06997, #03836, #04391, and #03099 to make, keep, or furnish any record, report, notification, declaration, order or order form, statement, invoice, or information required under the CSA and its implementing regulations, including, but not limited to, failure by the Pharmacies located at Walgreens #03629, #04727, #06997, #03836, #04391, and #03099 to maintain accurate records pursuant to 21 C.F.R. Part 1304 and to properly label and/or mark prescriptions pursuant to 21 C.F.R. Part 1306, on or before the effective date of the MOA;
 - f. Conduct inconsistent with the CSA and its implementing regulations on or before the effective date of the MOA, by the Pharmacies located at Walgreens #03629, #04727, #06997, #03836, #04391, and #03099; and
 - g. Failure by any Walgreens registrant, including the Pharmacies located at Walgreens #03629, #04727, #06997, #03836, #04391, and #03099 to adhere to the provisions of the April 7, 2011 Administrative Memorandum of Agreement between Walgreen Co. and DEA.
5. In the MOA Walgreens acknowledged that, (1) certain retail pharmacies did on some occasions dispense certain controlled substances in a manner not fully consistent with its compliance obligations, and (2) its recordkeeping practices regarding the dispensing of controlled substance from certain retail pharmacies utilizing its CPO Facilities as central-fill pharmacies did not require such original prescriptions to be marked "CENTRAL FILL."
6. Under the terms of the MOA Walgreens has the following obligations:
- a. Walgreens agrees to maintain a compliance program in an effort to detect and prevent diversion of controlled substances as required under the CSA and applicable DEA regulations. This program shall include procedures to identify the common signs associated with the diversion of controlled substances. The program shall also include the routine and periodic training of all Walgreens pharmacy employees responsible for dispensing controlled substances on the elements of the compliance program and their responsibilities under the CSA and applicable DEA regulations. This compliance program shall apply to all Walgreens Pharmacies and CPO facilities.
 - b. Walgreens shall implement and maintain policies and procedures in an effort to ensure that prescriptions for controlled substances are only dispensed to authorized individuals pursuant to federal and state law and

regulations. Walgreens shall maintain its current policy that requires all customers to provide identifying information and shall also require valid photo identification as required by and in accordance with controlling state law where the pharmacy is located. Documents maintained by Walgreens pursuant to any obligation under federal and/or state law regarding the verification of an ultimate user's identity shall be kept readily available by the pharmacy, and shall be produced to DEA agents, task force officers or investigators on request.

- c. Walgreens shall direct and train its pharmacists that their corresponding responsibility under federal law requires them not to fill a prescription that such pharmacist knows or has reason to know was issued for other than a legitimate medical purpose or by a practitioner acting outside the usual course of professional practice.
 - d. In connection with Walgreens' recordkeeping obligations, Walgreens agrees to maintain records regarding the dispensing of controlled substances in electronic format, in addition to the regularly maintained paper files, including records relating to which Distribution Center and/or CPO facility shipped the controlled substance to the Pharmacy. These records shall be made available to DEA agents, task force officers or investigators, upon demand, without the need for a warrant or subpoena, provided that the DEA agents, task force officers or investigators present appropriate identification. Walgreens shall provide electronic reports of dispensing on an ad hoc basis in response to DEA requests within a reasonable time.
 - e. Walgreens agrees to the surrender of the DEA registrations to dispense controlled substances for Schedules II-V at Walgreens #03629, #04727, #06997, #03836, #04391, and #03099 until May 26, 2014.
7. Since the date of the entry of the MOA, consistent with the terms of the MOA and as set forth in paragraph 6 above, Walgreens has implemented and maintains:
- a. A compliance program;
 - b. Policies and procedures to ensure that prescriptions for controlled substances are only dispensed to authorized individuals pursuant to federal and state law and regulations;
 - c. Training programs and directions for its pharmacists; and
 - d. Records regarding the dispensing of controlled substances in electronic format, in addition to the regularly maintained paper files, including records relating to which Distribution Center and/or CPO facility shipped the controlled substance to the Pharmacy.

8. At Walgreens' request, DEA and DOJ agreed to disclose the terms of the MOA to any other agency and will represent that the allegations raised by DEA, as defined in the Covered Conduct contained in the MOA, have been adequately addressed.
9. Walgreens believes that the obligations set forth in the MOA and the ongoing compliance with those obligations are sufficient to address the penalties set forth in Florida Statutes, Section 456.072(2) and to protect the public and rehabilitate the licensee.

Respectfully submitted,



David S. Weinstein, Esq.

Florida Bar No. 749214

Clarke Silvergate, P.A.

799 Brickell Plaza, Suite 900

Miami, Florida 33131

Telephone: (305) 377-0700

Facsimile: (305) 377-3001

Counsel for Walgreen Company

dba Walgreens #06997

Walgreens Store Number 3836 Response to Complaint

1. The Florida Department of Health has alleged that Walgreens #03836 has violated Florida Statutes Sections 465.016(1)(h)(r), 465.023(1)(c)(e), and 465.072(1)(f)(k)(dd).
2. The totalities of the allegations contained in the complaint are based upon a Memorandum of Agreement (MOA) entered into between Walgreen Co. (Walgreens) and the Drug Enforcement Administration (DEA) dated June 11, 2013.
3. This MOA was entered into between Walgreens and the DEA in order to avoid the uncertainty and expense of litigation, and in the furtherance of Walgreens' and the DEA's belief that a settlement of specific administrative matters pending at the time of the MOA was in the public interest.
4. The relevant conduct covered by the MOA included the following:
 - a. Conduct alleged in the November 26, 2012, February 4, 2013, February 11, 2013, and February 19, 2013 Orders to Show Cause (OTSCs) issued to Walgreens #03629, #04727, #06997, #03836, #04391, and #03099, and in DEA's filings in *In the Matter of Walgreen Co.*, Docket Nos. 13-9, 13-10, 13-11, 13-16, 13-18, and 13-20, occurring on or before the effective date of the MOA;
 - b. Failure of Walgreens Pharmacists at the Pharmacies located at Walgreens #03629, #04727, #06997, #03836, #04391, and #03099 to exercise their corresponding responsibility to ensure that controlled substances were dispensed pursuant to prescriptions issued for legitimate medical purposes by practitioners acting in the usual course of their professional practice, as required by 21 C.F.R. § 1306.04(a), and dispensing by the Pharmacies located at Walgreens #03629, #04727, #06997, #03836, #04391, and #03099 of controlled substances pursuant to purported prescriptions that were otherwise invalid under 21 C.F.R. Part 1306, on or before the effective date of the MOA;
 - c. Dispensing by the Pharmacies located at Walgreens #03629, #04727, #06997, #03836, #04391, and #03099 of controlled substances to individuals Walgreens knew or should have known were diverting controlled substances on or before the effective date of the MOA;

- d. Dispensing by the Pharmacies located at Walgreens #03629, #04727, #06997, #03836, #04391, and #03099 of controlled substances pursuant to prescriptions issued by a physician who did not have a current, valid DEA registration on or before the effective date of the MOA;
 - e. Refusal or negligent failure by the Pharmacies located at Walgreens #03629, #04727, #06997, #03836, #04391; and #03099 to make, keep, or furnish any record, report, notification, declaration, order or order form, statement, invoice, or information required under the CSA and its implementing regulations, including, but not limited to, failure by the Pharmacies located at Walgreens #03629, #04727, #06997, #03836, #04391, and #03099 to maintain accurate records pursuant to 21 C.F.R. Part 1304 and to properly label and/or mark prescriptions pursuant to 21 C.F.R. Part 1306, on or before the effective date of the MOA;
 - f. Conduct inconsistent with the CSA and its implementing regulations on or before the effective date of the MOA, by the Pharmacies located at Walgreens #03629, #04727, #06997, #03836, #04391, and #03099; and
 - g. Failure by any Walgreens registrant, including the Pharmacies located at Walgreens #03629, #04727, #06997, #03836, #04391, and #03099 to adhere to the provisions of the April 7, 2011 Administrative Memorandum of Agreement between Walgreen Co. and DEA.
5. In the MOA Walgreens acknowledged that, (1) certain retail pharmacies did on some occasions dispense certain controlled substances in a manner not fully consistent with its compliance obligations, and (2) its recordkeeping practices regarding the dispensing of controlled substance from certain retail pharmacies utilizing its CPO Facilities as central-fill pharmacies did not require such original prescriptions to be marked "CENTRAL FILL."
6. Under the terms of the MOA Walgreens has the following obligations:
- a. Walgreens agrees to maintain a compliance program in an effort to detect and prevent diversion of controlled substances as required under the CSA and applicable DEA regulations. This program shall include procedures to identify the common signs associated with the diversion of controlled substances. The program shall also include the routine and periodic training of all Walgreens pharmacy employees responsible for dispensing controlled substances on the elements of the compliance program and their responsibilities under the CSA and applicable DEA regulations. This compliance program shall apply to all Walgreens Pharmacies and CPO facilities.
 - b. Walgreens shall implement and maintain policies and procedures in an effort to ensure that prescriptions for controlled substances are only dispensed to authorized individuals pursuant to federal and state law and

regulations. Walgreens shall maintain its current policy that requires all customers to provide identifying information and shall also require valid photo identification as required by and in accordance with controlling state law where the pharmacy is located. Documents maintained by Walgreens pursuant to any obligation under federal and/or state law regarding the verification of an ultimate user's identity shall be kept readily available by the pharmacy, and shall be produced to DEA agents, task force officers or investigators on request.

- c. Walgreens shall direct and train its pharmacists that their corresponding responsibility under federal law requires them not to fill a prescription that such pharmacist knows or has reason to know was issued for other than a legitimate medical purpose or by a practitioner acting outside the usual course of professional practice.
 - d. In connection with Walgreens' recordkeeping obligations, Walgreens agrees to maintain records regarding the dispensing of controlled substances in electronic format, in addition to the regularly maintained paper files, including records relating to which Distribution Center and/or CPO facility shipped the controlled substance to the Pharmacy. These records shall be made available to DEA agents, task force officers or investigators, upon demand, without the need for a warrant or subpoena, provided that the DEA agents, task force officers or investigators present appropriate identification. Walgreens shall provide electronic reports of dispensing on an ad hoc basis in response to DEA requests within a reasonable time.
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7. Since the date of the entry of the MOA, consistent with the terms of the MOA and as set forth in paragraph 6 above, Walgreens has implemented and maintains:
- a. A compliance program;
 - b. Policies and procedures to ensure that prescriptions for controlled substances are only dispensed to authorized individuals pursuant to federal and state law and regulations;
 - c. Training programs and directions for its pharmacists; and
 - d. Records regarding the dispensing of controlled substances in electronic format, in addition to the regularly maintained paper files, including records relating to which Distribution Center and/or CPO facility shipped the controlled substance to the Pharmacy.

8. At Walgreens' request, DEA and DOJ agreed to disclose the terms of the MOA to any other agency and will represent that the allegations raised by DEA, as defined in the Covered Conduct contained in the MOA, have been adequately addressed.
9. Walgreens believes that the obligations set forth in the MOA and the ongoing compliance with those obligations are sufficient to address the penalties set forth in Florida Statutes, Section 456.072(2) and to protect the public and rehabilitate the licensee.

Respectfully submitted,



David S. Weinstein, Esq.
Florida Bar No. 749214
Clarke Silvergate, P.A.
799 Brickell Plaza, Suite 900
Miami, Florida 33131
Telephone: (305) 377-0700
Facsimile: (305) 377-3001
Counsel for Walgreen Company
dba Walgreens #03836

DOH vs. Walgreen Company dba Walgreens #06997
Case Number 2013-04376

**Acknowledgement of and
Agreement to Maintain Patient Confidentiality**

I, Walgreens # 06997, am the Subject of an investigation by the Department of Health. As the Subject of such an investigation, I am entitled to inspect or receive a copy of the investigative report, including any expert witness report or patient records connected with the investigation pursuant to Section 456.073(10), Florida Statutes, if I agree in writing to maintain the confidentiality of any information received under this provision, until 10 days after probable cause is found and to maintain the confidentiality of patient records pursuant to Section 456.057, Florida Statutes.

I understand the cost associated with duplicating x-rays and I want () do not want
(X) to receive a copy of any x-rays that are contained within the investigative file.

SIGNED this ____ day of _____, 2013.

Walgreens #06997
2013-04376

or

SIGNED this 28th day of October, 2013 on behalf of Walgreens
#06997



David S. Weinstein, Esquire

CONFIDENTIAL AND EXEMPT MATERIALS

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from this document for security reasons**

**Scroll down to see the available pages or
advance to the next document if all
pages have been removed.**

SOME OR ALL PAGES IN THIS DOCUMENT ARE PATIENT RECORDS
AND/OR DOCUMENTS THAT IDENTIFY THE PATIENT BY NAME AND ARE
EXEMPT FROM PUBLIC RECORDS LAWS.

456.057 - Ownership and control of patient records; report or copies of records to be
furnished.—

10)(a)All patient records obtained by the department and any other documents
maintained by the department which identify the patient by name are confidential and exempt
from s. 119.07(1) and shall be used solely for the purpose of the department and the appropriate
regulatory board in its investigation, prosecution, and appeal of disciplinary proceedings. The
records shall not be available to the public as part of the record of investigation for and
prosecution in disciplinary proceedings made available to the public by the department or the
appropriate board.

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Rick Scott
Governor

Mission:

To protect, promote & improve the health
of all people in Florida through integrated
state, county & community efforts.

John H. Armstrong, MD, FACS
Surgeon General & Sec

Vision: To be the Healthiest State in the Nation

STATE OF FLORIDA
BOARD OF PHARMACY

DEPARTMENT OF HEALTH,
PETITIONER,

VS.

CASE NO. 201314577

HECTOR A PINEIRO,
RESPONDENT.

NOTICE

TO: HECTOR A PINEIRO
27460 SW 138 PATH
HOMESTEAD, FL 33032

PLEASE TAKE NOTICE that a disciplinary hearing will be heard before the BOARD OF PHARMACY on Wednesday, August 13, 2014, commencing at 9 a.m. Although the Respondent is not required to be present, it is in their best interest to attend. This hearing will be held at DoubleTree by Hilton, 100 Fairway Drive, Deerfield Beach, FL 33441, 1(800) 624-3606..

The purpose of the hearing is to consider a motion for: Hearing - No Disputed Material Facts

Note: Cases shown on the agenda as "timed" items may be heard in a different order or may be heard earlier if all parties are present. Cases are scheduled beginning at 9 a.m.; therefore, it is imperative that you arrive promptly at 9 a.m. and be prepared to be at the meeting for several hours until your case is heard.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Hearing has been sent by U.S. Mail to the above address(es) this 10th day of July, 2014.



Board Executive Director
BOARD OF PHARMACY
Florida Department of Health
4052 Bald Cypress Way, Bin #
Tallahassee, FL 32399 -

Florida Department of Health
Division of Medical Quality Assurance
4052 Bald Cypress Way, Bin C10 • Tallahassee, FL 32399-3260
PHONE: (850) 245-4444 • FAX : (850) 245-4791

www.FloridasHealth.com
TWITTER: HealthyFLA
FACEBOOK: FLDepartmentofHealth
YOUTUBE: fldoh



Rick Scott
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Mission:

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Vision: To be the Healthiest State in the Nation

MEMORANDUM

TO: Patrick W. Kennedy, M.A., Executive Director, Board of Pharmacy
FROM: *AK* Ana Gargollo-McDonald, Assistant General Counsel
RE: Hearing - No Disputed Material Facts

SUBJECT: DOH v. Hector A. Pineiro, R.P.T.
DOH Case Number: 2013-14577

DATE: June 19, 2014

Enclosed you will find materials in the above-referenced case to be placed on the agenda for final agency action for the **August 13, 2014** meeting of the board. The following information is provided in this regard.

| | | |
|-------------------------------------|--|---------------------|
| Subject: | Hector A. Pineiro, R.P.T. | |
| Subject's Address of Record: | 27460 S. W. 138 Path Homestead, FL 33032 | |
| Enforcement Address: | 27460 S. W. 138 Path Homestead, FL 33032 | |
| Subject's License No: | 19460 | Rank: R.P.T. |
| Licensure File No: | 22677 | |
| Initial Licensure Date: | 12/17/2009 | |
| Board Certification: | None | |
| Required to Appear: | No | |
| Current IPN/PRN Contract: | Yes | |
| Allegation(s): | Respondent violated Section 456.072(1)(z), Florida Statutes (2013) | |

Prior Discipline: None

Probable Cause Panel: Leo Fallon & Debra Glass

Subject's Attorney: Pro Se

Complainant/ Address: Anonymous

Materials Submitted: Memorandum to the Board
Motion for Hearing Not Involving Disputed Issues
of Material Fact for Final Order
Administrative Complaint
Motion to Assess Costs
Exhibit A Affidavit of Fees
Exhibit 1 Complaint Cost Summary
Exhibit 2-Itemized Cost by Complaint
Election of Rights
Board Notification Letter
Expert Opinion
Expert Curriculum Vitae
IPN/PRN DOH Communication Form
PCP Memo
Emergency Suspension Order (entire packet)
Affidavit of Diligent Search
Certified Mail Receipt
Administrative Weekly
Supplemental 1 dated 3/24/14
S-1 Copy of Affidavit of Service, page 2
Order Compelling an Examination
Final Investigative Report
Exhibits 1-6 (attached)

DISCIPLINARY GUIDELINES:

The minimum guidelines is \$500 fine, suspension until safe to practice with reasonable skill and safety, and appearance before the board. The maximum is \$2,500 fine and Revocation.

PRELIMINARY CASE REMARKS:

On or about March 4, 2014, the Department ordered Respondent to submit to a mental and physical examination to determine his ability to practice pharmacy as a registered pharmacy technician, with reasonable skill and safety pursuant to the authority granted in Section 456.072(1)(z), Florida Statutes (2013). On or about March 19, 2014, Respondent was evaluated by Dr. I.J.A., M.D., a board-certified psychiatrist. Dr. I.J.A. opined that Respondent "is currently unsafe to practice as a pharmacy technician based upon his history of substance use, the fact that he stole narcotic medications from a pharmacy . . . and that he is not currently receiving formalized substance abuse treatment."

AMD/bhh

STATE OF FLORIDA
BOARD OF PHARMACY

DEPARTMENT OF HEALTH,

Petitioner,

v.

CASE NO. 2013-14577

HECTOR A. PINEIRO, R.P.T.,

Respondent.

**MOTION FOR FINAL ORDER AFTER HEARING NOT INVOLVING
DISPUTED ISSUES OF MATERIAL FACTS**

COMES NOW, the Petitioner, by and through its undersigned counsel, and moves the Board of Pharmacy for entry of a Final Order in the above-styled cause on a date and time that has been determined and noticed by the Board. As grounds therefore, the Petitioner would state the following:

1. Petitioner previously filed an Administrative Complaint against Respondent alleging that Respondent had violated the provisions of Florida Statutes, as set forth therein. The Department, by filing the Administrative Complaint, is seeking to discipline the Respondent's license to practice as a **Registered Pharmacy Technician**, thereby affecting the Respondent's substantial interests.

2. On or about May 22, 2014, Petitioner served Respondent with the Administrative Complaint via Respondent's address of record with the Department of Health. The Department, by serving the Respondent with the Administrative Complaint, provided the Respondent written notice of its decision to seek discipline of the Respondent's license to practice as a **Registered Pharmacy Technician**.

3. The Respondent has filed an Election of Rights Form or other responsive pleading evincing, or has otherwise indicated, that Respondent does not dispute the material facts alleged in the Administrative Complaint.

4. There are no disputed issues of material fact to be resolved by the Board.

5. Respondent has been advised, by a copy of this Motion, that a copy of the investigative file in this case shall be furnished to the Board to establish a prima facie case regarding the violations as set forth in the Administrative Complaint.

WHEREFORE the parties respectfully request the Board of Pharmacy, after allowing the Respondent the opportunity to present oral and/or written evidence in mitigation of the Administrative Complaint, enter

DATED this 20th day of June, 2014.

Respectfully Submitted,

John H. Armstrong, MD, FACS
State Surgeon General and Secretary of Health



ANA M. GARGOLLO-MCDONALD

Assistant General Counsel

DOH Prosecution Services Unit

4052 Bald Cypress Way, Bin #C65

Tallahassee, FL 32399-3265

Florida Bar No. **85907**

Telephone: (850) 245-4640

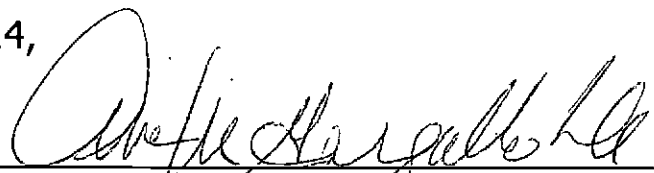
Facsimile: (850) 245-4683

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing Motion to Assess Cost has been provided by U.S. mail this to:

HECTOR A. PINEIRO, R.P.T., at, 27460 SOUTH WEST 138TH PATH, HOMESTEAD, FLORIDA 33032, on this 20th day of

June, 2014,



ANA M. GARGOLLO-MCDONALD

Assistant General Counsel

STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO. 2013-14577

HECTOR A. PINEIRO, R.P.T.,

RESPONDENT.

ADMINISTRATIVE COMPLAINT

COMES NOW, Petitioner, Department of Health (Department), by and through its undersigned counsel, and files this Administrative Complaint before the Board of Pharmacy against Respondent, Hector A. Pineiro, R.P.T., and in support thereof alleges:

1. Petitioner is the state agency charged with regulating the practice of pharmacy pursuant to Section 20.43, Florida Statutes; Chapter 456, Florida Statutes; and Chapter 465, Florida Statutes.
2. At all times material to this Complaint, Respondent was a registered pharmacy technician within the State of Florida, having been issued license number RPT 19460.
3. Respondent's address of record is 27460 S.W. 138 Path, Homestead, Florida 33032.

4. On or about April 30, 2013, law enforcement conducted an inventory search of Respondent's vehicle. The inventory search of the vehicle revealed a suspected marijuana cigarette, one pill bottle with several suspected zolpidem tartrate 10 mg pills, and another pill bottle with several zolpidem tartrate 2 mg pills.

5. Cannabis, according to Section 893.03(1), Florida Statutes, is a Schedule I controlled substance that has a high potential for abuse and has no currently accepted medical use in treatment in the United States and in its use under medical supervision does not meet accepted safety standards.

6. Zolpidem is a sedative that affects chemicals in your brain that may become unbalanced and cause sleep problems (insomnia). According to Title 21, Section 1308.14, Code of Federal Regulations, zolpidem is a Schedule IV controlled substance. Zolpidem can cause dependence and is subject to abuse.

7. On or about April 30, 2013, Respondent was arrested and charged with the possession of a controlled substance with intent to sell, possession of a legend drug without a prescription, and unlawful possession of cannabis under 20 grams.

8. According to the arrest report, in a post-Miranda statement, Respondent admitted to stealing the zolpidem pills from South Point Pharmacy.

9. On or about March 4, 2014, the Department ordered Respondent to submit to a mental and physical examination to determine his ability to practice pharmacy as a registered pharmacy technician, with reasonable skill and safety pursuant to the authority granted in Section 456.072(1)(z), Florida Statutes (2013).

10. On or about March 19, 2014, Respondent was evaluated by Dr. I.J.A., M.D., a board-certified psychiatrist.

11. Dr. I.J.A. opined that Respondent "is currently unsafe to practice as a pharmacy technician based upon his history of substance use, the fact that he stole narcotic medications from a pharmacy . . . and that he is not currently receiving formalized substance abuse treatment."

12. Section 456.072(1)(z), Florida Statutes (2013), provides that being unable to practice with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition, constitutes grounds for disciplinary action.

13. As set forth above, on or about March 19, 2014, Respondent was evaluated by Dr. I.J.A., M.D., who opined that Respondent "is currently unsafe to practice as a pharmacy technician based upon his history of substance use, the fact that he stole narcotic medications from a pharmacy . . . and that he is not currently receiving formalized substance abuse treatment."

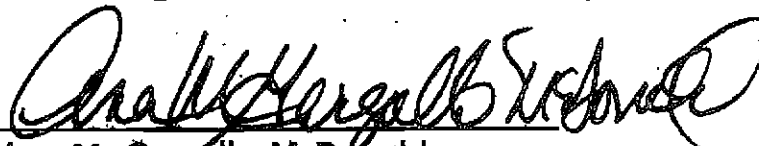
14. Based on the foregoing, Respondent violated Section 456.072(1)(z), Florida Statutes (2013), by being unable to practice with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition.

[Remainder of page left intentionally blank]

WHEREFORE, Petitioner respectfully requests that the Board of Pharmacy enter an order imposing one or more of the following penalties: permanent revocation or suspension of Respondent's license, restriction of practice, imposition of an administrative fine, issuance of a reprimand, placement of Respondent on probation, corrective action, refund of fees billed or collected, remedial education and/or any other relief that the Board deems appropriate.

SIGNED this 8th day of May, 2014.

John H. Armstrong, MD, FACS
State Surgeon General and Secretary of Health



Ana M. Gargollo-McDonald
Assistant General Counsel
Florida Bar Number: 85907
DOH Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, Florida 32399-3265
Telephone: (850) 245 - 4444 Ext. 8133
Facsimile: (850) 245 - 4683
Ana.gargollo-mcdonald@flhealth.gov

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK

CLERK: *Bridget Coates*

DATE MAY 09 2014

/AGM

PCP: *5/8/14*

PCP Members: *Glass & Fallon.*

NOTICE OF RIGHTS

Respondent has the right to request a hearing to be conducted in accordance with Section 120.569 and 120.57, Florida Statutes, to be represented by counsel or other qualified representative, to present evidence and argument, to call and cross-examine witnesses and to have subpoena and subpoena duces tecum issued on his or her behalf if a hearing is requested.

NOTICE REGARDING ASSESSMENT OF COSTS

Respondent is placed on notice that Petitioner has incurred costs related to the investigation and prosecution of this matter. Pursuant to Section 456.072(4), Florida Statutes, the Board shall assess costs related to the investigation and prosecution of a disciplinary matter, which may include attorney hours and costs, on the Respondent in addition to any other discipline imposed.

**STATE OF FLORIDA
BOARD OF PHARMACY**

DEPARTMENT OF HEALTH,

Petitioner,

v.

CASE NO.: 2013-14577

HECTOR A. PINEIRO, R.P.T.,

Respondent.

**MOTION TO ASSESS COSTS IN ACCORDANCE
WITH SECTION 456.072(4)**

COMES NOW, the Department of Health, by and through undersigned counsel, and moves the Board of Pharmacy for the entry of a Final Order assessing costs against the Respondent for the investigation and prosecution of this case in accordance with Section 456.072(4), Florida Statutes. As grounds therefore, the Petitioner states the following:

1. At its next regularly scheduled meeting, the Board of Pharmacy will take up for consideration the above-styled disciplinary action and will enter a Final Order therein.

2. Section 456.072(4), Florida Statutes, states as follows:

In addition to any other discipline imposed through final order, or citation, entered on or after

July 1, 2001, pursuant to this section or discipline imposed through final order, or citation, entered on or after July 1, 2001, for a violation of any practice act, the board, or the department when there is not board, shall assess costs related to the investigation and prosecution of the case. Such costs related to the investigation and prosecution include, but are not limited to, salaries and benefits of personnel, costs related to the time spent by the attorney and other personnel working on the case, and any other expenses incurred by the department for the case. The board, or the department when there is no board, shall determine the amount of costs to be assessed after its consideration of an affidavit of itemized costs and any written objections thereto. . . .

3. The investigation and prosecution of this case has resulted in costs in the total amount of \$4,120.38, based on the following itemized statement of costs:

| ***** Cost to Date ***** | | |
|-----------------------------|-------|------------|
| | Hours | Costs |
| Complaint: | 0.70 | \$38.41 |
| Investigation: | 25.70 | \$1,618.27 |
| Legal: | 12.10 | \$1,233.69 |
| Compliance: | 0.90 | 30.01 |
| Sub Total: | 39.40 | \$2,920.38 |
| Expenses to Date: | | \$1,200.00 |
| Prior Amount: | | \$0.00 |
| Total Costs to Date: | | \$4,120.38 |

Therefore, the Petitioner seeks an assessment of costs against the Respondent in the amount of \$2,886.69 as evidenced in the attached affidavit. (Exhibit A).

4. Should the Respondent file written objections to the assessment of costs, within ten (10) days of the date of this motion, specifying the grounds for the objections and the specific elements of the costs to which the objections are made, the Petitioner requests that the Board determine the amount of costs to be assessed based upon its consideration of the affidavit attached as Exhibit A and any timely-filed written objections.

5. Petitioner requests that the Board grant this motion and assess costs in the amount of \$2,886.69 as supported by competent, substantial evidence. This assessment of costs is in addition to any other discipline imposed by the Board and is in accordance with Section 456.072(4), Florida Statutes.

WHEREFORE, the Department of Health requests that the Board of Pharmacy enter a Final Order assessing costs against the Respondent in the amount of \$2,886.69.

DATED this 20th day of June, 2014.

Respectfully Submitted,

John H. Armstrong, MD, FACS
State Surgeon General and Secretary of Health



ANA M. GARGOLLO-MCDONALD

Assistant General Counsel

DOH Prosecution Services Unit

4052-Bald Cypress Way, Bin #C65

Tallahassee, FL 32399-3265

Florida Bar No. **85907**

Telephone: (850) 245-4640

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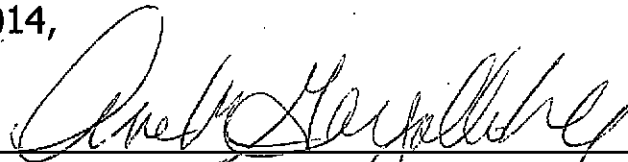
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I HEREBY CERTIFY that a true and correct copy of the above and foregoing Motion to Assess Cost has been provided by U.S. mail this to:

HECTOR A. PINEIRO, R.P.T., at 27460 SOUTH WEST 138TH PATH,

HOMESTEAD, FLORIDA 33032, on this 20th day of

June, 2014,



ANA M. GARGOLLO-MCDONALD

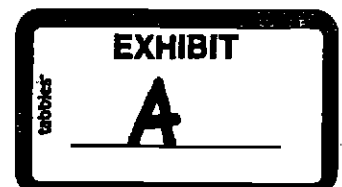
Assistant General Counsel

AFFIDAVIT OF FEES AND COSTS EXPENDED

STATE OF FLORIDA
COUNTY OF LEON:

BEFORE ME, the undersigned authority, personally appeared **SHANE WALTERS** who was sworn and states as follows:

- 1) My name is Shane Walters.
- 2) I am over the age of 18, competent to testify, and make this affidavit upon my own personal knowledge and after review of the records at the Florida Department of Health (DOH).
- 3) I am the Operations and Management Consultant Manager (OMCM) for the Consumer Services and Compliance Management Unit for DOH. The Consumer Services Unit is where all complaints against Florida health care licensees (e.g., medical doctors, dentists, nurses, respiratory therapists) are officially filed. I have been in my current job position for more than one year. My business address is 4052 Bald Cypress Way, Bin C-75 Tallahassee, Florida 32399-3275.
- 4) As OMCM of the Consumer Services and Compliance Management Unit, my job duties include reviewing data in the Time Tracking System and verifying that the amounts correspond. The Time Tracking System is a computer program which records and tracks DOH's costs regarding the investigation and prosecution of cases against Florida health care licensees.
- 5) As of today, DOH's total costs for investigating and prosecuting DOH case number(s) **2013-14577** (Department of Health v. **HECTOR A. PINEIRO, R.P.T.**) are **FOUR THOUSAND ONE HUNDRED TWENTY DOLLARS AND THIRTY-EIGHT CENTS (\$4,120.38)**.
- 6) The costs for DOH case numbers **2013-14577** (Department of Health v. **HECTOR A. PINEIRO, R.P.T.**) are summarized in Exhibit 1 (Cost Summary Report), which is attached to this document.
- 7) The itemized costs and expenses for DOH case numbers **2013-14577** (Department of Health v. **HECTOR A. PINEIRO, R.P.T.**) are detailed in Exhibit 2 (Itemized Cost Report and Itemized Expense Report and receipts), which is attached to this document.
- 8) The itemized costs as reflected in Exhibit 2 are determined by the following method: DOH employees who work on cases daily are to



keep track of their time in six-minute increments (e.g., investigators and lawyers). A designated DOH employee in the Consumer Services Unit, Legal Department, and in each area office, inputs the time worked and expenses spent into the Time Tracking System. Time and expenses are charged against a state health care Board (e.g., Florida Board of Medicine, Florida Board of Dentistry, Florida Board of Osteopathic Medicine), and/or a case. If no Board or case can be charged, then the time and expenses are charged as administrative time. The hourly rate of each employee is calculated by formulas established by the Department. (See the Itemized Cost Report)

9) Shane Walters, first being duly sworn, states that she has read the foregoing Affidavit and its attachments and the statements contained therein are true and correct to the best of her knowledge and belief.

FURTHER AFFIANT SAYETH NOT.

Shane Walters

Shane Walters, Affiant

State of Florida
County of Leon

Sworn to and subscribed before me this 19 day of June, 2013,
by Shane Walters, who is personally known to me.

Scott D. Flowers

Notary Signature



Name of Notary Printed

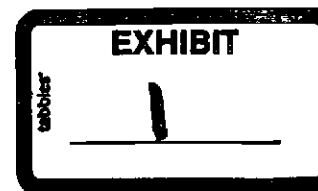
Stamp Commissioned Name of Notary Public:

Complaint Cost Summary

Complaint Number: 201314577

Subject's Name: PINEIRO, HECTOR A

| ***** Cost to Date ***** | | |
|-----------------------------|--------------|-------------------|
| | Hours | Costs |
| Complaint: | 0.70 | \$38.41 |
| Investigation: | 25.70 | \$1,618.27 |
| Legal: | 12.10 | \$1,233.69 |
| Compliance: | 0.90 | \$30.01 |
| | ***** | ***** |
| Sub Total: | 39.40 | \$2,920.38 |
| Expenses to Date: | | \$1,200.00 |
| Prior Amount: | | \$0.00 |
| Total Costs to Date: | | \$4,120.38 |



**Time Tracking System
Itemized Cost by Complaint**

Complaint 201314577

Report Date 06/19/2014

Page 1 of 3

Staff Code Activity Hours Staff Rate Cost Activity Date Activity Code Activity Description

COMPLIANCE MANAGEMENT UNIT

| | | | | | | |
|------------------|-------------|---------|----------------|------------|-----|-----------------------------|
| HC27 | 0.05 | \$33.33 | \$1.67 | 04/24/2014 | 125 | LICENSE STATUS CHANGE |
| HC27 | 0.30 | \$33.33 | \$10.00 | 04/25/2014 | 35 | TELEPHONE CALLS |
| HC27 | 0.05 | \$33.33 | \$1.67 | 04/25/2014 | 129 | UPDATING COMPLIANCE RECORDS |
| HC27 | 0.10 | \$33.33 | \$3.33 | 04/25/2014 | 35 | TELEPHONE CALLS |
| HC27 | 0.05 | \$33.33 | \$1.67 | 04/25/2014 | 35 | TELEPHONE CALLS |
| HC27 | 0.10 | \$33.33 | \$3.33 | 04/28/2014 | 35 | TELEPHONE CALLS |
| HC27 | 0.05 | \$33.33 | \$1.67 | 04/28/2014 | 129 | UPDATING COMPLIANCE RECORDS |
| HC27 | 0.05 | \$33.33 | \$1.67 | 04/29/2014 | 35 | TELEPHONE CALLS |
| HC27 | 0.05 | \$33.33 | \$1.67 | 04/29/2014 | 129 | UPDATING COMPLIANCE RECORDS |
| HC27 | 0.10 | \$33.33 | \$3.33 | 05/21/2014 | 35 | TELEPHONE CALLS |
| Sub Total | 0.90 | | \$30.01 | | | |

CONSUMER SERVICES UNIT

| | | | | | | |
|------------------|-------------|---------|----------------|------------|-----|--|
| HA23 | 0.60 | \$54.90 | \$32.94 | 09/16/2013 | 78 | INITIAL REVIEW AND ANALYSIS OF COMPLAINT |
| HA78 | 0.10 | \$54.65 | \$5.47 | 11/14/2013 | 137 | PRIORITY DOWNGRADES/UPGRADES |
| Sub Total | 0.70 | | \$38.41 | | | |

INVESTIGATIVE SERVICES UNIT

| | | | | | | |
|-------|------|---------|----------|------------|----|----------------------------|
| MI28 | 0.40 | \$63.98 | \$25.59 | 09/17/2013 | 4 | ROUTINE INVESTIGATIVE WORK |
| MI207 | 2.50 | \$63.98 | \$159.95 | 09/17/2013 | 4 | ROUTINE INVESTIGATIVE WORK |
| MI207 | 0.60 | \$63.98 | \$38.39 | 09/17/2013 | 76 | REPORT PREPARATION |
| MI207 | 1.90 | \$63.98 | \$121.56 | 09/19/2013 | 4 | ROUTINE INVESTIGATIVE WORK |
| MI207 | 1.60 | \$63.98 | \$102.37 | 09/19/2013 | 58 | TRAVEL TIME |
| MI207 | 1.70 | \$63.98 | \$108.77 | 09/20/2013 | 4 | ROUTINE INVESTIGATIVE WORK |
| MI207 | 1.20 | \$63.98 | \$76.78 | 09/20/2013 | 58 | TRAVEL TIME |
| MI207 | 0.80 | \$63.98 | \$51.18 | 09/23/2013 | 4 | ROUTINE INVESTIGATIVE WORK |





*** CONFIDENTIAL ***

Time Tracking System
Itemized Cost by Complaint

Complaint 201314577

Report Date 06/19/2014

Page 2 of 3

| Staff Code | Activity Hours | Staff Rate | Cost | Activity Date | Activity Code | Activity Description |
|------------------|----------------|------------|-------------------|---------------|---------------|----------------------------|
| MI207 | 0.40 | \$63.98 | \$25.59 | 09/23/2013 | 76 | REPORT PREPARATION |
| MI207 | 2.80 | \$63.98 | \$179.14 | 09/24/2013 | 4 | ROUTINE INVESTIGATIVE WORK |
| MI207 | 1.30 | \$63.98 | \$83.17 | 09/24/2013 | 58 | TRAVEL TIME |
| MI207 | 0.70 | \$63.98 | \$44.79 | 09/24/2013 | 76 | REPORT PREPARATION |
| MI207 | 0.60 | \$63.82 | \$38.29 | 03/13/2014 | 6 | SUPPLEMENTAL INVESTIGATION |
| MI207 | 1.10 | \$63.82 | \$70.20 | 03/13/2014 | 58 | TRAVEL TIME |
| MI207 | 0.50 | \$63.82 | \$31.91 | 03/14/2014 | 6 | SUPPLEMENTAL INVESTIGATION |
| MI207 | 0.90 | \$63.82 | \$57.44 | 03/14/2014 | 58 | TRAVEL TIME |
| MI207 | 0.70 | \$63.82 | \$44.67 | 03/17/2014 | 58 | TRAVEL TIME |
| MI207 | 0.30 | \$63.82 | \$19.15 | 03/17/2014 | 6 | SUPPLEMENTAL INVESTIGATION |
| MI223 | 0.50 | \$46.35 | \$23.18 | 03/18/2014 | 6 | SUPPLEMENTAL INVESTIGATION |
| MI223 | 0.90 | \$46.35 | \$41.72 | 03/18/2014 | 58 | TRAVEL TIME |
| MI28 | 0.80 | \$63.82 | \$51.06 | 04/24/2014 | 58 | TRAVEL TIME |
| MI28 | 1.70 | \$63.82 | \$108.49 | 04/24/2014 | 4 | ROUTINE INVESTIGATIVE WORK |
| MI28 | 1.80 | \$63.82 | \$114.88 | 04/25/2014 | 76 | REPORT PREPARATION |
| Sub Total | 25.70 | | \$1,618.27 | | | |

PROSECUTION SERVICES UNIT

| | | | | | | |
|---------|------|----------|----------|------------|-----|-----------------------------------|
| HLL106A | 0.40 | \$101.95 | \$40.78 | 12/06/2013 | 25 | REVIEW CASE FILE |
| HLL106A | 0.20 | \$101.95 | \$20.39 | 12/06/2013 | 70 | CONFERENCES WITH LAWYERS |
| HLL106A | 0.30 | \$101.95 | \$30.59 | 12/06/2013 | 46 | LEGAL RESEARCH |
| HLL106A | 0.30 | \$101.95 | \$30.59 | 02/07/2014 | 25 | REVIEW CASE FILE |
| HLL106A | 0.20 | \$101.95 | \$20.39 | 02/07/2014 | 70 | CONFERENCES WITH LAWYERS |
| HLL106A | 0.30 | \$101.95 | \$30.59 | 02/11/2014 | 70 | CONFERENCES WITH LAWYERS |
| HLL106A | 0.50 | \$101.95 | \$50.98 | 02/11/2014 | 36 | PREPARATION OR REVISION OF LETTER |
| HLL106A | 1.10 | \$101.95 | \$112.15 | 02/14/2014 | 60 | MISCELLANEOUS |
| HLL106A | 0.20 | \$101.95 | \$20.39 | 02/19/2014 | 60 | MISCELLANEOUS |
| HLL106A | 0.60 | \$101.95 | \$61.17 | 02/26/2014 | 60 | MISCELLANEOUS |
| HLL106A | 0.10 | \$101.95 | \$10.20 | 02/26/2014 | 70 | CONFERENCES WITH LAWYERS |
| HLL106A | 0.20 | \$101.95 | \$20.39 | 03/13/2014 | 60 | MISCELLANEOUS |
| HLL106A | 0.10 | \$101.95 | \$10.20 | 03/27/2014 | 103 | REVIEW SUPPLEMENTAL REPORT |

**Time Tracking System
Itemized Cost by Complaint**

Complaint 201314577

Report Date 06/19/2014

| Staff Code | Activity Hours | Staff Rate | Cost | Activity Date | Activity Code | Activity Description |
|------------------|----------------|------------|-------------------|---------------|---------------|--------------------------------|
| HLL106A | 0.20 | \$101.95 | \$20.39 | 04/09/2014 | 102 | REVIEW EXPERT WITNESS REPORT |
| HLL106A | 0.10 | \$101.95 | \$10.20 | 04/09/2014 | 70 | CONFERENCES WITH LAWYERS |
| HLL106A | 0.40 | \$101.95 | \$40.78 | 04/09/2014 | 60 | MISCELLANEOUS |
| HLL106A | 0.10 | \$101.95 | \$10.20 | 04/11/2014 | 60 | MISCELLANEOUS |
| HLL106A | 0.10 | \$101.95 | \$10.20 | 04/14/2014 | 37 | REVIEW LETTER |
| HLL106A | 0.10 | \$101.95 | \$10.20 | 04/14/2014 | 74 | MEETINGS WITH DEPARTMENT STAFF |
| HLL90B | 0.30 | \$101.95 | \$30.59 | 04/15/2014 | 60 | MISCELLANEOUS |
| HLL106A | 1.80 | \$101.95 | \$183.51 | 04/15/2014 | 81 | ESO/ERO |
| HLL106A | 1.00 | \$101.95 | \$101.95 | 04/16/2014 | 60 | MISCELLANEOUS |
| HLL106A | 0.10 | \$101.95 | \$10.20 | 04/18/2014 | 74 | MEETINGS WITH DEPARTMENT STAFF |
| HLL106A | 1.00 | \$101.95 | \$101.95 | 04/18/2014 | 81 | ESO/ERO |
| HLL106A | 0.40 | \$101.95 | \$40.78 | 04/18/2014 | 46 | LEGAL RESEARCH |
| HLL106A | 0.10 | \$101.95 | \$10.20 | 04/21/2014 | 70 | CONFERENCES WITH LAWYERS |
| HLL106A | 0.20 | \$101.95 | \$20.39 | 04/21/2014 | 81 | ESO/ERO |
| HLL106A | 0.10 | \$101.95 | \$10.20 | 04/24/2014 | 70 | CONFERENCES WITH LAWYERS |
| HLL106A | 0.50 | \$101.95 | \$50.98 | 05/08/2014 | 90 | POST PROBABLE CAUSE PROCESSING |
| HLL106A | 0.90 | \$101.95 | \$91.76 | 05/10/2014 | 90 | POST PROBABLE CAUSE PROCESSING |
| HLL106A | 0.10 | \$101.95 | \$10.20 | 05/21/2014 | 35 | TELEPHONE CALLS |
| HLL106A | 0.10 | \$101.95 | \$10.20 | 06/10/2014 | 37 | REVIEW LETTER |
| Sub Total | 12.10 | | \$1,233.69 | | | |

| | |
|-------------------|-------------------|
| Total Cost | \$2,920.38 |
|-------------------|-------------------|



***** CONFIDENTIAL *****
Time Tracking System
Itemized Expense by Complaint
 Complaint 201314577

Report Date: 06/19/2014

Page 1 of 1

| Staff Code | Expense Date | Expense Amount | Expense Code | Expense Code Description |
|----------------------------------|-----------------------|-------------------|--------------|--------------------------|
| PROSECUTION SERVICES UNIT | | | | |
| HILL106A | 03/18/2014 | \$1,200.00 | 131747 | PHYSICIAN SERVICES (OPS) |
| | SubTotal | \$1,200.00 | | |
| | Total Expenses | \$1,200.00 | | |

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456.057 - Ownership and control of patient records; report or copies of records to be
furnished.—

10)(a)All patient records obtained by the department and any other documents
maintained by the department which identify the patient by name are confidential and exempt
from s. 119.07(1) and shall be used solely for the purpose of the department and the appropriate
regulatory board in its investigation, prosecution, and appeal of disciplinary proceedings. The
records shall not be available to the public as part of the record of investigation for and
prosecution in disciplinary proceedings made available to the public by the department or the
appropriate board.

Mission:

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Rick Scott
Governor

John H. Armstrong, MD, FACS
State Surgeon General & Secretary

Vision: To be the Healthiest State in the Nation

June 19, 2014

VIA CERTIFIED MAIL

Hector A. Pineiro
27460 South West 138th Path
Homestead, Florida 33032

Re: DOH vs. Hector A. Pineiro, R.P.H.
DOH Case Number: 2013-14577

Dear Mr. Pineiro:

I am in receipt of your election of rights requesting a hearing not involving disputed issues of material fact executed by you on **June 9, 2014**, concerning the above referenced case. This means that the facts alleged in the Administrative Complaint are uncontested. This is an important distinction because, by law, the Board cannot resolve disputes of material fact in this case or any disciplinary case. Since you are requesting a hearing not involving disputed issues of material fact, you are not admitting the facts alleged in the Administrative Complaint, however, you are agreeing not to contest these facts and to limit presentation to legal argument, if any, and to matters in mitigation or extenuation.

Our office is now making preparation for this case to be presented at the next meeting of the Florida Board of Pharmacy, scheduled for **August 13, 2014, at the Double Tree by Hilton, 100 Fairway Drive, Deerfield Beach, Florida 33441**. If you have a request for this issue to be heard on a particular day, please inform this office within seven days of the date of this letter in order for the request to be timely considered by the Florida Board of Pharmacy. Please be advised your case will be set at the convenience of the Department and/or the Florida Board of Pharmacy and you will be notified of the date and time approximately two weeks prior to the meeting.

Thank for your attention and cooperation in this matter. Should you have any questions, please feel free to contact this office.

Sincerely,

A handwritten signature in black ink, appearing to read "Ana M. Gargollo-McDonald".

ANA M. GARGOLLO-MCDONALD
Assistant General Counsel

AMD/bhh

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regulatory board in its investigation, prosecution, and appeal of disciplinary proceedings. The
records shall not be available to the public as part of the record of investigation for and
prosecution in disciplinary proceedings made available to the public by the department or the
appropriate board.

MEMORANDUM OF FINDING OF PROBABLE CAUSE DETERMINATION

TO: Department of Health, Prosecution Services Unit
FROM: Chair, Probable Cause Panel, Florida Board of Pharmacy
RE: **DOH v. Hector A. Pineiro, R.P.T.**
DOH Case Number: 2013-14577

MEMBERS: Leo J. "Lee" Fallon, BPharm, Ph.D and Debra Glass

DATE OF PCP: May 8, 2014 **AGENDA ITEM:** A-11 AM

This matter came before the Probable Cause Panel on the above date. Having reviewed the complete investigative report, recommendations of the Department, and any information submitted by the Subject, and being otherwise fully advised in the premises, the panel finds that:

Probable cause exists and a formal complaint shall be filed for violation of statutes and rules, including but not limited to:

Section 456.072(1)(z), Florida Statutes (2013)

- Probable Cause was **not** found in this case
- In lieu of probable cause, issue **letter of guidance**
- Case requires **expert review**
- Case needs **further investigation**

- a)
- b)
- c)
- Upon **reconsideration**, dismiss

Other

Patrick Kennel for Lee Fallon 5/15/2014
Chair, Probable Cause Panel Date
Board of Pharmacy

CONFIDENTIAL



STATE OF FLORIDA



DEPARTMENT OF HEALTH

INVESTIGATIVE REPORT

| | | |
|--|---|------------------------|
| Office: Miami ISU | Date of Complaint: 5/30/14 | Case Number: 201314577 |
| Subject: HECTOR A PINEIRO 27460 SW 138 Path Homestead FL 33032 Cell (786) 704-3580 Wife's cell (786) 873-3973 | Source: ANONYMOUS | |
| Profession: Pharmacy Technician | License Number and Status: 19460 Emergency Restriction, Active | |
| Related Case(s): None | Period of Investigation and Type of Report: 4/24/14 to 4/25/14 | |
| Alleged Violation: See Final report | | |
| Synopsis: This supplemental report is based on a request from DOH attorney ANA GARGOLLO-MCDONALD requesting that an ERO be hand served to PINEIRO. | | |
| <p>On 4/24/14 this investigator presented to 27460 SW 138 Path, Homestead FL 33032 and upon knocking on the door, it was opened by a women who identified herself as SHAMIRA ARIAS. ARIAS indicated that she was the mother-in-law of PINEIRO and that PINEIRO did reside at that address with his wife, VERONICA PINEIRO (ARIAS' daughter). ARIAS indicated that since she did not have HECTOR's telephone number, she would telephonically call VERONICA who was not home at the time. This investigator was given the telephone and then proceeded to interview VERONICA. VERONICA indicated that HECTOR was working at a pharmacy on Flagler Street and 18 Avenue in Miami. VERONICA gave this investigator HECTOR's cell phone number. This investigator then proceeded to call HECTOR and informed him that this investigator had the ERO for him and that it would be left with ARIAS. HECTOR PINEIRO indicated that he understood that he was restricted from working in a pharmacy. This investigator then left the ERO with ARIAS.</p> | | |
| Exhibit | | Page |
| S-1 Affidavit of Service..... | | 2 |
| Investigator/Date: Robert Radin, 4/25/14 | Approved By/Date: Edward Thompson, 4/25/14 | for 4/28/14 |
| Distribution: HQ/ISU | | Page 1 |

REC'D 5/14 10:11 AM
INVESTIGATIVE SERVICES

Received
Investigative Services

APR 29 2014

Mission:

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Rick Scott

Governor

John H. Armstrong, MD, FACS

Surgeon General & Secretary

Vision: To be the Healthiest State in the Nation

April 24, 2014

Hector A. Pineiro, R.P.T.
27460 S.W. 138th Path
Homestead, FL 33032

RE: Department of Health vs. Hector A. Pineiro, RPT
Case Number: 2013-14577

Dear Hector A. Pineiro:

Enclosed please find an Order of **Emergency Restriction** of License filed April 24, 2014, against your license to practice as a registered pharmacy technician in the State of Florida. Your license is immediately restricted according to the enclosed Agreed Order of **Restriction** of License.

If you have any questions, please do not hesitate to contact Ana Gargollo-McDonald, Assistant General Counsel at (850) 245-4444.

Sincerely,

A handwritten signature in black ink that reads "Justin Boynton".

Justin Boynton
Regulatory Specialist II
Prosecution Services Unit

/
Enclosure

Florida Department of Health

Office of the General Counsel • Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65 • Tallahassee, FL 32399-1701
Express mail address: 2585 Merchants Row - Suite 105
PHONE: 850/245-4444 • FAX 850/245-4662

www.FloridasHealth.com

TWITTER: HealthyFLA

FACEBOOK: FLDepartmentofHealth

YOUTUBE: fidoh

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State Surgeon General & Secretary

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MEMORANDUM

TO: Florida Administrative Weekly, Liz Cloud
FROM: Justin Boynton, Regulatory Specialist II
RE: Hector A. Pineiro, R.P.T, License No.: RPT 19460
CASE NO(S): 2013-14577
DATE: 4/24/2014 ID 14491041

Attached please find notice of the issuance of an Emergency Suspension Order for notice in the next issue of the Florida Administrative Registry.

On April 24 2014, State Surgeon General issued an Order of Emergency Suspension of License with regard to the license of Hector A. Pineiro, R.P.T, License No.: RPT 19460. This Emergency Suspension Order was predicated upon the State Surgeon General's findings of an immediate and serious danger to the public health, safety and welfare pursuant to Sections 456.073(8) and 120.60(6) Florida Statutes. (2012-2013). The State Surgeon General determined that this summary procedure was fair under the circumstances, in that there was no other method available to adequately protect the public.

Florida Department of Health

Office of the General Counsel • Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65 • Tallahassee, FL 32399-1701
Express mail address: 2585 Merchants Row - Suite 105
PHONE: 850/245-4444 • FAX 850/245-4662

www.FloridasHealth.com

TWITTER: HealthyFLA

FACEBOOK: FLDepartmentofHealth

YOUTUBE: fldoh

Boynton, Justin

From: FL-Rules@dos.state.fl.us
Sent: Thursday, April 24, 2014 3:11 PM
To: Boynton, Justin
Subject: Submit Notice in FAR

You have successfully submitted a notice for publication in the Florida Administrative Register on 4/24/2014 3:10:52 PM.

Department: Department of Health
Organization: Board of Pharmacy
Notice type: Miscellaneous
Issue: 40/82

Once this notice is published you will be able to view it by clicking the following link:
http://www.FLRules.org/gateway/View_Notice.asp?id=14491041

You may contact the Florida Administrative Register office at (850)245-6270 for additional information.

@ItsWorkingFL: <https://twitter.com/ItsWorkingFL> The Department of State is leading the commemoration of Florida's 500th anniversary in 2013. For more information, please go to www.fl500.com.
The Department of State is committed to excellence. Please take our Customer Satisfaction Survey:
<http://survey.dos.state.fl.us/index.aspx?email=fl.rules@dos.myflorida.com>

7196 9008 9111 5772 7057

TO:

Hector A. Pineiro
27460 S.W. 138th Path
Homestead, FL 33032

SENDER:

REFERENCE:

ESO
Hector A. Pineiro

PS Form 3800, January 2009 2013-14577

RETURN
RECEIPT
SERVICE

Certified Article Number
7196 9008 9111 5772 7057

SENDER'S RECORD
Total Postage & Fees

US Postal Service®

Receipt for
Certified Mail™

No Insurance Coverage Provided
Do Not Use for International Mail

POSTMARK OR DATE

04/24/2014

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Governor

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State Surgeon General & Secretary

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PSU REQUEST FORM

| | |
|---|-------------------------|
| FROM: Justin Boynton, RSII for Ana M. Gargollo-McDonald, Esq. | TO: ISU Edward Thompson |
| Date: 4/24/2014 | TO: CSU |
| Phone #: 850-245-4444 x 8200 | CC: Neil Downs |

| | |
|--|-----------------|
| Case Number: 2013-14577 | Board: Pharmacy |
| Subject: Hector A. Pineiro Code: hll106a | Status: 90 |
| Requested Completion Date: As soon as possible | |

(PSU) TYPE OF REQUEST: (describe details below)

Process Service* (Activity Code 160)

Additional Information Requested (Activity Code 145)

Deficiency in Investigative Work (Activity Code 150)

Details: Please hand serve the attached ESO. Thank you for your assistance.

*The following additional information is needed for each service request:

Last Known Address: 27460 S.W. 138th Path, Homestead, FL 33032
 Last Known Name & Phone Number: Hector A. Pinerio (786)-339-9914
 Last Known Place of Employment & Address if Known:
 Has Contact Been Made With This Individual? YES No ; If Yes, When?

14 APR 2014 9:35 AM
REPORTING UNIT

Was this case originally worked by CSU or in an area office different from where this service request is being sent?
 YES No NOTE: All process service requests need to be sent to appropriate field office.
 **IF YES, please send a copy of the original Investigative Report without attachments.

(ISU/CSU) RESPONSE:

Process Service Completed (Activity Code 161) Process Service NOT Completed (Activity Code 162)

Additional Info Sent to Legal (Activity Code 156)

Supp. Investigation Request Cancelled (Activity Code 157)

Email to:

| | | | | | | | | | | |
|-----------------|------------------|--------------|------------------|-------------|-------------|---------------|--------------|-------------|-------------------|-------------|
| <u>Pensacol</u> | <u>Tallahass</u> | <u>Alach</u> | <u>Jacksonvi</u> | <u>St.</u> | <u>Tamp</u> | <u>Orland</u> | <u>Ft.</u> | <u>West</u> | <u>Ft.</u> | <u>Miam</u> |
| <u>a</u> | <u>ee</u> | <u>ua</u> | <u>lle</u> | <u>Pete</u> | <u>a</u> | <u>o</u> | <u>Myers</u> | <u>Palm</u> | <u>Lauderdale</u> | <u>i</u> |
| | <u>Consume</u> | | | | | | | | | |
| | <u>r</u> | | | | | | | | | |
| | <u>Services</u> | <u>ULA</u> | | | | | | | | |

DISCREETLY

FILED DATE APR 24 2014
Department of HealthBy Anna Sanders
Deputy Agency ClerkSTATE OF FLORIDA
DEPARTMENT OF HEALTH

In Re: Emergency Restriction of the License of
Hector A. Pineiro, R.P.T.
License No.: RPT 19460
Case No.: 2013-14577

ORDER OF EMERGENCY RESTRICTION OF LICENSE

John H. Armstrong, MD, FACS, State Surgeon General and Secretary of Health, ORDERS the emergency restriction of the license of Hector A. Pineiro, R.P.T., to practice as a registered pharmacy technician in the State of Florida. Mr. Pineiro holds license number RPT 19460. His address of record is 27460 S.W. 138th Path, Homestead, Florida 33032. The following Findings of Fact and Conclusions of Law support the emergency restriction of Mr. Pineiro's license to practice as a registered pharmacy technician in the State of Florida.

FINDINGS OF FACT

1. The Department of Health (Department) is the state agency charged with regulating the practice of pharmacy pursuant to Chapters 20, 456, and 465, Florida Statutes (2013). Section 456.073(8), Florida Statutes (2013), authorizes the State Surgeon General to summarily restrict Mr. Pineiro's license to practice as a registered pharmacy technician in the

State of Florida in accordance with Section 120.60(6), Florida Statutes (2013).

2. At all times material to this Order, Mr. Pineiro was licensed to practice as a registered pharmacy technician in the State of Florida pursuant to Chapter 465, Florida Statutes (2012-2013).

3. On or about April 30, 2013, law enforcement conducted an inventory search of Mr. Pineiro's vehicle. The inventory search of the vehicle revealed a suspected marijuana cigarette, one pill bottle with several suspected zolpidem tartrate 10 mg pills, and another pill bottle with several zolpidem tartrate 2 mg pills.

4. Cannabis, according to Section 893.03(1), Florida Statutes, is a Schedule I controlled substance that has a high potential for abuse and has no currently accepted medical use in treatment in the United States and in its use under medical supervision does not meet accepted safety standards.

5. Ambien is the brand name for a drug that contains zolpidem, which is a sedative. Zolpidem affects chemicals in your brain that may become unbalanced and cause sleep problems (insomnia). According to Title 21, Section 1308.14, Code of Federal Regulations, zolpidem is a

Schedule IV controlled substance. Zolpidem can cause dependence and is subject to abuse.

6. On or about April 30, 2013, Mr. Pineiro was arrested and charged with the possession of a controlled substance with intent to sell, possession of a legend drug without a prescription, and unlawful possession of cannabis under 20 grams.

7. According to the arrest report, in a post-Miranda statement, Mr. Pineiro admitted to stealing the zolpidem pills from South Point Pharmacy.

8. On or about February 26, 2014, in case no. 132013CF0101350001XX, in the Circuit Court of the Eleventh Judicial Circuit, in and for Miami-Dade County, Florida, Mr. Pineiro entered a pre-trial diversion program on the count for possession of a controlled substance with intent to sell, and on the count for possession of cannabis, 20 grams or less.

9. On or about March 4, 2014, the Department ordered Mr. Pineiro to submit to a mental and physical examination to determine his ability to practice pharmacy as a registered pharmacy technician, with reasonable skill and safety pursuant to the authority granted in Section 456.072(1)(z), Florida Statutes (2013).

10. On or about March 19, 2014, Mr. Pineiro was evaluated by Dr. I.J.A., M.D., a board-certified psychiatrist.

11. Dr. I.J.A. opined that Mr. Pineiro "is currently unsafe to practice as a pharmacy technician based upon his history of substance use, the fact that he stole narcotic medications from a pharmacy over a four year period and that he is not currently receiving formalized substance abuse treatment."

12. In the course of their practice, registered pharmacy technicians have access to prescription medications including controlled substances that have a high likelihood for abuse and harm. A registered pharmacy technician must count, weigh, measure, pour and mix prescription medications, or stock legend drugs and controlled substances, in a safe and effective manner. Due to the gravity of these responsibilities and the potential for abuse of the drugs registered pharmacy technicians have access to, registered pharmacy technicians must possess good judgment and good moral character in order to perform their tasks. Mr. Pineiro's decision to steal controlled substances from his employer demonstrates a lack of judgment and moral character and a disregard for the laws and regulations governing registered pharmacy technicians in this state. The

safety of Mr. Pineiro's patients cannot be assured as long as he continues to practice pharmacy as a registered pharmacy technician.

13. Because registered pharmacy technicians have access to medications including controlled substances, and are required to perform pharmacy duties that could ultimately impact patients, mental fitness and emotional stability must be possessed in order to competently practice pharmacy. The board-certified psychiatrist's conclusion that Mr. Pineiro is not safe to practice demonstrate that Mr. Pineiro does not possess the mental fitness and emotional stability necessary to practice safely as a registered pharmacy technician.

14. Mr. Pineiro's lack of good judgment, his disregard for the laws and regulations governing the practice of pharmacy as a registered pharmacy technician, and his lack of mental fitness and emotional stability, demonstrate that Mr. Pineiro is a danger to the health, safety, or welfare of the citizens of the State of Florida. Nothing short of the immediate restriction of Mr. Pineiro's license from working in pharmacies, until such time that the Professionals Resource Network ("PRN"), or a PRN evaluator, determines that he is able to practice as a registered pharmacy technician

with reasonable skill and safety, will adequately protect the public from the danger posed by Mr. Pineiro.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the State Surgeon General concludes as follows:

1. The State Surgeon General has jurisdiction pursuant to Sections 20.43 and 456.073(8), Florida Statutes (2013), and Chapter 465, Florida Statutes (2013), as set forth above.
2. Section 465.016(1)(m), states that being unable to practice pharmacy with reasonable skill and safety by reason of illness, use of drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition, constitutes grounds for disciplinary action.
3. Mr. Pineiro violated Section 465.016(1)(m), Florida Statutes (2013); as a result of his lack of good judgment, and his lack of mental fitness and emotional stability.
4. Section 120.60(6), Florida Statutes, authorizes the Department to summarily restrict a registered pharmacy technician's license if the

Department finds that the registered pharmacy technician presents an immediate serious danger to the public health, safety, or welfare.


5. Mr. Pineiro's continued unrestricted practice as a registered pharmacy technician constitutes an immediate serious danger to the health, safety, or welfare of the public and this summary procedure is fair under the circumstances to adequately protect the public.

WHEREFORE, in accordance with Section 120.60(6), Florida Statutes (2013), it is ORDERED THAT:

1. The license of Hector A. Pineiro, R.P.T., license number RPT 19460, is immediately restricted to prohibit him from working in any pharmacy.

2. A proceeding seeking formal restriction or discipline of the license of Mr. Pineiro to practice as a registered pharmacy technician will be promptly instituted and acted upon in compliance with Sections 120.569 and 120.60(6), Florida Statutes.

DONE and ORDERED this 24th day of April, 2014.



John H. Armstrong, MD, FACS
State Surgeon General and Secretary of Health

In Re: Emergency Restriction of the License of
Hector A. Pineiro, R.P.T.
License No.: RPT 19460
Case No.: 2013-14577

PREPARED BY:

Ana M. Gargollo-McDonald
Assistant General Counsel
Florida Bar No. 85907
DOH Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, Florida 32399-3265
Telephone: (850) 245-4444 ext. 8133
Facsimile: (850) 245-4683
ana.gargollo-mcdonald@flhealth.gov

In Re: Emergency Restriction of the License of
Hector A. Pineiro, R.P.T.
License No.: RPT 19460
Case No.: 2013-14577

NOTICE OF RIGHT TO JUDICIAL REVIEW

Pursuant to Section 120.68, Florida Statutes, this Order is judicially reviewable. Review proceedings are governed by the Florida Rules of Appellate Procedure. Proceedings are commenced by filing a Petition for Review, in accordance with Florida Rule of Appellate Procedure 9.100, with the District Court of Appeal, accompanied by a filing fee prescribed by law, and a copy of the petition with the Agency Clerk of the Department within 30 days of the date this Order is filed.

Boynton, Justin

From: postmaster@flhealth.gov
To: Nieves, Luis A; Radin, Robert; Thompson, Edward J; Cavatorta, Iskra; Barreiros, Danay
Sent: Thursday, April 24, 2014 11:14 AM
Subject: Delivered: Emergency Action

Your message has been delivered to the following recipients:

Nieves, Luis A

Radin, Robert

Thompson, Edward J

Cavatorta, Iskra

Barreiros, Danay

Subject: Emergency Action



Emergency
Action

Mission:

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Rick Scott
Governor

John H. Armstrong, MD, FACS
State Surgeon General & Secretary

Vision: To be the Healthiest State in the Nation

PSU REQUEST FORM

| | |
|---|-------------------------|
| FROM: Justin Boynton, RSII for Ana M. Gargollo-McDonald, Esq. | TO: ISU Edward Thompson |
| Date: 4/24/2014 | TO: CSU |
| Phone #: 850-245-4444 x 8200 | CC: Neil Downs |

| | |
|---|------------------------|
| Case Number: 2013-14577 | Board: Pharmacy |
| Subject: Hector A. Pineiro Code:hll106a | Status: 90 |
| Requested Completion Date: As soon as possible | |

(PSU) TYPE OF REQUEST: (describe details below)

Process Service* (Activity Code 160)

Additional Information Requested (Activity Code 145)

Deficiency in Investigative Work (Activity Code 150)

Details: Please hand serve the attached ESO. Thank you for your assistance.

*The following additional information is needed for each service request:

Last Known Address: **27460 S.W. 138th Path, Homestead, FL 33032**
 Last Known Name & Phone Number: **Hector A. Pinerio (786)-339-9914**
 Last Known Place of Employment & Address if Known:
 Has Contact Been Made With This Individual? YES No ; If Yes, When?

Was this case originally worked by CSU or in an area office different from where this service request is being sent?
 YES ** No NOTE: All process service requests need to be sent to appropriate field office.
****IF YES, please send a copy of the original Investigative Report without attachments.**

(ISU/CSU) RESPONSE:

Process Service Completed (Activity Code 161) Process Service NOT Completed (Activity Code 162)

Additional Info Sent to Legal (Activity Code 156)

Supp. Investigation Request Cancelled (Activity Code 157)

Email to:

| | | | | | | | | | | |
|------------------|--------------------|----------------|---------------------|-----------------|--------------|----------------|------------------|------------------|-----------------------|--------------|
| <u>Pensacola</u> | <u>Tallahassee</u> | <u>Alachua</u> | <u>Jacksonville</u> | <u>St. Pete</u> | <u>Tampa</u> | <u>Orlando</u> | <u>Ft. Myers</u> | <u>West Palm</u> | <u>Ft. Lauderdale</u> | <u>Miami</u> |
| | <u>Consume</u> | | | | | | | | | |
| | <u>Services</u> | <u>ULA</u> | | | | | | | | |

CONFIDENTIAL

**** Transmit Conf. Report ****

P.1

Apr 24 2014 03:16pm

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Governor

John H. Armstrong, MD, FACS
Surgeon General & Secretary

April 24, 2014

The Honorable Robert S. Cohen
Chief Administrative Law Judge
Division of Administrative Hearings
1230 Apalachee Parkway
Tallahassee, FL 32301

RE: Department of Health vs. Hector A Pineiro, R.P.T.
Case Number: 2013-14577

Dear Judge Cohen:

This letter is to advise you that the Department has issued an Emergency Restriction Order concerning the license of **Hector A. Pineiro** to practice as a registered pharmacy technician in the State of Florida. An Administrative Complaint has not been issued in the above case. Therefore, this is not a request for a formal hearing.

This letter is sent to advise you of the action taken by the Department and to advise you of the possibility that the respondent may request an expedited hearing. The Department shall keep you advised of any developments. If you need additional information, please contact Ana Gargollo-McDonald, Assistant General Counsel at (850) 245-4444.

Sincerely,

A handwritten signature in black ink that reads "Justin Boynton".

Justin Boynton
Regulatory Specialist II
Prosecution Services Unit

/jb

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Surgeon General & Secretary

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April 24, 2014

The Honorable Robert S. Cohen
Chief Administrative Law Judge
Division of Administrative Hearings
1230 Apalachee Parkway
Tallahassee, FL 32301

RE: Department of Health vs. Hector A Pineiro, R.P.T.
Case Number: 2013-14577

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Justin Boynton
Regulatory Specialist II
Prosecution Services Unit

/jb

Florida Department of Health

Office of the General Counsel - Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65 - Tallahassee, FL 32399-1701
Express mail address: 2585 Merchants Row - Suite 105
PHONE: 850/245-4444 • FAX 850/245-4662

www.FloridasHealth.com

TWITTER: HealthyFLA

FACEBOOK: FLDepartmentofHealth

YOUTUBE: fldoh

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AFFIDAVIT OF SERVICE OR DILIGENT SEARCH

Department of Health

Petitioner

vs

Case No. 2013-14577

HECTOR PINEIRO, RPT

Respondent

COMES NOW, the affiant, who first being duly sworn, deposes and states:

- 1) Affiant is an Investigator/Inspector employed by the DEPARTMENT OF HEALTH, State of Florida.
- 2) That on April 24, 2014, Affiant made a diligent effort to locate Respondent, to serve ___ Administrative Complaint and related papers; ___ Order compelling examination(s); Subpoena(s); ___ Final order; ___ Notice to cease and desist; XX ERO and related papers.

3) Check applicable answer below:

XX Affiant made personal service on on some person at Respondent's usual place of abode over the age of 15 residing there, on (date) 4/24/14.

___ Affiant was unable to make service after searching for Respondent at: (a) all addresses for Respondent shown in the DOH investigation of the case; (b) all official addresses for Respondent shown in his licensing records on the computer terminal or Board office; any others: Accurant

[Signature]
Affiant

State Of Florida
County Of Miami Dade

Before me, personally appeared Robert Radin whose identity is known to me by Personal Knowledge (type of identification) and who, acknowledges that his/her signature appears above.

Sworn to or affirmed by Affiant before me this 25 day of April 2014.

[Signature]
Notary Public-State of Florida

My Commission Expires _____ EXHIBIT S-1

Rosa M Suarez
Type or Print Name

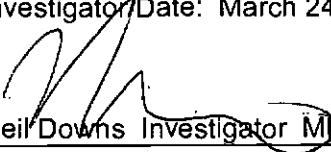
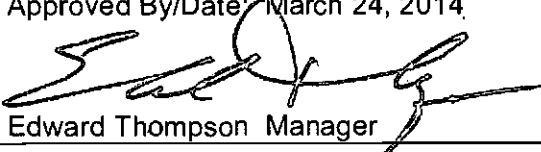


(2)



STATE OF FLORIDA
DEPARTMENT OF HEALTH

INVESTIGATIVE REPORT

| | | | | | |
|---|-----------------|---------------------------------------|---|-----------------------------|--------|
| Office: MIAMI XI | | Date of Case: 5/30/13 | | Case Number: RPT 2013-14577 | |
| Subject: HECTOR A PINEIRO 27460 SW 138 Path Homestead, FL 33032 (786)339-9914 | | | Source: ANONYMOUS | | |
| Prefix: 2208 | License #:19460 | Profession: Pharmacy Technician | Board: Pharmacy | Report Date:3/24/14 | |
| Period of Investigation: 3/13/14-3/24/14 | | | Type of Report: SUPPLEMENTAL 1 | | |
| Alleged violation of SS. SEE FINAL REPORT | | | | | |
| <p>Synopsis:</p> <p>This supplemental investigation is predicated upon receipt of a request from ANA GARGOLLO-MCDONALD ESQ, Senior Attorney with DOH PSU. The request was to serve order compelling an examination HECTOR PINEIRO.</p> <p>On 3/18/14 DOH Investigator SAMUEL MERCADO was able to serve PINEIRO with OCE forms.</p> <p>Exhibits: S1-Copy of affidavit of service for PINEIRO(p2)</p> | | | | | |
| Related Case(s): | | | | | |
| Investigator/Date: March 24, 2014  Neil Downs Investigator MD207 | | | Approved By/Date: March 24, 2014  Edward Thompson Manager | | |
| Distribution: HQ/ISU | | | | | Page 1 |

21 APR 23 2014 12
HEALTH-LEGAL

Received
Administrative Services
MAR 25 2014

STATE OF FLORIDA
DEPARTMENT OF HEALTH
HEALTH-LEGAL

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AFFIDAVIT OF SERVICE OR DILIGENT SEARCH

Department of Health

Petitioner

vs

Case No. 2013-14577

Hector Pineiro

Respondent

COMES NOW, the affiant, who first being duly sworn, deposes and states:

- 1) Affiant is an Investigator/Inspector employed by the DEPARTMENT OF HEALTH, State of Florida.
- 2) That on 3/18/14 Affiant made a diligent effort to locate Respondent, to serve Order compelling examination.

3) Check applicable answer below:

Affiant made personal service on Respondent or on some person at Respondent's usual place of abode over the age of 15 residing there, on 3/18/14.

[Signature]
Affiant

State Of Florida

County Of Miami Dade

Before me, personally appeared _____ whose identity is known to me by personally known (type of identification) and who, acknowledges that his/her signature appears above.

Sworn to or affirmed by Affiant before me this 19th day of March 2014.

Notary Public-State of Florida

3-26-2017
My Commission Expires

ISKRA Cavatorta
Type or Print Name



STATE OF FLORIDA
DEPARTMENT OF HEALTH

In Re: The Order Compelling Examination of
Hector A. Pineiro, R.P.T.
License No.: RPT 19460
Case No.: 2013-14577

ORDER COMPELLING AN EXAMINATION

The Department of Health (Department) is the state agency charged with regulating the practice of Pharmacy pursuant to Chapters 20, 456, and 465, Florida Statutes.

For probable cause shown and pursuant to the authority vested in the Department by Chapter 465, Florida Statutes, you are hereby ordered to report and submit to a mental and physical examination to be conducted by the following named physician at the date, time, and place indicated.

MENTAL/PHYSICAL EXAMINATION

**I. Jack Abramson, M.D.
21110 Biscayne Blvd., Suite 406
Aventura, Florida 33180
(305) 935-4391**

ON

Tuesday, April 1, 2014 @ 8:45 a.m.

APR 1 2014
10:00 AM
DEPARTMENT OF HEALTH

The above-directed mental and physical examination is for the purpose of obtaining examination reports and expert opinion and testimony concerning your ability to practice pharmacy with reasonable skill and safety pursuant to Section 465.016(1)(m), Florida Statutes (2013), and for introduction into evidence at any administrative hearing to be conducted on any administrative complaint filed against you which may allege a violation of Section 465.016(1)(m), Florida Statutes (2013). This order is predicated upon the following Findings of Fact and Conclusions of Law.

1. At all times material to this order, Hector A. Pineiro, R.P.T. ("Mr. Pineiro"), was licensed as a registered pharmacy technician ("RPT") in the State of Florida, pursuant to Chapter 465, Florida Statutes.

2. On or about April 30, 2013, law enforcement conducted an inventory of Mr. Pineiro's vehicle. The inventory search of the vehicle revealed a suspected marijuana cigarette, one pill bottle with several suspected zolpidem tartrate 10 mg, and another pill bottle with several zolpidem tartrate 2 mg.

3. Ambien is the brand name for a drug that contains zolpidem which is a sedative. It affects chemicals in your brain that may become unbalanced and cause sleep problems (insomnia). According to Title 21,

Section 1308.14, Code of Federal Regulations, zolpidem is a Schedule IV controlled substance. Zolpidem can cause dependence and is subject to abuse.

4. Marijuana or cannabis contains Tetrahydrocannabinols (THC), which are psychoactive ingredients. According to Section 893.03(1), Florida Statutes (2013), THC is a Schedule I controlled substance that has a high potential for abuse and has no currently accepted medical use in treatment in the United States, and in its use under medical supervision does not meet accepted safety standards.

5. On or about April 30, 2013, Mr. Pineiro was arrested for possession of controlled substance with intent to sell, possession of a legend drug without a prescription, and possession of marijuana under 0-20 grams.

6. According to the arrest report, in a post-Miranda statement, Mr. Pineiro admitted to stealing the zolpidem pills from his job at South Point Pharmacy.

7. On or about February 3, 2014, in the Circuit Court of the Eleventh Judicial Circuit, in Miami-Dade County, case number F13010135, Mr. Pineiro entered into a pretrial diversion drug program.

CONCLUSIONS OF LAW

1. The Department of Health, by and through the State Surgeon General, has jurisdiction over this matter pursuant to Chapters 456 and 465, Florida Statutes.

2. Section 465.016(1)(m), Florida Statutes (2013), grants the Department the authority to issue an order to compel a licensee to submit to a mental or physical examination by physicians designated by the Department upon a finding of the State Surgeon General or his designee that probable cause exists to believe that the licensee is unable to practice pharmacy due to the finding of a marijuana cigarette and two bottles of zolpidem in his personal vehicle, and his admission of stealing zolpidem pills from his employer.

3. Based on the foregoing Findings of Fact, the State Surgeon General, through his designee, concludes that probable cause exists to believe Hector A. Pineiro, R.P.T., is unable to practice as a registered pharmacy technician with reasonable skill and safety to patients, pursuant to Section 465.016(1)(m), Florida Statutes (2013).

4. In accordance with the authority vested in the Department of Health under Chapters 456 and 465, Florida Statutes, the State Surgeon

General, through his designee, concludes that Section 465.016(1)(m),
Florida Statutes (2013), should be enforced.

DONE and ORDERED by the Department of Health this 7th day of

March, 2014.

John H. Armstrong, MD, FACS
State Surgeon General and
Secretary of Health



J. Martin Stubblefield
Deputy Secretary for Administration

COUNSEL FOR DEPARTMENT:

Ana M. Gargollo-McDonald
Assistant General Counsel
DOH Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, Florida 32399-3265
Florida Bar Number: 0035536
Telephone (850) 425-4444 Ext. 8133
Facsimile (850) 245-4682
ana.gargollo-mcdonald@flhealth.gov

ORIGINAL
EXAMINATION
SERIALIZED
INDEXED

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456.057 - Ownership and control of patient records; report or copies of records to be
furnished.—

10)(a)All patient records obtained by the department and any other documents
maintained by the department which identify the patient by name are confidential and exempt
from s. 119.07(1) and shall be used solely for the purpose of the department and the appropriate
regulatory board in its investigation, prosecution, and appeal of disciplinary proceedings. The
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John H. Armstrong, MD, FACS

Surgeon General & Sec

Vision: To be the **Healthiest State** in the Nation

**STATE OF FLORIDA
BOARD OF PHARMACY**

DEPARTMENT OF HEALTH,
PETITIONER,

VS.

CASE NO. 201218855

NICOLE C SCHREIBER,
RESPONDENT.

NOTICE

TO: NICOLE C SCHREIBER
1559 TREDEGAR DR
FORT MYERS, FL 33919

PLEASE TAKE NOTICE that a disciplinary hearing will be heard before the BOARD OF PHARMACY on Wednesday, August 13, 2014, commencing at 9 a.m. Although the Respondent is not required to be present, it is in their best interest to attend. This hearing will be held at DoubleTree by Hilton, 100 Fairway Drive, Deerfield Beach, FL 33441, 1(800) 624-3606..

The purpose of the hearing is to consider a motion for: Hearing - No Disputed Material Facts

Note: Cases shown on the agenda as "timed" items may be heard in a different order or may be heard earlier if all parties are present. Cases are scheduled beginning at 9 a.m.; therefore, it is imperative that you arrive promptly at 9 a.m. and be prepared to be at the meeting for several hours until your case is heard.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Hearing has been sent by U.S. Mail to the above address(es) this 10th day of July, 2014.

Board Executive Director
BOARD OF PHARMACY
Florida Department of Health
4052 Bald Cypress Way, Bin #
Tallahassee, FL 32399 -

Florida Department of Health

Division of Medical Quality Assurance
4052 Bald Cypress Way, Bin C10 • Tallahassee, FL 32399-3260
PHONE: (850) 245-4444 • FAX : (850) 245-4791

www.FloridasHealth.com

TWITTER:HealthyFLA
FACEBOOK:FLDepartmentofHealth
YOUTUBE: fldoh

HEALTH

Rick Scott
Governor

Mission:

To protect, promote & improve the health of all people in Florida through integrated

state, county & community efforts.

John H. Armstrong, MD, FACS

Surgeon General & Sec

Vision: To be the Healthiest State in the Nation

STATE OF FLORIDA BOARD OF PHARMACY

DEPARTMENT OF HEALTH,
PETITIONER,

VS.

CASE NO. 201218855

NICOLE C SCHREIBER,
RESPONDENT.

NOTICE

TO: NICOLE C SCHREIBER
1559 PO BOX 489
LAKE PARK, GA 31636

PLEASE TAKE NOTICE that a disciplinary hearing will be heard before the BOARD OF PHARMACY on Wednesday, August 13, 2014, commencing at 9 a.m. Although the Respondent is not required to be present, it is in their best interest to attend. This hearing will be held at DoubleTree by Hilton, 100 Fairway Drive, Deerfield Beach, FL 33441, 1(800) 624-3606..

The purpose of the hearing is to consider a motion for: Hearing - No Disputed Material Facts

Note: Cases shown on the agenda as "timed" items may be heard in a different order or may be heard earlier if all parties are present. Cases are scheduled beginning at 9 a.m.; therefore, it is imperative that you arrive promptly at 9 a.m. and be prepared to be at the meeting for several hours until your case is heard.

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Governor

John H. Armstrong, MD, FACS
Surgeon General & Secretary

MEMORANDUM

TO: Patrick W. Kennedy, M.A., Executive Director, Board of Pharmacy
FROM: Mary Miller, Assistant General Counsel *msm* *aw*
RE: **Hearing - No Disputed Material Facts**
SUBJECT: DOH v. Nicole C. Schreiber, R. Ph.
 DOH Case Number 2012-18855
DATE: June 12, 2014

Enclosed you will find materials in the above-referenced case to be placed on the agenda for final agency action for the **August 13, 2014** meeting of the board. The following information is provided in this regard.

Subject: Nicole C. Schreiber, R. Ph.
Subject's Address of Record: 1559 P.O. Box 489
 Lake Park, GA 31636
Enforcement Address(s): 1559 Tredegar Drive
 Fort Myers, FL 33919
Subject's License No: 40395 **Rank:** PS
Licensure File No: 31588
Initial Licensure Date: 8/19/2005
Board Certification: None
Required to Appear: No
Current IPN/PRN Contract: No
Allegation(s): **Count 1:** Section 456.072(1)(hh), F.S. (2012)
Count 2: Section 456.072(1)(k), F.S. (2012)
Prior Discipline: None
Probable Cause Panel: June 20, 2013: Risch and Mesaros
Subject's Attorney: Pro Se
Complainant/Address: Judy Rivenbark, M.D.
 Professional Resource Network
 Post Office Box 1020
 Fernandina Beach, FL 32035

Florida Department of Health
 Office of the General Counsel - Prosecution Services Unit
 4052 Bald Cypress Way, Bin C-65 • Tallahassee, FL 32399-1701
 Express mail address: 2585 Merchants Row • Suite 105
 PHONE: 850/245-4444 • FAX 850/245-4683

www.FloridasHealth.com
 TWITTER: HealthyFLA
 FACEBOOK: FLDepartmentofHealth
 YOUTUBE: fdoh

Materials Submitted:

Memorandum to the Board
Motion for Final Order after Hearing Not Involving
Disputed Issues of Material Fact
Administrative Complaint
Motion to Assess Costs
 Exhibit A – Cost Affidavit
 Exhibit 1 – Cost Summary
 Exhibit 2 – Itemized Cost Summary
Election of Rights
Board Notification Letter
Supplemental Investigative Report dated 5/1/2014
PCP Memorandum

Count 1: Section 456.072(1)(hh), F.S. (2012): from \$1,000 fine and suspension until successful completion or receipt of written confirmation of compliance with ongoing treatment to Revocation.

Count 2: Section 456.072(1)(k), F.S. (2012), from \$2,000 fine to \$10,000 fine and Revocation.

PRELIMINARY CASE REMARKS: Informal Hearing

On or about October 18, 2012, Respondent entered into a five year monitoring contract with PRN. On or about December 18, 2012, Respondent was terminated from PRN for failure to comply with the terms of her PRN monitoring contract. Respondent is presently withdrawn from practice and participating in a faith-based treatment program.

MSM/aed

STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,
Petitioner,

v.

CASE NO. 2012-18855

NICOLE SCHREIBER, R. PH.,
Respondent.

MOTION FOR FINAL ORDER AFTER HEARING NOT INVOLVING DISPUTED
ISSUES OF MATERIAL FACTS

COMES NOW, the Petitioner, by and through its undersigned counsel, and moves the Board of Pharmacy for entry of a Final Order in the above-styled cause on a date and time that has been determined and noticed by the Board. As grounds therefore, the Petitioner would state the following:

1. Petitioner previously filed an Administrative Complaint against Respondent alleging that Respondent had violated the provisions of Florida Statutes, as set forth therein. The Department, by filing the Administrative Complaint, is seeking to discipline the Respondent's license to practice as a Pharmacist, thereby affecting the Respondent's substantial interests.
2. On or about April 10, 2014, Petitioner served Respondent with the Administrative Complaint via Respondent's address of record with the

Department of Health. The Department, by serving the Respondent with the Administrative Complaint, provided the Respondent written notice of its decision to seek discipline of the Respondent's license to practice as a Pharmacist.

3. The Respondent has filed an Election of Rights Form or other responsive pleading evincing, or has otherwise indicated, that Respondent does not dispute the material facts alleged in the Administrative Complaint.

4. There are no disputed issues of material fact to be resolved by the Board.

5. Respondent has been advised, by a copy of this Motion, that a copy of the investigative file in this case shall be furnished to the Board to establish a prima facie case regarding the violations as set forth in the Administrative Complaint.

WHEREFORE the parties respectfully request the Board of Pharmacy, after allowing the Respondent the opportunity to present oral and/or written evidence in mitigation of the Administrative Complaint, enter a Final Order imposing whatever discipline upon the Respondent's license that the Board deems appropriate.

Respectfully Submitted,

Mary S. Miller

Mary S. Miller, Esq.
Assistant General Counsel
Fla. Bar No. 0780420
Florida Department of Health
Office of the General Counsel
4052 Bald Cypress Way, Bin #C65
Tallahassee, FL 32399-3265
Telephone: (850) 245-4444, ext. 8104
Facsimile: (850) 245-4683
Email: mary.miller2@flhealth.gov

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing has been provided by U.S. mail this 10th day of June, 2014, to Nicole Schreiber, R. Ph., P. O. Box 489, Lake Park, GA 31636.

Mary S.
Mary S. Miller, Esq.
Assistant General Counsel

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO. 2012-18855

NICOLE C. SCHREIBER, R.Ph.,

RESPONDENT.

ADMINISTRATIVE COMPLAINT

COMES NOW, Petitioner, Department of Health, by and through its undersigned counsel, and files this Administrative Complaint before the Board of Pharmacy against Respondent, Nicole C. Schreiber, R.Ph., and in support thereof alleges:

1. Petitioner is the state department charged with regulating the practice of pharmacy pursuant to Section 20.43, Florida Statutes; Chapter 456, Florida Statutes; and Chapter 465, Florida Statutes.
2. At all times material to this Administrative Complaint, Respondent was a licensed pharmacist within the state of Florida, having been issued license number PS 40395.

3. Respondent's address of record is 1559 Tredegar Drive, Fort Myers, Florida 33919.

4. On or about October 18, 2012, Respondent entered into a Monitoring Contract with the Florida Professionals Resource Network, Inc. (PRN).

5. PRN is the impaired practitioners program for the Board of Pharmacy, designated pursuant to Section 456.076, Florida Statutes. PRN is a program that monitors the evaluation, care, and treatment of impaired healthcare professionals. PRN also provides for the exchange of information between treatment providers and the Department for the protection of the public.

6. Respondent's PRN Monitoring Contract was for a period of five (5) years and subject to review by PRN.

7. The PRN Monitoring Contract signed by Respondent states, "I understand and agree that, by signing this contract, I am entering into a legal obligation as set forth in Section 456.072(1)(k), Florida Statutes."

8. On or about December 18, 2012, Respondent was terminated from PRN for failure to comply with the terms of Respondent's PRN Monitoring Contract.

COUNT ONE

9. Petitioner realleges and incorporates paragraphs one through eight, as if fully set forth herein.

10. Section 456.072(1)(hh), Florida Statutes (2012), provides that being terminated from a treatment program for impaired practitioners, which is overseen by an impaired practitioner consultant as described in Section 456.076, Florida Statutes, for failure to comply without good cause, with the terms of the monitoring or treatment contract entered into by the licensee, or for not successfully completing any drug treatment or alcohol treatment program, constitutes grounds for disciplinary action.

11. On or about December 18, 2012, Respondent was terminated from PRN for failure to comply with the terms of Respondent's PRN Monitoring Contract.

12. Based on the foregoing, Respondent violated Section 456.072(1)(hh), Florida Statutes (2012), by being terminated from a treatment program for impaired practitioners, which is overseen by an impaired practitioner consultant as described in Section 456.076, Florida Statutes, for failure to comply without good cause, with the terms of the

monitoring or treatment contract entered into by the licensee, or for not successfully completing any drug treatment or alcohol treatment program.

COUNT TWO

13. Petitioner realleges and incorporates paragraphs one through eight, as if fully set forth herein.

14. Section 456.072(1)(k), Florida Statutes (2012), provides that failing to perform any statutory or legal obligation placed upon a licensee constitutes grounds for disciplinary action.

15. On or about December 18, 2012, Respondent was terminated from PRN for failure to comply with the terms of her PRN Monitoring Contract, which stated the contract was a legal obligation as set forth in Section 456.072(1)(k), Florida Statutes.

16. Based on the foregoing, Respondent violated Section 456.072(1)(k), Florida Statutes (2012), by failing to perform any statutory or legal obligation placed upon a licensee by being terminated from PRN for failure to comply with the terms of Respondent's PRN Monitoring Contract.

WHEREFORE, the Petitioner respectfully requests that the Board of Pharmacy enter an order imposing one or more of the following penalties:

permanent revocation or suspension of Respondent's license, restriction of practice, imposition of an administrative fine, issuance of a reprimand, placement of the Respondent on probation, corrective action, refund of fees billed or collected, remedial education and/or any other relief that the Board deems appropriate.

SIGNED this 20th day of June, 2013.

JOHN H. ARMSTRONG, MD, FACS
State Surgeon General and
Secretary of Health

Mary S. Miller

MARY S. MILLER
Assistant General Counsel
DOH Prosecution Services Unit
4052 Bald Cypress Way, Bin #C65
Tallahassee, FL 32399-3265
Fla. Bar No. 0780420
(850) 245-4444 phone, ext. 8104
(850) 245-4683 fax
E-mail: Mary_Miller2@doh.state.fl.us

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK *Angel Sanders*
DATE JUN 24 2013

PCP: June 20, 2013
PCP Members: Risch + Mesaros

NOTICE OF RIGHTS

Respondent has the right to request a hearing to be conducted in accordance with Section 120.569 and 120.57, Florida Statutes, to be represented by counsel or other qualified representative, to present evidence and argument, to call and cross-examine witnesses and to have subpoena and subpoena duces tecum issued on his or her behalf if a hearing is requested.

NOTICE REGARDING ASSESSMENT OF COSTS

Respondent is placed on notice that Petitioner has incurred costs related to the investigation and prosecution of this matter. Pursuant to Section 456.072(4), Florida Statutes, the Board shall assess costs related to the investigation and prosecution of a disciplinary matter, which may include attorney hours and costs, on the Respondent in addition to any other discipline imposed.

STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,
Petitioner,

v.

CASE NO. 2012-18855

NICOLE C. SCHREIBER, R. PH.,
Respondent.

MOTION TO ASSESS COSTS IN ACCORDANCE
WITH SECTION 456.072(4)

COMES NOW the Department of Health, by and through undersigned counsel, and moves the Board of Pharmacy for the entry of a Final Order assessing costs against the Respondent for the investigation and prosecution of this case in accordance with Section 456.072(4), Florida Statutes. As grounds therefore, the Petitioner states the following:

1. At its next regularly scheduled meeting, the Board of Pharmacy will take up for consideration the above-styled disciplinary action and will enter a Final Order therein.

2. Section 456.072(4), Florida Statutes, states as follows:

In addition to any other discipline imposed through final order, or citation, entered on or after July 1, 2001, pursuant to this section or

discipline imposed through final order, or citation, entered on or after July 1, 2001, for a violation of any practice act, the board, or the department when there is not board, shall assess costs related to the investigation and prosecution of the case. Such costs related to the investigation and prosecution include, but are not limited to, salaries and benefits of personnel, costs related to the time spent by the attorney and other personnel working on the case, and any other expenses incurred by the department for the case. The board, or the department when there is no board, shall determine the amount of costs to be assessed after its consideration of an affidavit of itemized costs and any written objections thereto.

3. The investigation and prosecution of this case has resulted in costs in the total amount of \$2,050.21 based on the following itemized statement of costs:

Complaint Number: 201218855
Subject's Name: SCHREIBER, NICOLE C

| | ***** Cost to Date ***** | |
|-----------------------------|--------------------------|-------------------|
| | Hours | Costs |
| Complaint: | 1.10 | \$60.39 |
| Investigation: | 20.90 | \$1,335.71 |
| Legal: | 6.20 | \$654.11 |
| Compliance: | 0.00 | \$0.00 |
| | ***** | ***** |
| Sub Total: | 28.20 | \$2,050.21 |
| Expenses to Date: | | \$0.00 |
| Prior Amount: | | \$0.00 |
| Total Costs to Date: | | \$2,050.21 |

Therefore, the Petitioner seeks an assessment of costs against the Respondent in the amount of \$1,396.10 as evidenced in the attached affidavit. (Exhibit A).

4. Should the Respondent file written objections to the assessment of costs, within ten (10) days of the date of this motion, specifying the grounds for the objections and the specific elements of the costs to which the objections are made, the Petitioner requests that the Board determine the amount of costs to be assessed based upon its consideration of the affidavit attached as Exhibit A and any timely-filed written objections.

5. Petitioner requests that the Board grant this motion and assess costs in the amount of \$1,396.10 as supported by competent, substantial evidence. This assessment of costs is in addition to any other discipline imposed by the Board and is in accordance with Section 456.072(4), Florida Statutes.

WHEREFORE, the Department of Health requests that the Board of Pharmacy enter a Final Order assessing costs against the Respondent in the amount of \$1,396.10.

DATED this 13th day of June, 2014.

Respectfully submitted,

Mary S. L.

Mary S. Miller, Esq.
Assistant General Counsel
DOH Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, FL 32399-3265
Florida Bar # 0780420
(850) 245-4444, ext. 8104
(850) 245-4683 Fax
Email: mary.miller2@flhealth.gov

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Motion to Assess Costs has been provided by U.S. Mail this 13th day of June, 2014, to NICOLE C. SCHREIBER, R. PH, .

Mary S. L.

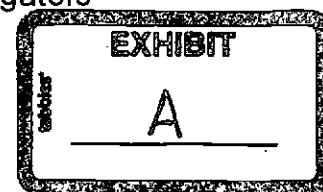
Mary S. Miller, Esq.
Assistant General Counsel

AFFIDAVIT OF FEES AND COSTS EXPENDED

STATE OF FLORIDA
COUNTY OF LEON:

BEFORE ME, the undersigned authority, personally appeared **SHANE WALTERS** who was sworn and states as follows:

- 1) My name is Shane Walters.
- 2) I am over the age of 18, competent to testify, and make this affidavit upon my own personal knowledge and after review of the records at the Florida Department of Health (DOH).
- 3) I am the Operations and Management Consultant Manager (OMCM) for the Consumer Services and Compliance Management Unit for DOH. The Consumer Services Unit is where all complaints against Florida health care licensees (e.g., medical doctors, dentists, nurses, respiratory therapists) are officially filed. I have been in my current job position for more than one year. My business address is 4052 Bald Cypress Way, Bin C-75 Tallahassee, Florida 32399-3275.
- 4) As OMCM of the Consumer Services and Compliance Management Unit, my job duties include reviewing data in the Time Tracking System and verifying that the amounts correspond. The Time Tracking System is a computer program which records and tracks DOH's costs regarding the investigation and prosecution of cases against Florida health care licensees.
- 5) As of today, DOH's total costs for investigating and prosecuting DOH case number(s) **2012-18855** (Department of Health v **NICOLE C. SCHREIBER, R.PH.**) are **TWO THOUSAND FIFTY DOLLARS AND TWENTY-ONE CENTS (\$2,050.21)**.
- 6) The costs for DOH case number(s) **2012-18855** (Department of Health v **NICOLE C. SCHREIBER, R.PH.**) are summarized in Exhibit 1 (Cost Summary Report), which is attached to this document.
- 7) The itemized costs and expenses for DOH case number(s) **2012-18855** (Department of Health v **NICOLE C. SCHREIBER, R.PH.**) are detailed in Exhibit 2 (Itemized Cost Report and Itemized Expense Report and receipts), which is attached to this document.
- 8) The itemized costs as reflected in Exhibit 2 are determined by the following method: DOH employees who work on cases daily are to keep track of their time in six-minute increments (e.g., investigators



and lawyers). A designated DOH employee in the Consumer Services Unit, Legal Department, and in each area office, inputs the time worked and expenses spent into the Time Tracking System. Time and expenses are charged against a state health care Board (e.g., Florida Board of Medicine, Florida Board of Dentistry, Florida Board of Osteopathic Medicine), and/or a case. If no Board or case can be charged, then the time and expenses are charged as administrative time. The hourly rate of each employee is calculated by formulas established by the Department. (See the Itemized Cost Report)

- 9) Shane Walters, first being duly sworn, states that she has read the foregoing Affidavit and its attachments and the statements contained therein are true and correct to the best of her knowledge and belief.

FURTHER AFFIANT SAYETH NOT.

Shane Walters

Shane Walters, Affiant

State of Florida
County of Leon

Sworn to and subscribed before me this 2nd day of June, 2014,
by Shane Walters, who is personally known to me.

Towanda B. Burnett
Notary Signature

Towanda B. Burnett
Name of Notary Printed



Stamp Commissioned Name of Notary Public:

Complaint Cost Summary

Complaint Number: 201218855

Subject's Name: SCHREIBER, NICOLE C

| ***** Cost to Date ***** | | |
|--------------------------|-------|------------|
| | Hours | Costs |
| Complaint: | 1.10 | \$60.39 |
| Investigation: | 20.90 | \$1,335.71 |
| Legal: | 6.20 | \$654.11 |
| Compliance: | 0.00 | \$0.00 |
| | ***** | ***** |
| Sub Total: | 28.20 | \$2,050.21 |
| Expenses to Date: | | \$0.00 |
| Prior Amount: | | \$0.00 |
| Total Costs to Date: | | \$2,050.21 |



**Time Tracking System
Itemized Cost by Complaint**

Complaint 201218855

Report Date 06/02/2014

Page 1 of 2

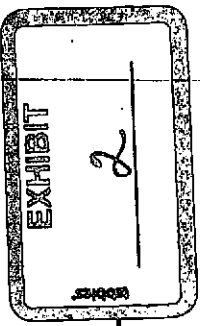
| Staff Code | Activity Hours | Staff Rate | Cost | Activity Date | Activity Code | Activity Description |
|------------|----------------|------------|------|---------------|---------------|----------------------|
|------------|----------------|------------|------|---------------|---------------|----------------------|

CONSUMER SERVICES UNIT

| | | | | | | |
|------------------|-------------|---------|----------------|------------|----|------------------|
| HA132 | 1.10 | \$54.90 | \$60.39 | 12/26/2012 | 25 | REVIEW CASE FILE |
| Sub Total | 1.10 | | \$60.39 | | | |

INVESTIGATIVE SERVICES UNIT

| | | | | | | |
|------|------|---------|---------|------------|-----|--|
| FI72 | 1.50 | \$63.98 | \$95.97 | 12/27/2012 | 4 | ROUTINE INVESTIGATIVE WORK |
| FI72 | 1.50 | \$63.98 | \$95.97 | 12/28/2012 | 4 | ROUTINE INVESTIGATIVE WORK |
| FI72 | 1.50 | \$63.98 | \$95.97 | 12/31/2012 | 4 | ROUTINE INVESTIGATIVE WORK |
| FI72 | 0.70 | \$63.98 | \$44.79 | 01/09/2013 | 76 | REPORT PREPARATION |
| FI72 | 0.80 | \$63.98 | \$51.18 | 01/16/2013 | 4 | ROUTINE INVESTIGATIVE WORK |
| FI72 | 1.00 | \$63.98 | \$63.98 | 01/17/2013 | 4 | ROUTINE INVESTIGATIVE WORK |
| FI72 | 0.50 | \$63.98 | \$31.99 | 01/23/2013 | 4 | ROUTINE INVESTIGATIVE WORK |
| FI72 | 1.00 | \$63.98 | \$63.98 | 01/31/2013 | 76 | REPORT PREPARATION |
| FI72 | 0.50 | \$63.98 | \$31.99 | 02/11/2013 | 4 | ROUTINE INVESTIGATIVE WORK |
| FI72 | 1.00 | \$63.98 | \$63.98 | 02/18/2013 | 4 | ROUTINE INVESTIGATIVE WORK |
| FI72 | 0.70 | \$63.98 | \$44.79 | 03/11/2013 | 76 | REPORT PREPARATION |
| FI72 | 0.20 | \$63.98 | \$12.80 | 03/18/2013 | 4 | ROUTINE INVESTIGATIVE WORK |
| FI72 | 0.80 | \$63.98 | \$51.18 | 03/18/2013 | 76 | REPORT PREPARATION |
| FI72 | 1.00 | \$63.82 | \$63.82 | 03/28/2014 | 6 | SUPPLEMENTAL INVESTIGATION |
| FI72 | 1.50 | \$63.82 | \$95.73 | 04/02/2014 | 6 | SUPPLEMENTAL INVESTIGATION |
| FI72 | 1.50 | \$63.82 | \$95.73 | 04/07/2014 | 6 | SUPPLEMENTAL INVESTIGATION |
| FI72 | 0.50 | \$63.82 | \$31.91 | 04/08/2014 | 100 | SERVICE OF ADMINISTRATIVE COMPLAINTS, SUBPOENAS, NOTICE TO CEASE |
| FI72 | 1.50 | \$63.82 | \$95.73 | 04/08/2014 | 6 | SUPPLEMENTAL INVESTIGATION |
| FI72 | 0.20 | \$63.82 | \$12.76 | 04/16/2014 | 76 | REPORT PREPARATION |
| FI72 | 0.50 | \$63.82 | \$31.91 | 04/16/2014 | 6 | SUPPLEMENTAL INVESTIGATION |
| FI72 | 1.00 | \$63.82 | \$63.82 | 04/23/2014 | 6 | SUPPLEMENTAL INVESTIGATION |
| FI72 | 0.50 | \$63.82 | \$31.91 | 05/01/2014 | 76 | REPORT PREPARATION |
| FI72 | 1.00 | \$63.82 | \$63.82 | 05/01/2014 | 6 | SUPPLEMENTAL INVESTIGATION |



**Time Tracking System
Itemized Cost by Complaint**

Complaint 201218855

Report Date 06/02/2014

Page 2 of 2

| Staff Code | Activity Hours | Staff Rate | Cost | Activity Date | Activity Code | Activity Description |
|------------|----------------|------------|------|---------------|---------------|----------------------|
|------------|----------------|------------|------|---------------|---------------|----------------------|

| | | | | | | |
|-----------|-------|--|------------|--|--|--|
| Sub Total | 20.90 | | \$1,335.71 | | | |
|-----------|-------|--|------------|--|--|--|

PROSECUTION SERVICES UNIT

| | | | | | | |
|-----------|------|----------|----------|------------|----|--|
| HLL96A | 0.80 | \$106.35 | \$85.08 | 01/02/2013 | 25 | REVIEW CASE FILE |
| HLL70A | 3.00 | \$106.35 | \$319.05 | 03/22/2013 | 28 | PREPARE OR REVISE ADMINISTRATIVE COMPLAINT |
| HLL70A | 1.00 | \$106.35 | \$106.35 | 06/20/2013 | 79 | STIPULATION |
| HLL70A | 0.10 | \$106.35 | \$10.64 | 06/24/2013 | 28 | PREPARE OR REVISE ADMINISTRATIVE COMPLAINT |
| HLL70A | 0.10 | \$106.35 | \$10.64 | 08/20/2013 | 25 | REVIEW CASE FILE |
| HLL70A | 0.20 | \$101.95 | \$20.39 | 04/01/2014 | 25 | REVIEW CASE FILE |
| HLL70A | 0.70 | \$101.95 | \$71.37 | 04/02/2014 | 79 | STIPULATION |
| HLL70A | 0.10 | \$101.95 | \$10.20 | 04/18/2014 | 26 | PREPARE OR REVISE MEMORANDUM |
| HLL70A | 0.20 | \$101.95 | \$20.39 | 05/01/2014 | 35 | TELEPHONE CALLS |
| Sub Total | 6.20 | | \$654.11 | | | |

Total Cost

\$2,050.21

***** CONFIDENTIAL *****
Time Tracking System
Itemized Expense by Complaint
Complaint

Report Date: 06/02/2014

Page 1 of 1

| Staff Code | Expense Date | Expense Amount | Expense Code | Expense Code Description |
|------------|--------------|----------------|--------------|--------------------------|
|------------|--------------|----------------|--------------|--------------------------|

SubTotal
Total Expenses

CONFIDENTIAL AND EXEMPT MATERIALS

**One or more pages have been removed
from this document for security reasons**

**Scroll down to see the available pages or
advance to the next document if all
pages have been removed.**

SOME OR ALL PAGES IN THIS DOCUMENT ARE PATIENT RECORDS
AND/OR DOCUMENTS THAT IDENTIFY THE PATIENT BY NAME AND ARE
EXEMPT FROM PUBLIC RECORDS LAWS.

456.057 - Ownership and control of patient records; report or copies of records to be
furnished.—

10)(a)All patient records obtained by the department and any other documents
maintained by the department which identify the patient by name are confidential and exempt
from s. 119.07(1) and shall be used solely for the purpose of the department and the appropriate
regulatory board in its investigation, prosecution, and appeal of disciplinary proceedings. The
records shall not be available to the public as part of the record of investigation for and
prosecution in disciplinary proceedings made available to the public by the department or the
appropriate board.

Mission:

To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.



Rick Scott
Governor

John H. Armstrong, MD, FACS
State Surgeon General & Secretary

Vision: To be the Healthiest State in the Nation

June 13, 2014

Nicole C. Schreiber, R. Ph.
1559 P.O. Box 489
Lake Park, GA 31636

Re: DOH vs. Nicole C. Schreiber, R. Ph.
DOH Case Number: 2012-18855

Dear Ms. Schreiber:

I am in receipt of your Election of Rights requesting a hearing and indicating you are interested in settling this matter, concerning the above referenced case. I also received your voice mail message earlier this month stating you wanted your case to be presented to the Board of Pharmacy as a hearing where there are no disputed issues of material fact, or an "informal" hearing. This means that the facts alleged in the Administrative Complaint are uncontested. This is an important distinction because, by law, the Board cannot resolve disputes of material fact in this case or any disciplinary case. Since you are requesting a hearing not involving disputed issues of material fact, you are not admitting the facts alleged in the Administrative Complaint, however, you are agreeing not to contest these facts and to limit presentation to legal argument, if any, and to matters in mitigation or extenuation.

Our office is now preparing for this case to be presented at the next meeting of the Florida Board of Pharmacy, scheduled for August 12-13, 2014. The Board office will send an official notice with the time and location two weeks prior to the meeting.

Thank for your attention and cooperation in this matter. Should you have any questions, please feel free to contact this office.

Sincerely,

Mary S. Miller, Esq.
Assistant General Counsel

MSM/aed

Florida Department of Health

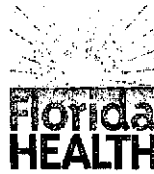
Office of the General Counsel • Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65 • Tallahassee, FL 32399-1701
Express mail address: 2585 Merchants Row – Suite 105
PHONE: 850/245-4444 • FAX 850/245-4683

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TWITTER: HealthyFLA
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YOUTUBE: fldoh

Mission:

To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.



Rick Scott
Governor

John H. Armstrong, MD, FACS
State Surgeon General & Secretary

Vision: To be the Healthiest State in the Nation

July 1, 2013

Physicians Recovery Network
12 South 2nd Street
Fernandina Beach, Florida 32034

RE: Department of Health v. Nicole C. Schreiber, R.Ph.
Case No. 2012-18855

Dear Sir/Madam:

The Probable Cause Panel of the Board of Pharmacy has found probable cause to believe that the above-referenced pharmacist has violated the Pharmacy Practice Act. The attached Administrative Complaint has been filed against the above-referenced licensee. An Administrative Complaint is a formal charging document, similar to an information/indictment in a criminal case, and represents the general factual basis upon which the individual's license may be disciplined. The licensee has the right to an evidentiary hearing to dispute the allegations and you may be asked to testify regarding your knowledge of this case.

You will be notified of any hearings or proceedings you are required or permitted to attend. In the interim, please feel free to contact me in writing at the address or telephone number listed below.

Sincerely,

Mary S. Miller
Assistant General Counsel

MSM/mt

Attachment
MSM/mt
Enclosure

Florida Department of Health

Office of the General Counsel • Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65 • Tallahassee, FL 32399-1701
Express mail address: 2585 Merchants Row – Suite 105
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STATE SURGEON GENERAL'S OFFICE

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456.057 - Ownership and control of patient records; report or copies of records to be
furnished.—

10)(a)All patient records obtained by the department and any other documents
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MEMORANDUM OF PROBABLE CAUSE DETERMINATION

TO: Department of Health, Prosecution Services Unit
FROM: Chair, Probable Cause Panel, Florida Board of Pharmacy
RE: Nicole C. Schriber, R.Ph. (MSM)
Case Number: 2012-18855

MEMBERS: ~~Gavin Meshad and Michele Weizer~~ Masaros / Koch

DATE OF PCP: June 20, 2013 AGENDA ITEM: A-1
.....

This matter came before the Probable Cause Panel on the above date. Having reviewed the complete investigative file, recommendations of the Department, and any information submitted by the Subject, and being otherwise fully advised in the premises, the panel finds that:

X Probable cause exists and a formal complaint shall be filed for violation of statutes and rules, including but not limited to:

Section 456.072(1)(hh), Florida Statutes (2012);
Section 456.072(1)(k), Florida Statutes (2012);

___ Probable Cause was **not** found in this case

___ In lieu of probable cause, issue **letter of guidance**

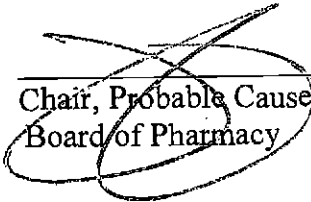
___ Case requires **expert review**

___ Case needs **further investigation**

- a)
- b)
- c)

___ Upon **reconsideration**, dismiss

___ other _____


Chair, Probable Cause Panel
Board of Pharmacy

6/20/13
Date

2013 JUN -3 PM 2:23

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Rick Scott
Governor

John H. Armstrong, MD, FACS
State Surgeon General & Secretary

Vision: To be the Healthiest State in the Nation

July 15, 2014

Thomas Edmund Saywell
11805 Arbor Glen Drive
Chardon, OH 44024

RE: Pharmacist Intern Application

Dear Mr. Saywell,

This is to advise that the above reference matter will be reviewed by the Board at their next scheduled meeting which is Wednesday, August 13, 2014. The meeting is being held at the DoubleTree by Hilton, 100 Fairway Drive, Deerfield Beach, FL 33441, (800) 624-3606. The meeting will begin at 9:00 a.m.

You are not required to appear; however, you are encouraged to do so. Issues are heard in the order they are listed on the agenda. We are unable to give you an exact time your request will be heard. Our office will follow up in writing after the meeting regarding the Board's decision.

You may print a copy of the agenda which will be available on the Board of Pharmacy website a week before the meeting at: http://www.doh.state.fl.us/mqa/pharmacy/ph_meeting.html.

If you have any questions regarding this information, please contact me at 850-245-4444, ext. 3367.

Sincerely,

A handwritten signature in black ink, appearing to read "Jay Cumbie".

Jay Cumbie,
Regulatory Specialist II

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FLORIDA BOARD OF PHARMACY
P.O. Box 6320 • Tallahassee, FL 32314-6320
Phone: 850-245-4292
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Florida Board of Pharmacy

ITEM #2 – PHARMACY INTERN APPLICATION
FOR U.S. PHARMACY STUDENTS/GRADUTES

Rule 64B16-26.400(1), Florida Administrative Code, states, A pharmacy intern is required to be registered with the Department of Health as an intern before being employed as an intern in a pharmacy in Florida. Intern certificates issued by the Florida Board of Pharmacy (the board) are valid for the State of Florida ONLY and must be returned to the board after an intern has become a Registered Pharmacist in the State of Florida. Applicants must complete the information below and forward the application to the College of Pharmacy to be completed by the Dean and returned to the address above.

Please print or type legibly.

| | | | | |
|---|--|--|--|--|
| 1. Biographical Information | | | | |
| Last Name <i>Saywell</i> | | First Name <i>Thomas</i> | | Middle Name <i>Edmund</i> |
| Home Address (Mailing Address – ML) <i>11805 Arbor Glen Dr.</i> | | City <i>Chardon</i> | | State <i>OH</i> Zip <i>44024</i> |
| Work Address (Practice Location – PL) <i>Giant Eagle Pharmacy</i> | | City <i>Middlefield</i> | | State <i>OH</i> Zip <i>44062</i> |
| Current Phone Number <i>440-221-3050</i> | | Home Phone Number <i>440-285-7285</i> | | Date of Birth <i>8/11/1990</i> |
| 2. Equal Opportunity Data – We are required to ask that you furnish the following information as part of your voluntary compliance with Section 2, Uniform Guidelines on Employee Selection Procedure (1978) 43FR38295 (August 25, 1978). The information is gathered for statistical and reporting purposes only and does not in any way affect your candidacy for licensure. | | | | |
| SEX: <input checked="" type="checkbox"/> Male <input type="checkbox"/> Female RACE: <input checked="" type="checkbox"/> Caucasian <input type="checkbox"/> Black <input type="checkbox"/> Hispanic <input type="checkbox"/> Asian <input type="checkbox"/> Native American <input type="checkbox"/> Other | | | | |
| 3. If known, indicate the name and address of the pharmacy where you will intern in Florida. <i>N/A</i> | | | | |
| 4. Have you ever applied to take the Florida pharmacist examination? If yes, please indicate the date. Yes _____ No <input checked="" type="checkbox"/> _____ Date _____ | | | | |
| 5. Have you ever been convicted of, or entered a plea of guilty, nolo contendere, or no contest, to a crime in any jurisdiction other than a minor traffic offense? Yes <input checked="" type="checkbox"/> _____ No _____ | | | | |
| <small>(You must include all misdemeanors and felonies, even if adjudication was withheld by the court, so that you would not have a record of conviction. Driving under the influence or driving while impaired is <u>NOT</u> a minor traffic offense for the purposes of this question.)</small> | | | | |

Board Review

| | |
|---|--|
| 10. Has disciplinary action ever been taken against your pharmacist or any other professional license in this state or any other state? | |
| Yes _____ | No <input checked="" type="checkbox"/> |
| 11. Have you ever surrendered your pharmacist or any other professional license in another jurisdiction when disciplinary action was pending? | |
| Yes _____ | No <input checked="" type="checkbox"/> |
| 12. Are you presently being investigated or is any disciplinary action pending against you? | |
| Yes _____ | No <input checked="" type="checkbox"/> |
| 13. Have you been convicted of, or entered a plea of guilty or nolo contendere to, regardless of adjudication, a felony under Chapter 409, F.S. (relating to social and economic assistance), Chapter 817, F.S. (relating to fraudulent practices), Chapter 893, F.S. (relating to drug abuse prevention and control) or a similar felony offense(s) in another state or jurisdiction? (If you responded "no", skip to #14.) | |
| Yes _____ | No <input checked="" type="checkbox"/> |
| 13a. If "yes" to 13, for the felonies of the first or second degree, has it been more than 15 years from the date of the plea, sentence and completion of any subsequent probation? | |
| Yes _____ | No <u>N/A</u> |
| 13b. If "yes" to 13, for the felonies of the third degree, has it been more than 10 years from the date of the plea, sentence and completion of any subsequent probation? (This question does not apply to felonies of the third degree under Section 893.13(6)(a), Florida Statutes). | |
| Yes _____ | No <u>N/A</u> |
| 13c. If "yes" to 13, for the felonies of the third degree under Section 893.13(6)(a), Florida Statutes, has it been more than 5 years from the date of the plea, sentence and completion of any subsequent probation? | |
| Yes _____ | No <u>N/A</u> |
| 13d. If "yes" to 13, have you successfully completed a drug court program that resulted in the plea for the felony offense being withdrawn or the charges dismissed? (If "yes", please provide supporting documentation). | |
| Yes _____ | No <u>N/A</u> |
| 14. Have you been convicted of, or entered a plea of guilty or nolo contendere to, regardless of adjudication, a felony under 21 U.S.C. ss. 801-970 (relating to controlled substances) or 42 U.S.C. ss. 1395-1396 (relating to public health, welfare, Medicare and Medicaid issues)? (If no do not answer 14a.) | |
| Yes _____ | No <input checked="" type="checkbox"/> |

14a. If "yes" to 14; has it been more than 15 years before the date of application since the sentence and any subsequent period of probation for such conviction or plea ended?

Yes _____ No N/A

15. Have you ever been terminated for cause from the Florida Medicaid Program pursuant to Section 409.913, Florida Statutes? (If no, do not answer 15a.)

Yes _____ No

15a. If you have been terminated but reinstated, have you been in good standing with the Florida Medicaid Program for the most recent five years?

Yes _____ No

16. Have you ever been terminated for cause, pursuant to the appeals procedures established by the state or federal government, from any other state Medicaid program or the federal Medicare program? (If no, do not answer 16a and 16b.)

Yes _____ No

16a. Have you been in good standing with a state Medicaid program or the federal Medicare program for the most recent five years?

Yes _____ No

16b. Did the termination occur at least 20 years prior to the date of this application?

Yes _____ No

17. Are you currently listed on the United States Department of Health and Human Services Office of Inspector General's List of Excluded Individuals and Entities? (If "yes", please provide documentation)

Yes _____ No

18. If "yes" to any of the questions 13 through 17 above, on or before July 1, 2009, were you enrolled in an educational or training program in the profession in which you are seeking licensure that was recognized by this profession's licensing board or the Department of Health? (If "yes", please provide official documentation verifying your enrollment status.)

Yes _____ No

All of the above questions must be answered or your application will be returned for completion. If you answer "yes" to any questions in 5-18, explain on a sheet providing accurate details, and submit a certified official copy of the order of the court or state board of pharmacy, supporting documents or all if applicable.

Section 456.013(1)(a), F.S., requires that applicants supplement their applications as needed to reflect any material change in any circumstances or changes stated in the application which takes place between the initial filing of the application and the final grant or denial of the license and which might affect the decision of the department.

The statements contained in this application are true, complete and correct and I agree that said statements shall form the basis of my application and I do authorize the Florida Board of Pharmacy to make any investigations they deem appropriate and to secure any additional information concerning me. I further authorize them to furnish any information they may have or have in the future concerning me to any person, corporation, institution, association, board or any municipal, county, state, or federal government agencies or units, and that I

understand according to the Florida Board of Pharmacy statutes, a pharmacy intern's license may be revoked or suspended for presenting any false, fraudulent, or forged statement, certificate, diploma, or other item, in connection with an application for a license or permit, as set forth in section 456.015(2)(a), F.S.

Thomas Samuel
(SIGNATURE OF APPLICANT)

5/1/14
(DATE)

TO BE COMPLETED BY DEAN OF COLLEGE OF PHARMACY

This is to certify that the above named applicant is entered into the professional curriculum of the Prabbe College of Pharmacy, as of September 8, 2009; and ^{will be} ~~is~~ a graduate
(NAME OF SCHOOL) (DATE)

of said professional curriculum as of May 10, 2015.
(DATE)

(SCHOOL SEAL)

THOMAS L. KIER
(PRINT NAME OF DEAN)

[Signature]
(SIGNATURE OF DEAN)

5/2/14
(DATE)

To Whom It May Concern:

My name is Thomas Saywell, and I am 23 years old, just finishing up my fifth year studying pharmacy at Ohio Northern University. Becoming a pharmacist has always been a major goal in my life, and I was extremely excited and honored by the opportunity to study at a university as reputable as Ohio Northern. Through my five years on campus I have become known an exemplary member of the Ohio Northern's community. I have maintained a 3.36 GPA while participating in numerous extracurricular activities including SSHP, Sigma Pi Fraternity International, ASCP and intramural sports. However, when I was a sophomore, some issues off-campus occurred that need to be addressed.

When I was in my second year of school at the age of 20, I was arrested on two different occasions for the possession/consumption of an alcoholic beverage being under the age of 21. This is in violation of A.C.O. 529.021. The first of the two instances occurred just after my twentieth birthday on August 12, 2010 in Ada, Ohio when I was celebrating with friends, some of whom were over the age of 21. There was alcohol present at the house of my older friend who invited us over, and I did wrongly consume it. At around one o'clock in the morning, myself and a few friends walked to McDonalds just down the road from where we lived. On the way over, a police officer pulled his car next to us and questioned us as to what we were doing and where we were heading. He expected that we were intoxicated and appeared to be underage. He asked me if I had consumed alcohol, and I told him that I had, in fact, drank that night. He took my drivers' license to verify my age and took me, along with two of the guys I was with, to the station. There we were all charged with underage consumption and scheduled to appear at court on the 23rd of August. I opted to appear at court without counsel, and I went on to enter a plea of guilty to the charge of Underage Possession/ Consumption of Alcohol and enter into Hardin County's "Diversion" program. This is a ninety day contract with the state that, if completed, would dismiss the charge. Some of the specifications of the contract were to have no further violations, pay all court costs in full, complete an alcohol assessment, and perform 16 community service hours. I successfully completed the diversion program, and the charge was dismissed.

The second of my arrests occurred on March 20, 2011, also in Ada, Ohio. I again attended a party at an off-campus house. The house was really packed and the music was turned up far too loud. The Ada Police received a noise complaint, and opted to shut down the party.

They came to the door of the house, and the person who held the lease permitted the officers to enter. The police swept through and noticed that underage drinking was occurring and proceeded to search the house. I made the decision to not run from the police, as many others were, and to remain in the house. The next thing I knew I was face to face with the same officer that had arrested me the first time. He asked me first if I have had anything to drink. I told him the truth. I did have a few drinks earlier in the evening, but none for awhile. He instantly handcuffed me and led me to his police car without questioning any of the others. I obtained a lawyer for this offense, and the trial was on June 2, 2011. In court, given the circumstances and nature of the arrest, the charge was reduced to a non-alcohol related persistent disorderly conduct, a level 4 misdemeanor in the state of Ohio, which entails a suspended 30 day jail sentence and a fine. I paid the accompanying fine and successfully avoided all alcohol for the entirety of my six month probationary period, and the suspension of the jail sentence was upheld.

I acknowledge that I should have just said enough is enough after my first incident and completely stopped drinking or more simply just never consumed alcohol in the first place. However, that is not the decision I made. At the time, I viewed my first arrest as an unlucky turn of events that should not have happened to me. I thought that there was no way it would ever happen again, and I told myself that I would just drink less and less often. Admittedly, I fell into the trap of "everyone else is doing it." Looking back, getting arrested for the same thing the second time was a major added learning experience in my life that taught me there is no place for alcohol consumption in the life of someone who strives to have a rewarding career practicing pharmacy. The media is full of stories where great, gifted individuals have had their advantages stripped from them simply by getting involved in the wrong circumstances. I view myself as a person who has been given many gifts and advantages in life. I have been blessed with a loving family who has sacrificed greatly for me to attend Ohio Northern and pursue a career as a pharmacist. I now see how quickly all I have worked for thus far in life could be lost because of mindless mistakes. I have always thought of myself as my own person and been seen as a leader by my peers. This is an example of where I lost sight of my own values and what I stand for to just follow others.

During my volatile sophomore year when I was 20 years old, I had a few negative factors that had contributed to my troubles. I had never really experienced or been around alcohol whatsoever when in high school, and managed to avoid it my first year in college. In my second

year, my friend group consisted of a good amount of 21 year olds that had a house where they had parties with alcohol. It was legal for them, and I mistakenly partook. I was not considering the long term consequences of my current actions at the time. That year, my vision was short-sighted. I did not view myself as a future health care professional, and I felt that if everyone else was doing it, why should I not? I now know the high standard that I need to hold myself to in the profession of pharmacy to be one of the most well respected and trusted members of the health care team.

Throughout the past three years since my dealings with underage consumption/possession I have learned and grown more as a person than I ever thought possible. I am now 23 years old and alcohol has no place in my life. During the months following my second arrest, I attended about five private counseling sessions with Dr. Schaffer, one of the psychologists employed by Ohio Northern. He helped me prioritize my values and beliefs to get me to a point in life where I make my own decisions and do not simply follow others. He agreed that I did not and do not have an alcohol dependence problem, but simply a lacked sound decision making at the time. I had a meeting with Dr. Tom Kier, Associate Dean of Pharmacy at Ohio Northern. I set up this meeting because I thought it was important for me to disclose my mistakes with the university. I do not wish to attempt to keep anything hidden, and I do not want to have the school seen in a bad light because of my past actions. He placed a disciplinary notice in my file, and put me on social probation with the university. I have not had any offenses whatsoever in the three years since my run-in with the law, no further disciplinary action was taken. In my social life, I reconsidered my friend-group and surrounded myself with people that supported my decision to avoid alcohol. I became a part of religious life at ONU and have been attending chapel on campus every Thursday. I refocused on the important things in my life and put added emphasis on my pharmacy career. I use my past mistakes in my life everyday as both a learning experience and a turning point. I do not want these incidents to adversely affect my career goal of becoming a pharmacist.

I obtained my Ohio intern license in August 2011 and have been practicing as an intern at Giant Eagle Pharmacy for almost 3 years now. Academically, I have completed all of my didactic work at Ohio Northern and am set to go on my APPE rotations in July of this year. I am pursuing my Florida intern license because I wanted to expand my horizons as an APPE student. My parents live in the Ft. Myers area during the winter months, and I have been blessed with the

opportunity to complete a three month block of rotations with the Lee Memorial Hospital system from January through March 2015. I hope the experience is one that I will always remember and cherish as I advance further to fulfillment of my lifelong goal of becoming a pharmacist.

Sincerely,

Thomas Saywell

A handwritten signature in black ink that reads "Thomas Saywell". The signature is written in a cursive style with a large, looping initial 'T' and a long, sweeping underline.

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Mission:

To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.



Rick Scott
Governor

John H. Armstrong, MD, FACS
State Surgeon General & Secretary

Vision: To be the Healthiest State in the Nation

July 15, 2014

Sheyrale Moore
12419 SW 259th Terrace
Homestead, FL 33032

RE: Registered Pharmacy Technician Application (File 56871)

Dear Ms. Moore,

This is to advise that the above reference matter will be reviewed by the Board at their next scheduled meeting which is Wednesday, August 13, 2014. The meeting is being held at the DoubleTree by Hilton, 100 Fairway Drive, Deerfield Beach, FL 33441, (800) 624-3606. The meeting will begin at 9:00 a.m.

You are not required to appear; however, you are encouraged to do so. Issues are heard in the order they are listed on the agenda. We are unable to give you an exact time your request will be heard. Our office will follow up in writing after the meeting regarding the Board's decision.

You may print a copy of the agenda which will be available on the Board of Pharmacy website a week before the meeting at: http://www.doh.state.fl.us/mqa/pharmacy/ph_meeting.html.

If you have any questions regarding this information, please contact me at 850-245-4444, ext. 3367.

Sincerely,

A handwritten signature in black ink, appearing to read "Jay Cumbie".

Jay Cumbie,
Regulatory Specialist II

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Vision: To be the Healthiest State in the Nation

**Initial Application for Licensure
Florida Board of Pharmacy
Florida Department of Health**

Basic Data

Profession: REGISTERED PHARMACY TECHNICIAN
Application Type: REGISTERED PHARMACY TECHNICIAN INITIAL APPLICATION
Name: SHEYRALE MOORE
Date of Birth: 08/20/1977
Place of Birth: ORANGE, TX
Email Address: SHEYRALE@COMCAST.NET

Mailing Address

12419 SW 259TH TER
HOMESTEAD, FL 33032

Physical Location or Address of Employment

12419 SW 259TH TER
HOMESTEAD, FL 33032

Phone Numbers

Home: 786-226-2571
Business: 786-226-2571

Equal Opportunity Data

Gender: FEMALE
Race: BLACK

Education History

| | |
|-------------------------|------------------------------------|
| Course Provider: | OTHER |
| Course Approved By: | FLORIDA BOARD OF PHARMACY APPROVED |
| Course Completion Date: | 05/17/2014 |

Other Name History

Name: SHEYRALE COLLINS

Secondary Work Location

| | |
|--|--|
| | |
|--|--|

Other State Licenses

| | | | |
|---------------------|---------------------|---------------------|--|
| License Number: | 202084 | License Number: | |
| License Type: | PHARMACY TECHNICIAN | License Type: | |
| Licensure Date: | 06/01/2011 | Licensure Date: | |
| Date of Expiration: | 06/01/2012 | Date of Expiration: | |
| Country: | UNITED STATES | Country: | |
| State: | TEXAS | State: | |

Criminal History

Have you ever been convicted of, or entered a plea of guilty, nolo contendere, or no contest to a crime in any jurisdiction other than a minor traffic offense?

Your answer: YES

Offense: POSSESSION OF A CONTROLLED SUBSTANCE
Date of Offense: 06/10/2001
State or Jurisdiction: ORANGE COUNTY TEXAS
Under Appeal: NO

IN 2001, I WAS CONVICTED WITH POSSESSION OF CONTROLLED SUBSTANCE. WHAT I DID WAS MANY YEARS AGO AND I HAVE NEVER BEEN IN ANY TROUBLE SINCE THEN. I COMPLETELY TURNED MY LIFE AROUND AND WORKED AS A PHARMACY TECH FOR MANY YEARS WITH NO PROBLEMS. I AM NOW 36 YEARS OLD, HAPPILY MARRIED WITH THREE CHILDREN AND A RECENT COLLEGE GRADUATE FROM MIAMI DADE COLLEGE MAY 3, 2014. BEFORE I MOVED TO FLORIDA, THE TEXAS STATE BOARD OF PHARMACY GRANTED ME WITH A REGISTRATION BUT BECAUSE I COULD NOT COME UP WITH \$700.0 DOLLARS. I WAS A STUDENT AND UNEMPLOYED, MY REGISTRATION IS CURRENTLY REVOKED. I TALKED TO SOMEONE AT THE TEXAS STATE BOARD OF PHARMACY BUT SHE SAID NOT TO WORRY ABOUT THAT BECAUSE I NOW LIVE IN FLORIDA. BEING A PHARMACY TECHNICIAN IS A PASSION OF MINE AND I ONE DAY HOPE TO CONTINUE MY STUDIES TO BECOME A PHARMACIST. MANY YEARS AGO I COMMITTED A CRIME AND EVEN THOUGH I WAS WRONG, I USE MY STORY TO ENCOURAGE OTHER PHARMACY TECHNICIANS TO ALWAYS FOLLOW THE ETHICAL CODE OF PHARMACY. I REMIND THEM WE ARE HERE TO HELP AND NOT TO HARM ANYONE. IF GIVEN A CHANCE, I WILL PROVE THAT I AM WORTHY OF HOLDING THE TITLE OF REGISTERED PHARMACY TECHNICIAN. I WANT TO BE A GREAT EXAMPLE TO MY CHILDREN AS WELL AS THE PRACTICE OF PHARMACY.

Discipline History

Has disciplinary action ever been taken against your pharmacist or any other professional license in this state or any other state or U.S. jurisdiction?

Your answer: YES

Name of Agency: TEXAS STATE BOARD OF PHARMACY
Final Action: PROBATION
Action Date: 02/10/2012
Appeal Status: NO

I WAS CONVICTED WITH POSSESSION OF A CONTROLLED SUBSTANCE IN 2001. BEFORE I MOVED TO FLORIDA I WAS IN THE PROCESS OF GETTING MY REGISTRATION IN TEXAS. THE BOARD IN TEXAS GRANTED MY REGISTRATION BUT ORDERED ME TO PAY \$700.00 DOLLARS FOR A PROBATION FEE.

Have you ever surrendered your pharmacist or any other professional license in another jurisdiction when disciplinary action was pending?

Your answer: NO

Are you presently being investigated or is any disciplinary action pending against you?

Your answer: NO

Questions related to Section 456.0635(2), Florida Statutes

- Have you been convicted of, or entered a plea of guilty or nolo contendere to, regardless of adjudication, a felony under Chapter 409, F.S. (relating to social and economic assistance), Chapter 817, F.S. (relating to fraudulent practices), Chapter 893, F.S. (relating to drug abuse prevention and control) or a similar felony offense(s) in another state or jurisdiction? Your answer: **YES**
- For the felonies of the first or second degree, has it been more than 15 years from the date of the plea, sentence and completion of any subsequent probation? Your answer: **YES**
- For the felonies of the third degree, has it been more than 10 years from the date of the plea, sentence and completion of any subsequent probation? (This question does not apply to felonies of the third degree under Section 893.13(6)(a), Florida Statutes). Your answer: **YES**
- For the felonies of the third degree under Section 893.13(6)(a), Florida Statutes, has it been more than 5 years from the date of the plea, sentence and completion of any subsequent probation? Your answer: **YES**
- Have you successfully completed a drug court program that resulted in the plea for the felony offense being withdrawn or the charges dismissed? Your answer: **YES**
- Have you been convicted of, or entered a plea of guilty or nolo contendere to, regardless of adjudication, a felony under 21 U.S.C. ss. 801-970 (relating to controlled substances) or 42 U.S.C. ss. 1395-1396 (relating to public health, welfare, Medicare and Medicaid issues)? Your answer: **NO**
- Has it been more than 15 years before the date of application since the sentence and any subsequent period of probation for such conviction or plea ended? Your answer: **N/A**
- Have you ever been terminated for cause from the Florida Medicaid Program pursuant to Section 409.913, Florida Statutes? Your answer: **NO**
- If you have been terminated but reinstated, have you been in good standing with the Florida Medicaid Program for the most recent five years? Your answer: **N/A**
- Have you ever been terminated for cause, pursuant to the appeals procedures established by the state, from any other state Medicaid program? Your answer: **NO**
- Have you been in good standing with a state Medicaid program for the most recent five years? Your answer: **N/A**
- Did the termination occur at least 20 years before the date of this application? Your answer: **N/A**
- Are you currently listed on the United States Department of Health and Human Services Office of Inspector General's List of Excluded Individuals and Entities? Your answer: **NO**
- On or before July 1, 2009, were you enrolled in an educational or training program in the profession in which you are seeking licensure that was recognized by this profession's licensing board or the Department of Health? Your answer: **NO**

Additional Information

Availability for Disaster: Will you be available to provide health care services in special needs shelters or help staff disaster medical assistance teams during times of emergency or major disaster? Your answer: **YES**

Military Veteran Fee Waiver

Date of Discharge: Your answer: **N/A**

Application Statement

- Section 456.013(1)(a), F.S., requires that applicants supplement their applications as needed to reflect any material change in any circumstances or changes stated in the application which takes place between the initial filing of the application and the final grant or denial of the license and which might affect the decision of the department.

The statements contained in this application are true, complete and correct and I agree that said statements shall form the basis of my application and I do authorize the Florida Board of Pharmacy to make any investigations they deem appropriate and to secure any additional information concerning me. I further authorize them to furnish any information they may have or have in the future concerning me to any person, corporation, institution, association, board or any municipal, county, state, or federal government agencies or units, and that I understand according to the Florida Board of Pharmacy statutes, a pharmacy technician registration may be revoked or suspended for presenting any false, fraudulent, or forged statement, certificate, diploma, or other thing, in connection with an application for a license or permit, as set forth in section 456.015(2)(a), F.S.

05/20/2014

To: Florida Board of Pharmacy
From: Sheyrale Moore
File Number: 56871
Profession: 2208

RECEIVED

MAY 20 2014

Florida Board of Pharmacy

The year 2001 in Orange, TX I was convicted with possession of a controlled substance. I was at the lowest point in my life. At the time, I was a single parent in a horrible, mentally abusive on and off (mostly off) relationship with the father of my son. He would not help me financially and even though I was working full time, I could not make ends meet. Many nights, my son and I sat in the dark because I could not afford to pay the bill. I did not qualify for public assistance so I paid full price for all of our needs. One day a classmate from high school told me how I could make some extra money. To this day I regret even entertaining the idea he was planting in my head. He told me that I needed to get a bottle of Promethazine with codeine and he would sell it for me and I would get \$300.00. I told him no, and he told me to take his number in case I changed my mind. Weeks passed, I didn't give him a second thought, and then it happened. My car was repossessed because I could no longer afford to make the payments and my lights were cut off. To a sheltered 20 year old, it felt like the end. I sat on the porch and cried, I dug inside of my purse and I came across his number. I called him and that was the beginning of me ruining my life.

After the first couple of times, I told him no more. It wasn't right to steal and I did not want to do this anymore. He blackmailed me by saying that he would tell my supervisor, family and the police if I did not continue. Being young and naïve he frightened me, but nothing scared me more than what I was doing. I finally told him I wasn't going to do this anymore and a week later I was being questioned about the controlled substance. He told me to tell them I was using it, but I was tired of lying and wanted to get back to the person I was raised to being, honest.

I was convicted, received a suspended sentenced and was given probation because it was my only offense. I completed my probation and I have not been in any trouble since then. I was given permission to serve my probation in Florida.

Moving to Florida was the best thing that has ever happened to me. I was able to gain employment at Lower Keys Medical Center (2001-2008) and I didn't have any problems at my job. (I left because my mother had a traumatic back surgery in Texas and she needed my help) I also met the love of my life in 2002 and we are still so happily married today! God has been so good to me. My husband has been my biggest supporter and because of his love and patience I can

Sheyrale Moore, Page 2

proudly announce that I graduated from college May 3, 2014. I am the mother of three children, my oldest son has graduated from high school this year and will be going to the Air Force. Our daughter is gifted and talented, a straight A student, and our youngest son is a wonderful athlete and rising star.

Feb 2008 we moved to Texas to help my mother after her back surgery. We purchased a home and told her we would be there for her until she healed and we were going back to Florida. Well, Mother Nature ruined our plans because we lost everything in Hurricane Ike. I was also in the process of getting my registration from the Texas State Board of Pharmacy (TSBP). Because I had the possession of controlled substance charge, they wanted me to see a counselor to determine if I needed drug counseling. After one meeting, the Doctor determined I did not need further drug counseling. The TSBP told me that I had to pay \$700.00 for their probation. We were trying to pick up the pieces to our lives from Hurricane Ike and even though they granted me a registration, they revoked it when I could not pay the \$700.00. That was the ONLY reason they revoked my registration, I could not afford to pay the fee.

I beg your pardon and ask that you please consider granting me a registration in Florida and a second chance. I cannot tell you how rehabilitated I am, I can only show you. My life has not been a fairy tale, but it has made me so much stronger and wiser. When I decided to enroll in college in 2010 (age 34), I did it for my children. I wanted to show them that no matter what age, you can still achieve your dreams. I tell my children that every day is a chance to be great. Just one random act of kindness can mean the world to someone. If I had the opportunity to speak to my younger self I would tell her, weeping may endure for a night, but joy comes in the morning. Be strong, be courageous, because in the end, your name and legacy is all you have.

Respectfully,

Mrs. Sheyrale L. Moore, CPhT

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2208
F-56871



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JUN 10 2014

Florida Board of Pharmacy

TEXAS STATE BOARD OF PHARMACY

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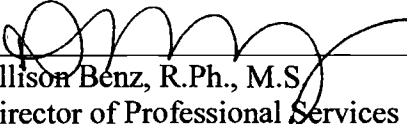
Charles F. Wetherbee
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Executive Director/Secretary
Austin

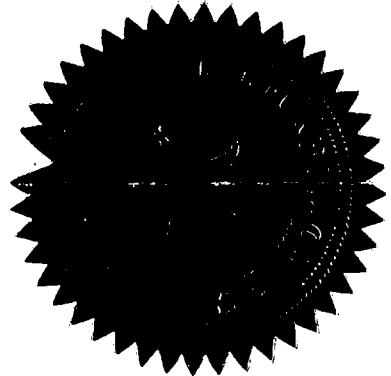
Re: Sheyrale L. Moore
Type of Registration: Texas Pharmacy Technician
Registration No.: 202084
Date Issued: November 8, 2011
Registration Status: Revoked
Expiration Date: May 8, 2012
Prior Disciplinary Orders: Yes

The Texas State Board of Pharmacy maintains records regarding registration and disciplinary action against a registrant. Sheyrale L. Moore has been subject to disciplinary action by the Texas State Board of Pharmacy. (Please see attached.)

Form Completed by:


Allison Benz, R.Ph., M.S.
Director of Professional Services
Texas State Board of Pharmacy

May 27, 2014
Date



Sheyrale L. Moore, Applicant for Pharmacy Technician Registration. Alleged violation: convicted (in 2001) of the felony offense of Possession of a Controlled Substance with Intent to Deliver. Agreed Board Order accepted by registrant and entered by the Board on 08-09-11: registration granted if mental health professional provides written documentation which states that applicant is not physiologically or psychologically alcohol or drug dependent and is able to perform technician duties without posing a threat to the public; if registration is granted, placed on 5-year probation with conditions.

JUN 10 2014

AGREED BOARD ORDER #T-10-464

Florida Board of Pharmacy

RE: IN THE MATTER OF
SHEYRALE L. MOORE
(APPLICANT FOR PHARMACY
TECHNICIAN REGISTRATION)

BEFORE THE TEXAS STATE
BOARD OF PHARMACY

On this day came on to be considered by the Texas State Board of Pharmacy the matter of the application for pharmacy technician registration submitted by Sheyracle L. Moore.

By letter dated February 1, 2011, the Texas State Board of Pharmacy gave preliminary notice to Sheyracle L. Moore of its intent to take disciplinary action with respect to her registration as a result of information received by the Board which produced evidence indicating that Sheyracle L. Moore may have violated:

Section 568.003(a)(1),(2), (4)(B), (6)(A), (7), and (10) of the Texas Pharmacy Act, TEX. OCC. CODE ANN. Subtitle J (2009);

Section 281.9(b)(1) and (c)(2) of the Texas Pharmacy Board Rules, 22 TEX. ADMIN. CODE (2011); and

Section 481.114(a) of the Texas Controlled Substances Act, TEX. HEALTH & SAFETY CODE ANN. (2009), in that allegedly.

COUNT

On or about July 6, 2001, in Cause No. A000436-R, in the 128th District Court of Orange County, Texas, Sheyracle L. Moore was convicted of the felony offense of Possession of a Controlled Substance with Intent to Deliver. The court placed Ms. Moore on probation for a period of five years and ordered her to pay a fine of \$1,000.00 and a restitution of \$890.00 to Eckerd Drugs.

An informal conference was held in the office of the Texas State Board of Pharmacy on March 24, 2011, with Sheyracle L. Moore in attendance. The informal conference was heard by a Board panel comprised of: Jeanne D. Waggener, R.Ph., Board Member; Gay Dodson, R.Ph., Executive Director/Secretary; and Carol Fisher, R.Ph., M.P.A., Director of Enforcement; with Kerstin E. Arnold, General Counsel.

At the aforementioned conference, Sheyracle L. Moore waived her right to be represented by legal counsel. By Sheyracle L. Moore's appearance at the informal conference and by her signature on this Order, Sheyracle L. Moore agrees that the Texas State Board of Pharmacy has

jurisdiction in this matter and does hereby waive her right to legal counsel, to notice of hearing, to a formal administrative hearing, and to judicial review of this Order.

After discussion of the matters previously outlined in this Order, and subsequent communications, Sheyrale L. Moore agreed to the entry of an Order disposing of the need for further disciplinary action in this matter. By her signature on this Order, Sheyrale L. Moore neither admits nor denies the truth of the matters previously set out in this Order with respect to the above alleged violations.

Sheyrale L. Moore agrees that the terms of this Order apply to her registration when designated as either a pharmacy technician trainee or a pharmacy technician.

Sheyrale L. Moore understands that any failure to comply with the terms of this Order is a basis for discipline under the Texas Pharmacy Act.

Should this Order not be accepted by the Texas State Board of Pharmacy, it is agreed that neither the presentation of the Order to the Board nor the Board's consideration of the Order, will be deemed to have unfairly or illegally prejudiced the Board or its individual members and, therefore, will not be grounds for precluding the Board or any individual member of the Board from further participation in proceedings related to the matters set forth in the Order.

At the conclusion of the aforementioned conference, and subsequent communications, the parties agreed to the entry of the ORDER OF THE BOARD set forth below.

ORDER OF THE BOARD

THEREFORE, PREMISES CONSIDERED, the Texas State Board of Pharmacy (hereinafter referred to as the "BOARD") does hereby ORDER that a registration shall be granted after Sheyrale L. Moore (hereinafter referred to as "Applicant") successfully completes the requirements of registration as set forth in the Texas Pharmacy Act, TEX. OCC. CODE ANN. Subtitle J (2009) and the Texas Pharmacy Board Rules, 22 TEX. ADMIN. CODE (2011), and after written documentation is provided by a Board approved mental health professional (hereinafter referred to as "MHP") which states that Applicant is not physiologically or psychologically alcohol or drug dependent, does not have an incapacity of a nature that would prevent Applicant from performing pharmacy technician duties as authorized by Applicant's registration with reasonable skill, competence and safety to the public, and is able to practice without posing a

threat to Applicant or the public. If Applicant has not completed the requirements within ninety (90) days after the entry of this Order, the registration application shall be DENIED, and the Applicant may not re-apply for registration within one (1) year of the date of denial.

It is further ORDERED that:

- (1) Upon being granted a registration, the registration issued to Applicant shall be, and such registration is hereby suspended for a period of five (5) years. Such suspension shall be probated under the conditions that Applicant abide by and obey the terms of this Order, all Federal laws and laws of the State of Texas with respect to pharmacy, controlled substances, dangerous drugs, and all rules and regulations adopted pursuant to the above-mentioned statutes, and that Applicant will comply with all terms of this Order.
- (2) Applicant shall pay a probation fee of four hundred dollars (\$400.00). This probation fee is due ninety (90) days after the probationary period outlined in Paragraph (1) above begins.

If Applicant fails to pay the probation fee within ninety (90) days after the probationary period begins, the registration issued to Applicant shall be suspended, effective ninety (90) days after the probationary period begins. In the event that the registration issued to Applicant is suspended Applicant shall not practice as a pharmacy technician trainee or a pharmacy technician in this state or have access to prescription drugs.

If within six (6) months after the probationary period begins, Applicant fails to pay the probation fee, the registration issued to Applicant shall be revoked and of no further force and effect, effective six (6) months after the probationary period begins. In the event that the registration issued to Applicant is revoked, Applicant shall:

- (a) not practice as a pharmacy technician trainee or a pharmacy technician in this state or have access to prescription drugs during the period the registration is revoked; and
 - (b) surrender to the BOARD, the registration and any renewal certificate and personal identification card pertaining to the registration.
- (3) During the probationary period outlined in Paragraph (3) above, Applicant shall continue under the care of a MHP if the MHP determines further treatment and/or after care is needed and authorize the MHP and/or representative of the after-care program to furnish written quarterly reports to the BOARD concerning the conduct and status of Applicant. Within twenty (20) days after any oral or written request of BOARD staff, Applicant shall obtain a current written evaluation by a Board approved MHP. Applicant shall submit quarterly reports, as specified by Board staff, regarding compliance with the recommendations made by the MHP. Failure to comply with such a request, failure to cause the MHP to furnish written quarterly reports, failure to provide specified reports or failure to comply with all recommendations of the MHP, shall constitute a violation of this Order;

- (4) Applicant shall register with the drug screening company as specified by Board staff (hereinafter referred to as the "DRUG SCREENING COMPANY") to participate in the drug and alcohol analysis program within ninety (90) days after the entry of this Order.

If Applicant fails to register with the DRUG SCREENING COMPANY within ninety (90) days after the entry of this Order, the registration issued to Applicant shall be suspended, effective ninety (90) days after the entry of this Order. In the event that the registration issued to Applicant is suspended Applicant shall not practice as a pharmacy technician trainee or a pharmacy technician in this state or have access to prescription drugs.

If within six (6) months after the entry of this Order, Applicant fails to register with the DRUG SCREENING COMPANY, the registration issued to Applicant shall be revoked and of no further force and effect, effective six (6) months after the entry of this Order. In the event that the registration issued to Applicant is revoked, Applicant shall:

- (a) not practice as a pharmacy technician trainee or a pharmacy technician in this state or have access to prescription drugs during the period the registration is revoked; and
- (b) surrender to the BOARD, the registration and any renewal certificate and personal identification card pertaining to the registration.

It is further ORDERED that upon the entry of this Order and during the entire duration of the Order, Applicant shall:

- (5) submit, within twenty-four (24) hours, to the performance of unscheduled urinalysis or other types of drug or alcohol analysis as specified by BOARD staff or others authorized by BOARD staff, such as a mental health professional or supervising pharmacist;
- (6) provide copies of chain-of-custody document(s) from the collection site for any urinalysis or other type of drug or alcohol analysis, as required by Paragraph (5), for which Applicant has submitted a sample. Such document(s) shall be provided within three (3) days of the submission to the analysis;
- (7) provide copies of any and all current prescriptions taken by or in possession of Applicant to BOARD staff. Within ten (10) days of any and all new prescriptions prescribed by a treating physician (or other health-care practitioner with prescriptive authority) who has reviewed this Order, Applicant shall provide copies of any and all new prescriptions to BOARD staff;
- (8) provide a written statement from a treating physician (or other health-care practitioner with prescriptive authority), who has reviewed this Order, for all current sample medication taken by or in possession of Applicant to BOARD staff. The statement shall include the patient's name, drug name, quantity provided, date provided, directions for use, and physician's name. Within ten (10) days of any and all new sample medication

provided by a treating physician (or other health-care practitioner with prescriptive authority), who has reviewed this Order, Applicant shall provide copies of such a statement to BOARD staff;

- (9) inform any and all physicians (or other health-care practitioners with prescriptive authority) who treat Applicant for any reason or condition that Applicant has a history of substance abuse, and that Applicant is the subject of this Order. Unless a medical emergency exists, Applicant shall also provide a copy of this Order to any treating physician for review prior to the physician's authorization of prescription medication for Applicant;
- (10) cause any treating physician (or other health-care practitioner with prescriptive authority) to provide BOARD staff, upon request, with information and patient records, including information about any and all prescriptions authorized for Applicant. By Applicant's signature on this Order, Applicant does hereby authorize any and all physicians (or other health-care practitioners with prescriptive authority) treating Applicant for any reason or condition to provide BOARD staff with information, including patient records, regarding prescriptions authorized for Applicant;
- (11) be in violation of this Order, and shall surrender the registration issued to Applicant pending formal disciplinary action in said matter, in the event that:
 - (a) the results of any alcohol or drug analysis indicate the presence of alcohol or drugs (unless the dangerous drug was prescribed within one (1) year or the controlled substance was prescribed within six (6) months from the date of the analysis for a legitimate and documented therapeutic purpose by a practitioner who reviewed the terms of this Order before authorizing the prescription; and/or
 - (b) any health-care practitioner submits written documentation that Applicant has developed an incapacity to practice as a pharmacy technician trainee or a pharmacy technician;
- (12) participate in the activities and programs of Alcoholics Anonymous, or any other substantially similar program that has been approved in writing by BOARD staff, on a regular basis as directed by BOARD staff. Applicant shall maintain documentation as to the number and location of meetings attended and make such documentation available to BOARD staff upon request;
- (13) abstain from the consumption of alcohol, any products containing alcohol (including over-the-counter products and prescription drugs), dangerous drugs, and/or controlled substances in any form unless prescribed, within one (1) year if a dangerous drug, or within six (6) months if a controlled substance, by a practitioner with prescriptive authority for a legitimate and documented therapeutic purpose and unless ingested for the same therapeutic purpose as originally prescribed.

- (14) not be convicted of or received deferred adjudication for an alcohol-related or drug-related offense;
- (15) abide by and not violate Federal laws and laws of the State of Texas or any other state with respect to pharmacy, controlled substances, dangerous drugs and rules and regulations promulgated pursuant to the above-mentioned statutes;
- (16) not hold any of the individuals providing reports to the BOARD liable in any manner for the contents of such reports;
- (17) authorize the persons listed below to discuss and/or disclose the terms of this Order, the nature of the complaint(s) resulting in the entry of the Order, the status and conduct of Applicant, and any other relevant matter, with each other:
 - staff of the BOARD;
 - intervenors and staff of the Professional Recovery Network of the Texas Pharmacy Association;
 - MHP and/or any physician (or other health-care practitioner with prescriptive authority) who is evaluating or treating (or who has evaluated or treated) Applicant;
 - representative(s) of any after-care program evaluating or treating (or that has evaluated or treated) Applicant;
 - supervising pharmacist and any potential or current employer of pharmacy technician; and
 - any other person who Applicant, by oral or written notification to the BOARD, has authorized to discuss this information.
- (18) If Applicant chooses to practice as a pharmacy technician trainee or a pharmacy technician in Texas, Applicant shall:
 - (a) notify the BOARD of Applicant's initial place of employment in Texas and of any subsequent change of employment and the reasons for such change. Such notifications shall be submitted in writing to the BOARD's office within ten (10) days after the entry of this Order, and within ten (10) days of any subsequent employment; and
 - (b) inform any and all employers that Applicant is the subject of this Order.
- (19) If Applicant submits a written request to surrender Applicant's registration, this Order shall be terminated, and the registration issued to Applicant shall be, and such registration is hereby revoked effective immediately. Applicant shall surrender the registration and any renewal certificate and personal identification card pertaining to the registration

within thirty (30) days after the request. Applicant shall not request to reinstate the registration within one year after the registration is revoked. In the event that the registration issued to Applicant is revoked, Applicant shall not practice as a pharmacy technician trainee or a pharmacy technician in this state or have access to prescription drugs during the period the registration is revoked.

- (20) The terms and conditions described above in paragraph (1) through paragraph (19) apply to Applicant's registration when designated either as a pharmacy technician trainee or a pharmacy technician.

It is further ORDERED that any cost associated with compliance with the terms of this Order shall be the responsibility of the Applicant.

It is further ORDERED that Applicant shall allow the staff of the Texas State Board of Pharmacy, Enforcement Division, to directly contact Applicant on any matter regarding the enforcement of this Order.

It is finally ORDERED that failure to comply with any of the terms and conditions in this Order constitutes a violation of the pharmacy laws or rules of this state and shall be grounds for further disciplinary action against the registration held by Applicant.

And it is so ORDERED.

THIS ORDER IS A PUBLIC RECORD.

SIGNED AND DATED THIS 9th day of August, 2011.



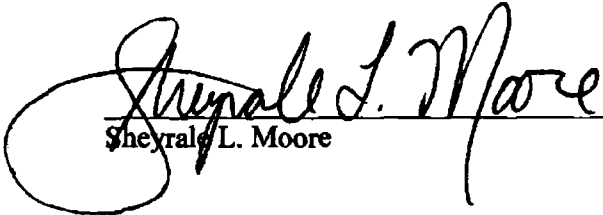
MEMBER, TEXAS STATE BOARD OF PHARMACY

ATTEST:

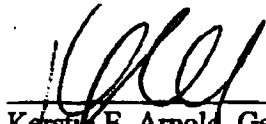


Gay Dodson, R.Ph., Executive Director/Secretary
Texas State Board of Pharmacy

APPROVED AS TO FORM AND AGREED TO:



Sheyrale L. Moore



Kerstin E. Arnold, General Counsel
Texas State Board of Pharmacy



BARRY
UNIVERSITY

RECEIVED

JUN 09 2014

Florida Board of Pharmacy

Miami Shores, Florida
PACE Institute for Training and Professional Development

Certificate of Completion
Presented to

Sheyrle L. Moore

Pharmacy Technician Training Program
Approved in accordance with Rule 64B16-26.351 of the Florida Board of Pharmacy
May 2014

In Witness Thereof the undersigned have
Affixed their signature:


Assistant Dean, PACE Institute for Training and Professional Development

Margaret Coleman Maggio
72 Wellington Drive
Palm Coast, FL 32164

May 12, 2014

To whom it may concern:

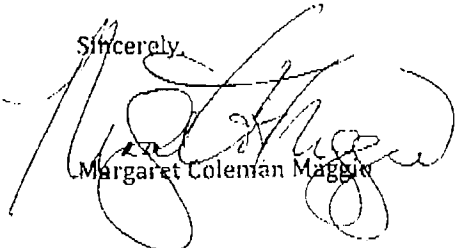
This letter is in reference to Sheyrle Moore. I had the pleasure of working with Sheyrle as her Manager while employed at Lower Keys Medical Center in Key West Florida. I have known Sheyrle for 8 years, 3 of them as her Manager.

I feel honored to be asked to write this letter of recommendation for Sheyrle; she has always shown integrity, honesty and decency. I am proud to be associated with Sheyrle not only in a professional atmosphere, but as a friend for 5 years after our careers led us on different paths.

In our professional relationship, Sheyrle was always a team player, and put the needs of employees and contractors first. She always displayed professionalism with excellent customer service in working with our colleagues, outside suppliers and contractors. Whenever Sheyrle was asked to take on a task that wasn't in her job description, she never declined; she always looked at new tasks as learning something new and an opportunity; she embraced new challenges. Sheyrle constantly stepped up to help wherever and however needed in a professional manner.

As a friend of Sheyrle, I have to say that she is a wonderful Woman, Mother, Wife and Friend. She tackles life with veracity and laughter. She can brighten anyone's day just with personality.

Sincerely,



Margaret Coleman Maggio

Mission:

To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.



Rick Scott
Governor

John H. Armstrong, MD, FACS
State Surgeon General & Secretary

Vision: To be the Healthiest State in the Nation

July 15, 2014

Richard Stewart
1800 North Andrews Avenue, Unit 1G
Fort Lauderdale, FL 33311

RE: Registered Pharmacy Technician Application (File 57179)

Dear Mr. Stewart,

This is to advise that the above reference matter will be reviewed by the Board at their next scheduled meeting which is Wednesday, August 13, 2014. The meeting is being held at the DoubleTree by Hilton, 100 Fairway Drive, Deerfield Beach, FL 33441, (800) 624-3606. The meeting will begin at 9:00 a.m.

You are not required to appear; however, you are encouraged to do so. Issues are heard in the order they are listed on the agenda. We are unable to give you an exact time your request will be heard. Our office will follow up in writing after the meeting regarding the Board's decision.

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If you have any questions regarding this information, please contact me at 850-245-4444, ext. 3367.

Sincerely,

A handwritten signature in black ink, appearing to read "Jay Cumbie".

Jay Cumbie,
Regulatory Specialist II

Florida Department of Health

Board of Pharmacy
4052 Bald Cypress Way, Bin C-04 • Tallahassee, FL 32399
PHONE: 850/245-4292 • FAX 850/413-6982

www.FloridasHealth.com

TWITTER:HealthyFLA
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EXEMPT FROM PUBLIC RECORDS LAWS.

456.057 - Ownership and control of patient records; report or copies of records to be
furnished.—

10)(a)All patient records obtained by the department and any other documents
maintained by the department which identify the patient by name are confidential and exempt
from s. 119.07(1) and shall be used solely for the purpose of the department and the appropriate
regulatory board in its investigation, prosecution, and appeal of disciplinary proceedings. The
records shall not be available to the public as part of the record of investigation for and
prosecution in disciplinary proceedings made available to the public by the department or the
appropriate board.

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Rick Scott
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John H. Armstrong, MD, FACS
State Surgeon General & Secretary

Vision: To be the Healthiest State in the Nation

**Initial Application for Licensure
Florida Board of Pharmacy
Florida Department of Health**

Basic Data

Profession: REGISTERED PHARMACY TECHNICIAN
Application Type: REGISTERED PHARMACY TECHNICIAN INITIAL APPLICATION
Name: MR. RICHARD STEWART
Date of Birth: 03/03/1954
Place of Birth: PENSACOLA, FL
Email Address: PENSACOLARICH@GMAIL.COM

Mailing Address

1800 NORTH ANDREWS AVENUE
1G
FORT LAUDERDALE, FL 33311

Physical Location or Address of Employment

1800 NORTH ANDREWS AVENUE
1G
FORT LAUDERDALE, FL 33311

Phone Numbers

Home: 954-579-5050
Business: 954-579-5050

Equal Opportunity Data

Gender: MALE
Race: WHITE

Education History

| | |
|-------------------------|---|
| Course Provider: | OTHER |
| Course Approved By: | AMERICAN SOCIETY OF HEALTH-SYSTEM PHARMACISTS |
| Course Completion Date: | 04/25/2014 |

Other Name History

No Other Name History data entered.

Secondary Work Location

| | |
|--|--|
| | |
|--|--|

Other State Licenses

| | | | |
|---------------------|---------------|---------------------|--------------------|
| License Number: | SL3426101 | License Number: | PN8562614 |
| License Type: | REAL ESTATE | License Type: | LICENSED PRACTICAL |
| Licensure Date: | 06/06/2011 | Licensure Date: | 12/15/1986 |
| Date of Expiration: | 03/31/2015 | Date of Expiration: | 07/31/2011 |
| Country: | UNITED STATES | Country: | UNITED STATES |
| State: | FLORIDA | State: | FLORIDA |

Criminal History

Have you ever been convicted of, or entered a plea of guilty, nolo contendere, or no contest to a crime in any jurisdiction other than a minor traffic offense?

Your answer: **YES**

Offense: LEWD LASCIVIOUS
Date of Offense: 04/15/1980
State or Jurisdiction: FLORIDA
Under Appeal: NO

DID NOT HAVE ATTORNEY AND DID NOT UNDERSTAND MY RIGHTS AND WAS MOVING AWAY; I PLEADED NOLO CONTENDERE AND THE JUDGE JUDICATED ME. I PAID FINE AS REQUIRED.

Offense: LEWD LASCIVIOUS
Date of Offense: 10/29/1992
State or Jurisdiction: FLORIDA
Under Appeal: NO

PLEADED NOLO CONTENDERE, JUDGE ORDERED THAT I EXPOSE MY RECORD OF ARREST TO TWENTY FLORIDA RESIDENTS WITH DRIVERS LICENSE AND VOTERS REGISTRATION, STATING THAT THEY DID NOT SUPPORT A JAIL SENTENCE AND THEY STOOD UP ON BEHALF OF MY CHARACTER. JUDGE ACCEPTED THE TWENTY SIGNATURES AND WITHHELD JUDIFICATION. THE JUDGE'S ACTIONS MADE ME REALIZE I HAD A BEHAVIORAL ISSUE AND I SOUGHT HELP.

Discipline History

Has disciplinary action ever been taken against your pharmacist or any other professional license in this state or any other state or U.S. jurisdiction?

Your answer: **NO**

Have you ever surrendered your pharmacist or any other professional license in another jurisdiction when disciplinary action was pending?

Your answer: **NO**

Are you presently being investigated or is any disciplinary action pending against you?

Your answer: **NO**

Questions related to Section 456.0635(2), Florida Statutes

Have you been convicted of, or entered a plea of guilty or nolo contendere to, regardless of adjudication, a felony under Chapter 409, F.S. (relating to social and economic assistance), Chapter 817, F.S. (relating to fraudulent practices), Chapter 893, F.S. (relating to drug abuse prevention and control) or a similar felony offense(s) in another state or jurisdiction? Your answer: **NO**

For the felonies of the first or second degree, has it been more than 15 years from the date of the plea, sentence and completion of any subsequent probation? Your answer: **N/A**

For the felonies of the third degree, has it been more than 10 years from the date of the plea, sentence and completion of any subsequent probation? (This question does not apply to felonies of the third degree under Section 893.13(6)(a), Florida Statutes). Your answer: **N/A**

For the felonies of the third degree under Section 893.13(6)(a), Florida Statutes, has it been more than 5 years from the date of the plea, sentence and completion of any subsequent probation? Your answer: **N/A**

Have you successfully completed a drug court program that resulted in the plea for the felony offense being withdrawn or the charges dismissed? Your answer: **N/A**

Have you been convicted of, or entered a plea of guilty or nolo contendere to, regardless of adjudication, a felony under 21 U.S.C. ss. 801-970 (relating to controlled substances) or 42 U.S.C. ss. 1395-1396 (relating to public health, welfare, Medicare and Medicaid issues)? Your answer: **NO**

Has it been more than 15 years before the date of application since the sentence and any subsequent period of probation for such conviction or plea ended? Your answer: **N/A**

Have you ever been terminated for cause from the Florida Medicaid Program pursuant to Section 409.913, Florida Statutes? Your answer: **NO**

If you have been terminated but reinstated, have you been in good standing with the Florida Medicaid Program for the most recent five years? Your answer: **N/A**

Have you ever been terminated for cause, pursuant to the appeals procedures established by the state, from any other state Medicaid program? Your answer: **NO**

Have you been in good standing with a state Medicaid program for the most recent five years? Your answer: **N/A**

Did the termination occur at least 20 years before the date of this application? Your answer: **N/A**

Are you currently listed on the United States Department of Health and Human Services Office of Inspector General's List of Excluded Individuals and Entities? Your answer: **NO**

On or before July 1, 2009, were you enrolled in an educational or training program in the profession in which you are seeking licensure that was recognized by this profession's licensing board or the Department of Health? Your answer: **N/A**

Additional Information

Availability for Disaster: Will you be available to provide health care services in special needs shelters or help staff disaster medical assistance teams during times of emergency or major disaster? Your answer: **YES**

Military Veteran Fee Waiver

Date of Discharge: Your answer: **N/A**

Application Statement

- Section 456.013(1)(a), F.S., requires that applicants supplement their applications as needed to reflect any material change in any circumstances or changes stated in the application which takes place between the initial filing of the application and the final grant or denial of the license and which might affect the decision of the department.

The statements contained in this application are true, complete and correct and I agree that said statements shall form the basis of my application and I do authorize the Florida Board of Pharmacy to make any investigations they deem appropriate and to secure any additional information concerning me. I further authorize them to furnish any information they may have or have in the future concerning me to any person, corporation, institution, association, board or any municipal, county, state, or federal government agencies or units, and that I understand according to the Florida Board of Pharmacy statutes, a pharmacy technician registration may be revoked or suspended for presenting any false, fraudulent, or forged statement, certificate, diploma, or other thing, in connection with an application for a license or permit, as set forth in section 456.015(2)(a), F.S.

JUN 05 2014

Florida Board of Pharmacy

To the Florida Board Of Pharmacy:

Thank you for the opportunity to express myself in the matter of my misdemeanor criminal record that occurred as a result of my behavior in April of 1980 and October of 1992. It is with great humility that I do so.

While both convictions are for Lewd and Lascivious behavior the results of each are different. In April of 1980, while spending a day at Pensacola Beach, I was charged with Lewd and Lascivious behavior that took place in a beach men's room. The plain clothed officer arrested me for masturbating in public. I was compelled to do so through his own actions of encouraging me by exposing himself at the urinal. The nature of the arrest was extremely embarrassing and upon going to court I opted not to fight it due to fear that it would get out in the community and damage my family. Because of fright and ignorance, I was not represented by an attorney and unfortunately accepted, on the advice of a probation officer, to enter a plea of Nolo. I took this advice because I was scheduled to move out of town and did not understand that any court appointed probation could have been transferred nor was I instructed of such by the officer of the court. I just wanted this monkey off my back and did not understand the legal ramification of my decision. Upon reappearing before the judge, I plead Nolo and was adjudicated guilty and ordered to pay a fine.

Twelve years later I was convicted again for Lewd and Lascivious behavior while I was vacationing in my hometown of Pensacola. This incident took place along a scenic portion of Pensacola bay that attracted gay men for sexual cruising. Again, I was arrested by a plain clothed officer who observed me having sex with another male in a secluded area of the woods. With this arrest, I hired and was represented by an attorney. Not only had I learned my lesson from my previous court experience, I was living and working as a Licensed Practical Nurse in Naples, Florida and needed representation in Pensacola. I pled Nolo and after months of negotiations between the court and my attorney, the judge, in his wisdom, decided not to give me the state attorneys recommended 10 day jail sentence and probation if I could provide the court with 20 Florida licensed and voter registered residents that would sign a petition from the court that I did not deserve jail time for my offense and vouch for my character. The documentation that they were required to read and sign included record of the arrest and recommendations of the state attorney. This was the most difficult thing that I have ever had to do. I obtained the required signatures and submitted them to the court along with a doctor's note clearing me of any communicable disease. The judge accepted the signed petitions and suspended any jail time and probation, fined me and withheld adjudication.

Having grown up the gay son of a Fundamental Baptist Minister I could only live my life in the closet. While I knew that the way I was going about discovering my sexuality was wrong, I never felt that I had a source to go to for help in fear of losing all that I had ever known and the love of my family. The burden of carrying this secret was overwhelming and it caused me to act out privately. The decision that the Honorable Judge White made in my 1992-1993 case was a life changing one for me and I am indebted to him and his good judgment. In requiring me to expose my secret to 20 Florida residents I realized that I had a sexual behavior problem. In reaching out to health care professionals that I worked with and grounded open minded gay and straight friends I came to understand that I no longer needed or desired

to behave in such a way that would or could ever lead to another Lewd and Lascivious arrest and conviction. I am thankful that I no longer live in fear of who I am and I no longer behave in such a way that would discredit who I am or the community that I am proudly and productively a part of. For over 20 years, I have had the honor of being half of a domestic partnership.

These convictions took place years ago and because of their nature they shall always disturb me. Even so, I take full responsibility for the choices I made that led to them and am grateful for the positive changes in my life as a result of them. I will always be honest about them but refuse to allow them to define me. Recently, in pharmacy technician school I was required in one of my classes to create my mission statement. It states..."In recognizing that I create my own reality and that I have a future because I have let the past be just that...I choose to soar like an eagle."

In Humbleness,

A handwritten signature in black ink that reads "Richard M. Stewart". The signature is written in a cursive, flowing style.

Richard M. Stewart

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prosecution in disciplinary proceedings made available to the public by the department or the
appropriate board.

Sanford-Brown Institute

Fort Lauderdale, Florida Campus

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This Certifies That

MAY 29 2014

Richard Stewart
Florida Board of Pharmacy

Has successfully completed the comprehensive course of instruction in

Pharmacy Technology

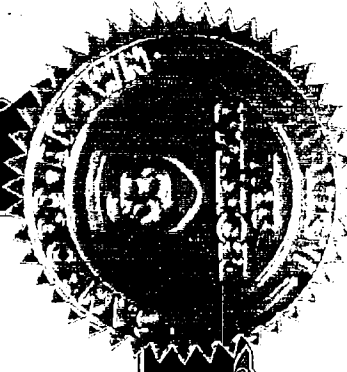
In recognition of this accomplishment, this

Diploma

Has been awarded on this 25th Day of April, 2014

April S. On
President

David A. Stewart
Director of Education



Mission:

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Rick Scott
Governor

John H. Armstrong, MD, FACS
State Surgeon General & Secretary

Vision: To be the Healthiest State in the Nation

July 15, 2014

Kevin Strychalski
1232 Wilkinson Street
Orlando, FL 32803

RE: Petition for Termination of Probation

Dear Mr. Strychalski,

This is to advise that the above reference matter will be reviewed by the Board at their next scheduled meeting which is Wednesday, August 13, 2014. The meeting is being held at the DoubleTree by Hilton, 100 Fairway Drive, Deerfield Beach, FL 33441, (800) 624-3606. The meeting will begin at 9:00 a.m.

You are not required to appear; however, you are encouraged to do so. Issues are heard in the order they are listed on the agenda. We are unable to give you an exact time your request will be heard. Our office will follow up in writing after the meeting regarding the Board's decision.

You may print a copy of the agenda which will be available on the Board of Pharmacy website a week before the meeting at: http://www.doh.state.fl.us/mqa/pharmacy/ph_meeting.html.

If you have any questions regarding this information, please contact me at 850-245-4444, ext. 3367.

Sincerely,

A handwritten signature in black ink, appearing to read "Jay Cumbie".

Jay Cumbie,
Regulatory Specialist II

Florida Department of Health

Board of Pharmacy
4052 Bald Cypress Way, Bin C-04 • Tallahassee, FL 32399
PHONE: 850/245-4292 • FAX 850/413-6982

www.FloridasHealth.com

TWITTER:HealthyFLA
FACEBOOK:FLDepartmentofHealth
YOUTUBE: fldoh

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Rick Scott
Governor

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State Surgeon General & Secretary

Vision: To be the Healthiest State in the Nation

July 15, 2014

Kevin Strychalski
2nd US Hwy 17-92
Debary, FL 32713

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Jay Cumbie,
Regulatory Specialist II

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State Surgeon General & Secretary

Vision: To be the Healthiest State in the Nation

July 15, 2014

Ed Bayo
2022-2 Raymond Diehl Road
Tallahassee, FL 32308

RE: Petition for Termination of Probation (Kevin Strychalski – Case No. 2005-01518, 2006-21273, and 2009-14938)

Dear Mr. Bayo,

This is to advise that the above reference matter will be reviewed by the Board at their next scheduled meeting which is Wednesday, August 13, 2014. The meeting is being held at the DoubleTree by Hilton, 100 Fairway Drive, Deerfield Beach, FL 33441, (800) 624-3606. The meeting will begin at 9:00 a.m.

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Jay Cumbie,
Regulatory Specialist II

Florida Department of Health

Board of Pharmacy
4052 Bald Cypress Way, Bin C-04 • Tallahassee, FL 32399
PHONE: 850/245-4292 • FAX 850/413-6982

www.FloridasHealth.com

TWITTER:HealthyFLA
FACEBOOK:FLDepartmentofHealth
YOUTUBE: fldoh

SN

June 5, 2014

To The Florida Board of Pharmacy,

I would like to petition to appear at the August 12-13, 2014 board meeting. I am petitioning for termination of probation.

Thank you.

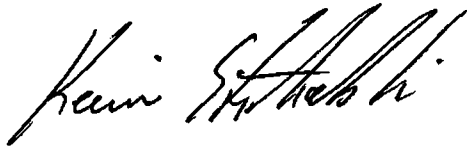
Case #'s

200501518

200621273

200914938

Sincerely,



Kevin Strychalski
1232 Wilkinson St
Orlando, FL 32803
201-679-6144
stryrx@aol.com

CONFIDENTIAL AND EXEMPT MATERIALS

**One or more pages have been removed
from this document for security reasons**

**Scroll down to see the available pages or
advance to the next document if all
pages have been removed.**

SOME OR ALL PAGES IN THIS DOCUMENT ARE PATIENT RECORDS
AND/OR DOCUMENTS THAT IDENTIFY THE PATIENT BY NAME AND ARE
EXEMPT FROM PUBLIC RECORDS LAWS.

456.057 - Ownership and control of patient records; report or copies of records to be
furnished.—

10)(a)All patient records obtained by the department and any other documents
maintained by the department which identify the patient by name are confidential and exempt
from s. 119.07(1) and shall be used solely for the purpose of the department and the appropriate
regulatory board in its investigation, prosecution, and appeal of disciplinary proceedings. The
records shall not be available to the public as part of the record of investigation for and
prosecution in disciplinary proceedings made available to the public by the department or the
appropriate board.

DEPARTMENT OF HEALTH, BOARD OF PHARMACY

ORDER FACT SHEET

(For use by Board Counsel and Board Staff)

Order # Op. 2462-S
Date Order Filed 12/21/00

1) Respondent's/Petitioner's/Applicant's Name: KEVIN STRYCHALSKI, R.PH.

2) License Number: PS 25362 3) Profession Type: Pharmacy

4) Type of Order: X Discipline Licensure Declaratory Statement

5) DOH Case Number 2005-01518 6) DOAH Case Number

7) File Number 14433

8) Statutory reference for Violations/Reasons for Denial:

9) Violation Codes: 15

10) Penalties Imposed: Fine, costs, suspension until appears w/PRN evaluation, followed by 5 years probation.

11) Closure Code: 4010

12) Exhibits to be Attached to Final Order: (3)

a) Administrative Complaint X

a) Consent Agreement/Stipulation X

b) Recommended Order

Exceptions: Petitioner's Respondent's

c) Motions (specify)

d) Other (specify)

13) Special Handling Instructions

14) Fact Sheet Prepared By: Reginald D. Dixon

15) Codes Added to Fact Sheet By: Margie Wenginger

16) Exhibits Attached to Order By: Margie Wenginger

STATE OF FLORIDA
BOARD OF PHARMACY

DEPARTMENT OF HEALTH,

Petitioner,

vs.

Case No.: 2005-01518

License No.: PS 25362

KEVIN STRYCHALSKI, R.PH.,

Respondent.
_____ /**FINAL ORDER**

THIS MATTER came before the Board of Pharmacy (hereinafter "the Board") at a duly noticed public meeting on December 6, 2006, in Miami, Florida. Petitioner filed an Administrative Complaint seeking disciplinary action against the Respondent's license. A copy of the Administrative Complaint is attached to and made a part of this Final Order. The Petitioner was represented by Lynne Quimby-Pennock, Assistant General Counsel, with the Department of Health. The Respondent was present and represented by Edwin Bayo, Esq.

Petitioner and Respondent have stipulated to a disposition in this case. After considering the presentation of the parties and reviewing the record of the case, the Board voted to adopt the Settlement Stipulation as an appropriate settlement of the case. A copy of the settlement stipulation is attached to and made a part of this Final Order. The parties shall be governed accordingly.

Pursuant to Section 456.072(4), Florida Statutes, the Department is required to collect costs for investigation and prosecution. The evidence presented to the Board was that the costs payable by Respondent in this matter are \$941.83. Payment shall be

made to the Department of Health, P.O. Box 6320, Tallahassee, FL 32324-6320, in accordance with the terms of the Settlement Stipulation.

IT IS THEREFORE ORDERED that the Stipulation is adopted and the Respondent is hereby ordered to reimburse the Department costs in the amount of **\$941.83.**

This Final Order shall become effective upon filing with the Clerk of the Department of Health.

DONE AND ORDERED this 21 day of December, 2006.

BOARD OF PHARMACY

Rebecca R. Poston

Rebecca R. Poston, R. Ph.
Executive Director
Florida Board of Pharmacy

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail to: **KEVIN STRYCHALSKI, R.PH.**, 216 St. Mary's Lake Road, Battlecreek, Michigan 49017 and **Edwin Bayo, Esq.**, 301 South Bronough Street, Suite 600, Tallahassee, Florida 32301; by interoffice mail to **Reginald D. Dixon**, Assistant Attorney General, PL-01, The Capitol, Tallahassee, Florida 32399-1050; and **Lynne Quimby-Pennock**, Assistant General Counsel, Department of Health, 4052 Bald Cypress Way, Bin # C-65, Tallahassee, Florida 32399-3265 this 21st day of December, 2006

Rachel Blen

STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,

Petitioner,

vs.

CASE NO. 2005-01518

KEVIN STRYCHALSKI, R.PH.,

Respondent.

SETTLEMENT AGREEMENT

Pursuant to Section 120.57(4), Florida Statutes, the above named parties hereby offer this Settlement Agreement to the Board of Pharmacy as disposition of the Administrative Complaint, attached hereto as Exhibit "A," in lieu of any other administrative proceedings. The terms herein become effective only if and when a Final Order accepting this Settlement Agreement is issued by the Board and filed. In considering this Settlement Agreement, the Board may review all investigative materials regarding this case. If this Settlement Agreement is rejected, it, and its presentation to the Board, shall not be used against either party.

STIPULATED FACTS

1. For all times pertinent herein, Respondent was a licensed pharmacist in the State of Florida, having been issued license/permit number PS25362. Respondent's mailing address of record is 810 N. Camino Santiago #21, Tucson, Arizona 07660. Petitioner has information that Respondent may be currently residing at 19 2d Street, Ridgefield Park, New Jersey 07660

2. Respondent was charged by an Administrative Complaint filed by the Department and properly served upon Respondent with violations of Chapters 456 and 465, Florida Statutes. A true and correct copy of the Administrative Complaint is attached hereto and incorporated by reference as Exhibit A.

3. Respondent neither admits nor denies the factual allegations contained in the Administrative Complaint for the purposes of settlement in these administrative proceedings only.

STIPULATED LAW

1. Respondent admits that he is subject to the provisions of Chapters 456 and 465, Florida Statutes, and the jurisdiction of the Department of Health and the Board.

2. Respondent admits that the stipulated facts, if proven true, constitute violations of law as alleged in the Administrative Complaint.

PROPOSED DISPOSITION

1. The license of Respondent shall be reprimanded by the Board of Pharmacy.

2. The Board of Pharmacy shall impose an administrative fine of five hundred dollars (\$500) against the license of Respondent. Also, Respondent shall pay the administrative costs associated with the investigation and prosecution of this matter in an amount not to exceed one thousand five hundred dollars (\$1,500). Total costs shall be assessed when the Settlement Agreement is presented to the Board. The fine and costs are to be paid by Respondent to the **Florida Department of Health, Compliance Management Unit, P.O. Box 6320, Tallahassee, Florida 32314-6320**, within thirty (30) days of the filing of a Final Order accepting and incorporating this Settlement Agreement.

3. Respondent's license shall be indefinitely suspended until such time as Respondent petitions and appears before the Board seeking reinstatement of his Florida license Board and proves that he is safe to practice pharmacy in the state of Florida. Proof of competence to return to

the practice of pharmacy shall include, at a minimum, an evaluation by the Professionals Resource Network (PRN) and execution of a contract with PRN if recommended by the evaluator. During the period of suspension, Respondent shall in no way participate in the preparation of medicinal drugs for dispensing or in the actual dispensing of medicinal drugs. Respondent shall also as part of his petition submit the total costs (\$941.83) imposed from the prior case (# 03-18749) and evidence of a clear and current license in the state in which he resides at the time of his petition and Board appearance. If the Board determines that Respondent is not safe to practice pharmacy in the State of Florida, Respondent's suspension shall continue until such time as Respondent presents to the Board and proves that he or she is safe to practice pharmacy in the State of Florida. The Board expressly retains the right to impose restrictions, conditions or obligations (e.g., probation) at the time that the Board lifts the suspension of Respondent's license.

4. Upon reinstatement of Respondent's license it shall be placed on a FIVE year probationary period. During the period of probation Respondent shall be subject to the following terms and conditions:

a. During Respondent's first year of probation, Respondent shall not function as a prescription department manager in any Florida permitted pharmacy.

b. Respondent shall successfully complete a continuing education course on the laws and rules governing the practice of pharmacy in Florida that is not shorter than twelve (12) hours in length, within one (1) year of entry of the Final Order accepting and adopting this Settlement Agreement or he shall take and successful pass the Multistate Jurisprudence Examination, within one (1) year of entry of the Final Order accepting and adopting this Stipulation. Respondent shall mail proof of successful completion of the Examination to the Pharmacy Compliance Officer at the address listed in paragraph one (1) above within thirty (30) days of successful completion of the examination. These continuing education hours shall be in addition to the hours required for license renewal. Within ten (10) days of completion of the course(s) and/or receipt of the certificate of completion, Respondent shall mail a copy of the continuing education certificate of completion to the Pharmacy Compliance Officer at the address listed in paragraph three (3) above.

c. Respondent shall submit written quarterly reports to the Compliance Officer for the Board of Pharmacy, Department of Health, HMQ/AMS, Client Services, PO Box 6320, Tallahassee, Florida 32314-6320.

These reports shall include Respondent's license number, current address, and phone number; current name, address, and phone number of each pharmacy in which Respondent is engaged in the practice of pharmacy; the names of all pharmacists, pharmacy interns, pharmacy technicians, relief pharmacists, and prescription department managers working with Respondent. These reports shall be submitted to the Compliance Officer every three (3) months in a manner as directed by the Compliance Officer.

d. Respondent shall ensure that his employer submits written ~~quarterly reports to the Compliance Officer, Board of Pharmacy, Department of Health, HMQ/AMS, Client Services, PO Box 6320, Tallahassee, Florida 32314-6320, that contain: the name, address, license number, and phone number of each pharmacy intern, pharmacy technician, relief pharmacist, and prescription department manager working in its prescription department; and a brief description of Respondent's duties and responsibilities and Respondent's usual working~~

schedule. These reports shall be submitted to the Compliance Officer every three (3) months in a manner directed by the Compliance Officer.

e. If Respondent works for a placement agency, Respondent shall provide to the Department's Compliance Officer the name, address and telephone number of the agency. If Respondent works as a relief pharmacist, Respondent may not work at or for more than two pharmacies during each quarterly monitoring period, unless Respondent obtains prior approval from the Board. Respondent's report shall list the pharmacies, including addresses and dates that Respondent worked at each pharmacy, and the name of the supervising or primary pharmacist. These reports shall be submitted to the Compliance Officer every three (3) months in a manner as directed by the Compliance Officer.

i. Respondent shall submit documentation evidencing that his employer, or if employed as a relief pharmacist, his supervising pharmacist(s) and the relief agency, have been provided with a copy of the Final Order describing these probationary terms within ten (10) days of the entry of the Final Order or upon initiation of employment.

ii. Respondent shall ensure that his employer or, if employed as a relief pharmacist, the supervising pharmacist at each pharmacy at which Respondent works, submits written reports to the Compliance Officer for the Board of Pharmacy. These reports shall contain: the name, current address, license number, and telephone number of each pharmacy intern, pharmacy technician, relief pharmacist, and prescription department manager working with the Respondent in the prescription department; a brief description of Respondent's duties and responsibilities; and Respondent's work schedule. These reports shall be submitted by the employer to the Compliance Officer every three (3) months in a manner directed by the Department Compliance Officer.

iii. During the period of Respondent's probation, the Department shall conduct semi-annual audits of five (5) randomly selected controlled substances at the Respondent's place of employment at Respondent's cost.

iv. Respondent shall make a mandatory appearance before the Board of Pharmacy during his last three (3) months of

probation. The Board retains the right to extend Respondent's term of probation or to impose additional restrictions, conditions or limitations on Respondent's license.

~~v. Respondent shall comply with any and all recommendations from the Board approved impaired practitioner's treatment provider (PRN).~~

6. If Respondent leaves the State of Florida for a period of thirty (30) days or more, or ceases the professional practice of pharmacy in the State, Respondent's probation shall be tolled until such time as the licensee returns to the active, professional practice of pharmacy in the State of Florida.

~~7. In the future, Respondent shall not violate Chapter 456, 465, 499, and/or 893, Florida Statutes, the rules promulgated pursuant thereto, or any other state or federal law, rule, or regulation relating to the practice or to the ability to practice pharmacy.~~

8. It is expressly understood that a violation of the terms of this Settlement Agreement shall be considered a violation of a Final Order of the Board of Pharmacy for which disciplinary action may be initiated pursuant to Chapter 465, Florida Statutes.

9. It is expressly understood that this Settlement Agreement is subject to approval by the Board and Department and has no force or effect until the Board bases an Order upon it.

~~10. This Settlement Agreement is executed by Respondent for the purpose of avoiding further administrative action with respect to this particular cause. In this regard, Respondent authorizes the Board to review and examine all investigative file materials concerning Respondent prior to, or in conjunction with, consideration of the Settlement Agreement. Petitioner and Respondent agree to support this Settlement Agreement at the time it is presented to the Board and shall offer no evidence, testimony, or argument that disputes or contravenes any stipulated fact or conclusion of law. Furthermore, should this Settlement Agreement not be accepted by the Board, it is agreed that the presentation and consideration of this Settlement Agreement and other documents and matters by the Board shall not unfairly or illegally prejudice the Board or any of its members from further participation, consideration, or resolution of these proceedings.~~

~~11. Respondent and the Department fully understand that this Settlement Agreement and subsequent Final Order incorporating same will~~

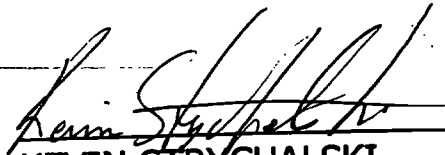
in no way preclude additional proceedings by the Board and/or Department against Respondent for acts or omissions not specifically set forth in the Administrative Complaint, attached hereto as Exhibit A.

12. Respondent waives the right to seek any attorney's fees or costs from the Department in connection with this disciplinary proceeding.

13. Respondent waives all rights to appeal and further review of this Settlement Agreement and these proceedings.

WHEREFORE, the parties hereby request that the Board enter a Final Order accepting, adopting, and implementing the terms contained herein.

SIGNED this 27th day of October, 2006.



KEVIN STRYCHALSKI
CASE NO. 2005-01518

2006 NOV - 1 AM 10:11
PRACTITIONER REGULATION
LEGAL

STATE OF Michigan
COUNTY OF Calhoun

Before me personally appeared KEVIN STRYCHALSKI, whose identity is known to me by Michigan State Drivers License (type of identification), and who, under oath, acknowledges that his signature appears above.

Sworn to and subscribed before me this 27th day of October, 2006.



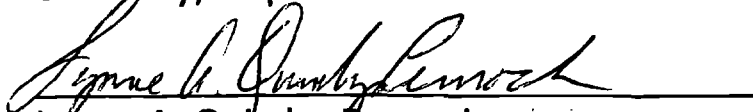
Notary Public

Nina S. Andrews
Notary Public Calhoun County, MI
My Commission Expires Sept. 26, 2012

My Commission Expires:

APPROVED this 1st day of November, 2006.

M. Rony François, M.D., M.S.P.H., Ph.D.
Secretary, Department of Health



Lynne A. Quimby-Pennock
Assistant General Counsel
Department of Health

COUNSEL FOR PETITIONER:

Lynne A. Quimby-Pennock
Assistant General Counsel
Florida Bar Number 0394572
Department of Health/MQA
Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, Florida 32399-3265
850.245.4640
850.245.4682 (fax)

10/05/06

STATE OF FLORIDA
DEPARTMENT OF HEALTH

MAY 05 2006

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO. 2005-01518

KEVIN STRYCHALSKI, R.PH.,

RESPONDENT.

ADMINISTRATIVE COMPLAINT

Petitioner, Department of Health, by and through its undersigned ~~counsel~~, files this Administrative Complaint before the Board of Pharmacy against Respondent, Kevin Strychalski, R.Ph., and in support thereof alleges:

1. Petitioner is the state department charged with regulating the ~~practice~~ of pharmacy pursuant to Section 20.43, Florida Statutes; Chapter 456, Florida Statutes; and Chapter 465, Florida Statutes.

2. At all times material to this Complaint, Respondent was a licensed pharmacist within the state of Florida, having been issued license number PS 25362.

3. Respondent's address of record is 810 North Camino Santiago, #21, Tucson, Arizona 85745. Another known address for Respondent is 19 2nd Street, Ridgefield, New Jersey 07660.

4. On September 28, 2004, a Final Order was filed with the Clerk of the Department of Health in the matter of the Department of Health vs. Kevin Strychalski, R.Ph., Case Number 2003-18749. By terms of this Final Order, the Board of Pharmacy ordered Respondent to pay costs in the amount of nine hundred forty-one dollars and eighty-three (\$941.83) cents within thirty (30) days of the filing of the Final Order.

5. As of the date of the filing of this Administrative Complaint, Respondent has failed to pay the costs of nine hundred forty-one dollars and eighty-three (\$941.83) cents.

6. Section 465.016(1)(n), Florida Statutes (2004), provides that violating a rule of the board or department or violating an order of the board or department previously entered in a disciplinary hearing constitutes grounds for disciplinary action by the Board of Pharmacy.

7. Respondent failed to pay the costs to the Board within thirty days of the filing date of the Final Order.

8. Based on the foregoing, Respondent has violated Section 465.016(1)(n), Florida Statutes (2004), by violating an order of the board previously entered in a disciplinary hearing by failing to pay the costs as ordered.

WHEREFORE, Petitioner respectfully requests that the Board of Pharmacy enter an order imposing one or more of the following penalties: permanent revocation or suspension of Respondent's license, restriction of practice, imposition of an administrative fine, issuance of a reprimand, placement of Respondent on probation, corrective action, refund of fees billed or collected, remedial education and/or any other relief that the Board deems appropriate.

SIGNED this 5th day of May, 2006.

M. Rony Francois, M.D., M.S.P.H., Ph.D.
Secretary, Department of Health

FILED

DEPARTMENT OF HEALTH
DEPUTY CLERK

CLERK

Shenise McKinn

DATE

5-5-06

Lynne A. Quinby Powers

~~Deborah Bartholow Loucks~~ *Lynne A. Quinby Powers*
Assistant General Counsel
DOH-Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, FL 32399-3265
Florida Bar No. 0169889-0394572
(850) 245-4640
(850) 245-4681 FAX

PCP: *4/25/06*

PCP Members: *Powers, Jones*

Kevin Strychalski, R.Ph., Case No. 2005-01518

NOTICE OF RIGHTS

Respondent has the right to request a hearing to be conducted in accordance with Section 120.569 and 120.57, Florida Statutes, to be represented by counsel or other qualified representative, to present evidence and argument, to call and cross-examine witnesses and to have subpoena and subpoena duces tecum issued on his or her behalf if a hearing is requested.

NOTICE REGARDING ASSESSMENT OF COSTS

Respondent is placed on notice that Petitioner has incurred costs related to the investigation and prosecution of this matter. Pursuant to Section 456.072(4), Florida Statutes, the Board shall assess costs related to the investigation and prosecution of a disciplinary matter, which may include attorney hours and costs, on the Respondent in addition to any other discipline imposed.

Kevin Strychalski, R.Ph., Case No. 2005-01518

CONFIDENTIAL AND EXEMPT MATERIALS

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regulatory board in its investigation, prosecution, and appeal of disciplinary proceedings. The
records shall not be available to the public as part of the record of investigation for and
prosecution in disciplinary proceedings made available to the public by the department or the
appropriate board.

DEPARTMENT OF HEALTH, BOARD OF PHARMACY

ORDER FACT SHEET

(For use by Board Counsel and Board Staff)

Order # 07-19779
Date Order Filed 8.1.07

- 1) Respondent's/Petitioner's/Applicant's Name: KEVIN STRYCHALSKI
- 2) License Number: PS 25362 3) Profession Type: Pharmacy
- 4) Type of Order: Discipline Licensure Declaratory Statement
- 5) DOH Case Number 2006-21273 6) DOAH Case Number _____
- 7) File Number 14433
- 8) Statutory reference for Violations/Reasons for Denial: 465.016(1)(h)
- 9) Violation Codes: na 11
- 10) Penalties Imposed: Fine, Costs & indefinite suspension until petition for reinstatement; PRN evaluation prior to reinstatement.
- 11) Closure Code: 4010
- 12) Exhibits to be Attached to Final Order: (3)
 - a) Administrative Complaint
 - b) Consent Agreement/Stipulation
 - c) Recommended Order _____
Exceptions: Petitioner's _____ Respondent's _____
 - d) Motions (specify) _____
 - e) Other (specify) _____
- 13) Special Handling Instructions _____
- 14) Fact Sheet Prepared By: Reginald D. Dixon
- 15) Codes Added to Fact Sheet By: Madeline W. Longoria
- 16) Exhibits Attached to Order By: Madeline W. Longoria

STATE OF FLORIDA
BOARD OF PHARMACY

Final Order No. DOH-07-1577-^S-MQA
FILED DATE - 8.1.07
Department of Health
By: Racul De
Deputy Agency Clerk

DEPARTMENT OF HEALTH,

Petitioner,

vs.

Case No.: 2006-21273
License No.: PS 25362

KEVIN STRYCHALSKI,

Respondent.

_____ /

FINAL ORDER

THIS MATTER came before the Board of Pharmacy (hereinafter "the Board") pursuant to Section 120.57(4), Florida Statutes, at a duly noticed public meeting on June 12-13, 2007, in Ft. Lauderdale, Florida, for consideration of the negotiated settlement agreement between the parties.

The Petitioner was represented by Lynne Quimby-Pennock, Assistant General Counsel, with the Department of Health. The Respondent was not present but was represented by Edwin Bayó, Esq.

The Board voted to adopt the Settlement Stipulation as an appropriate settlement of the case. Pursuant to the terms of the Settlement Stipulation, the Respondent is obligated to pay the administrative costs to the Department. The Respondent shall pay costs in the amount of **\$946.72**. The parties shall be governed accordingly.

IT IS THEREFORE ORDERED that the Settlement Stipulation is adopted and the Respondent is hereby ordered to reimburse the Department costs in the amount of **\$946.72.**

This Final Order shall become effective upon filing with the Clerk of the Department of Health.

DONE AND ORDERED this 31 day of July, 2007.

BOARD OF PHARMACY

Rebecca R. Poston

Rebecca R. Poston, R. Ph.
Executive Director
Florida Board of Pharmacy

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail to: **KEVIN STRYCHALSKI**, 216 St. Mary's Lake Road, Battle Creek, Michigan 49017; and **Edwin A. Bayó, Esq.**, Post Office Box 11189, Tallahassee, Florida 32302-3189; by interoffice mail to **Reginald D. Dixon**, Assistant Attorney General, PL-01, The Capitol, Tallahassee, Florida 32399-1050; and **Lynne Quimby-Pennock**, Assistant General Counsel, Department of Health, 4052 Bald Cypress Way, Bin # C-65, Tallahassee, Florida 32399-3265 this 1 day of August, 2007.

Reginald D. Dixon

D. Dixon

STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO. 2006-21273

KEVIN STRYCHALSKI, R. PH.,

RESPONDENT.

5-2-07

ADMINISTRATIVE COMPLAINT

Petitioner, Department of Health, by and through undersigned counsel, files this Administrative Complaint before the Board of Pharmacy against Respondent, Kevin Strychalski, R. Ph., and in support thereof alleges:

1. Petitioner is the state department charged with regulating the practice of pharmacy pursuant to Section 20.43, Florida Statutes; Chapter 456, Florida Statutes; and Chapter 465, Florida Statutes.

2. At all times material to this Complaint, Respondent was a licensed pharmacist within the state of Florida, having been issued license number PS 25362.

3. Respondent's address of record is 216 St. Mary's Lake Road, Battle Creek, MI 49017.

4. On or about November 30, 2004, the Arizona State Board of Pharmacy entered a Findings of Fact, Conclusions of Law and Board Order (Board Order), In the Matter of Kevin Strychalski, Holder of Pharmacist License Number 9893 in the State of Arizona.

5. The Arizona Board Order recited allegations that between June 3, 2002 and June 11, 2002, Respondent while working as a pharmacist "floater" at OSCO pharmacy # 9254 located in Green Valley, Arizona he was observed to remove Oxycontin tablets from a stock bottle, place them in a prescription vial and put the vial in his pharmacy smock pocket. Additional investigation by the loss prevention personnel found that Respondent admitted to removing Ocycontin tablets from the pharmacy shelves each time he worked at OSCO pharmacy #9254. It was alleged that from May 5, 2002 through June 11, 2002, Respondent unlawfully dispensed Oxycontin to himself without a valid prescription. On or about August 4, 2002, Respondent entered an Arizona drug treatment program

known as Pharmacists Assisting Pharmacists of Arizona ("PAPA"); however the PAPA contract was terminated on August 28, 2002 based on Respondent's non-compliance with it. Respondent later entered another PAPA contract in October 2002, following an Arizona Board Consent Agreement. That PAPA contract was terminated in January 2003, based on Respondent's non-compliance with that contract. In or about June 2004, Respondent admitted to the PAPA program administrator that Respondent had relapsed again, had been in an automobile accident and been cited for a driving under the influence.

6. By the terms of the Arizona Board Order, Respondent's license was revoked.

7. The Arizona Board Order stated: that Respondent violated the Arizona pharmacy practice act by being addicted to the use of alcohol or other drugs to such a degree as to render Respondent unfit to practice pharmacy; that Respondent was found by the Arizona Board to be guilty of violating any Arizona or federal law, rule or regulation relating to the manufacture and distribution of drugs, devices, or the practice of pharmacy; and/or that Respondent, the (Arizona) licensee violated a formal order, terms of probation, a consent agreement or a stipulation

issued or entered into by the (Arizona) board or its executive director pursuant to the Arizona chapter.

8. Section 465.016(1)(h), Florida Statutes (2004), provides that having been disciplined by a regulatory agency in another state for any offense that would constitute a violation of Chapter 465, Florida Statutes, constitutes grounds for disciplinary action by the Board of Pharmacy.

9. The Arizona State Board of Pharmacy is a regulatory agency of another state.

10. The entry of the Board Order by the Arizona State Board of Pharmacy in which Respondent's license to practice as a pharmacist was revoked in Arizona constitutes disciplinary action against Respondent's license to practice pharmacy.

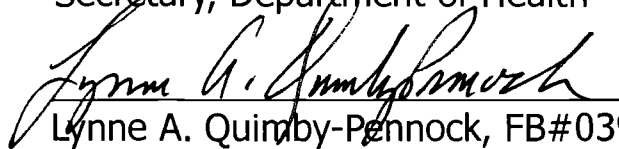
11. Based on the foregoing, Respondent has violated Section 465.016(1)(h), Florida Statutes (2004), by being disciplined by a regulatory agency in another state for any offense that would constitute a violation of Chapter 465, Florida Statutes.

WHEREFORE, Petitioner respectfully requests that the Board of Pharmacy enter an order imposing one or more of the following penalties: permanent revocation or suspension of Respondent's license, restriction of practice, imposition of an administrative fine, issuance of a reprimand,

placement of Respondent on probation, corrective action, refund of fees billed or collected, remedial education and/or any other relief that the Board deems appropriate.

SIGNED this 30 day of April, 2007.

Ana M. Viamonte Ros, M.D., M.P.H.
Secretary, Department of Health



Lynne A. Quimby-Pennock, FB#0394572
Assistant General Counsel
DOH Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, FL 32399-3265
850.245.4640 / 850.245.4682 FAX

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK: Rachelle
DATE 5-2-07

PCP: WAIVED
PCP Members: WAIVED

NOTICE OF RIGHTS

Respondent has the right to request a hearing to be conducted in accordance with Section 120.569 and 120.57, Florida Statutes, to be represented by counsel or other qualified representative, to present evidence and argument, to call and cross-examine witnesses and to have subpoena and subpoena duces tecum issued on his or her behalf if a hearing is requested.

NOTICE REGARDING ASSESSMENT OF COSTS

Respondent is placed on notice that Petitioner has incurred costs related to the investigation and prosecution of this matter. Pursuant to Section 456.072(4), Florida Statutes, the Board shall assess costs related to the investigation and prosecution of a disciplinary matter, which may include attorney hours and costs, on the Respondent in addition to any other discipline imposed.

STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,

Petitioner,

vs.

Case No. 2006-21273

KEVIN STRYCHALSKI, R.PH.,

Respondent.

_____ /

WAIVER OF FINDING OF PROBABLE CAUSE
AND WAIVER OF CONFIDENTIALITY

1. A confidential Uniform Complaint Form was filed in the referenced case with the Department of Health on July 10, 2006. A copy of an Administrative Complaint, which will be filed, along with this waiver, with the office of the agency clerk of the Department of Health, is attached as Exhibit A.

2. Pursuant to Section 456.073(10), Florida Statutes, I, KEVIN STRYCHALSKI, license number PS 25362, have been advised of my right to a finding of probable cause and of the confidentiality provisions of Section 456.073(4) and (10), Florida Statutes. I understand that if I choose not to waive the privilege of confidentiality or the right to a determination of probable cause by the Probable Cause Panel or by the Department, the

complaint and all information obtained pursuant to the department's investigation would be confidential until 10 days after probable cause has been found to exist by the Probable Cause Panel or by the Department. I also understand that if there is no finding by a Probable Cause Panel or the Department that probable cause exists, then in the absence of my waiver of probable cause and waiver of confidentiality, the complaint and all information obtained pursuant to the investigation would remain confidential.

3. I, KEVIN STRYCHALSKI, being fully advised of the consequences of so doing, hereby admit probable cause exists for a violation of Section 465.016(1)(h), Florida Statutes; waive the statutory privilege of confidentiality; and waive the right to a determination of probable cause by the Probable Cause Panel, or the Department when appropriate, regarding the complaint, the investigative report of the Department of Health, and all other information obtained pursuant to the Department's investigation in the above-styled action in order to expedite consideration and resolution of this action by the Florida Board of Pharmacy in a public meeting. I further waive personal service of any

Administrative Complaint filed in the above-referenced matters and consent to service of the Administrative Complaint on my attorney of record.

By signing this waiver, I understand that the complaint and all information obtained pursuant to the investigation by the Department, as well as the Administrative Complaint, will immediately become a public record that is immediately accessible to the public. Section 456.073(10) Florida Statutes.

I AFFIRM THAT I HAVE READ AND UNDERSTOOD THE FOREGOING AND CONSENT TO ALL TERMS HEREIN.



KEVIN STRYCHALSKI

STATE OF Michigan
COUNTY OF Calhoun

Sworn to and subscribed before me this 20th day of APRIL, 2007, by **KEVIN STRYCHALSKI**, who is personally known to me or who has produced STATE ID (type of identification) as identification.



NOTARY PUBLIC, STATE OF FLORIDA MICHIGAN

NICOLE L. VAN MIDDLESWORTH
(Print, Type of Stamp Commissioned Name of Notary Public)
Exp. 05/21/08



Initials

STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,

Petitioner,

vs.

CASE NO. 2006-21273

KEVIN STRYCHALSKI, R.PH.,

Respondent.

_____ /

SETTLEMENT AGREEMENT

Pursuant to Section 120.57(4), Florida Statutes, the above named parties hereby offer this Settlement Agreement to the Board of Pharmacy as disposition of the Administrative Complaint, attached hereto as Exhibit "A," in lieu of any other administrative proceedings. The terms herein become effective only if and when a Final Order accepting this Settlement Agreement is issued by the Board and filed. In considering this Settlement Agreement, the Board may review all investigative materials regarding this case. If this Settlement Agreement is rejected, it, and its presentation to the Board, shall not be used against either party.

STIPULATED FACTS

1. For all times pertinent herein, Respondent was a licensed pharmacist in the State of Florida, having been issued license/permit number PS25362. Respondent's mailing address of record is 216 St. Mary's Lake Road, Battle Creek, MI 49017.

2. Respondent was charged by an Administrative Complaint filed by the Department and properly served upon Respondent with violations of Chapters 456 and 465, Florida Statutes.

3. Respondent neither admits nor denies the factual allegations contained in the Administrative Complaint for the purposes of settlement in these administrative proceedings only.

STIPULATED LAW

1. Respondent admits that he is subject to the provisions of Chapters 456 and 465, Florida Statutes, and the jurisdiction of the Department of Health and the Board.

2. Respondent admits that the stipulated facts, if proven true, constitute violations of law as alleged in the Administrative Complaint.

PROPOSED DISPOSITION

1. The license of Respondent shall be reprimanded by the Board of Pharmacy.

2. The Board of Pharmacy shall impose an administrative fine of ONE THOUSAND DOLLARS (\$1,000.00) against the license of Respondent. The fine shall be paid by Respondent to the **Florida Department of Health, Compliance Management Unit, P.O. Box 6320, Tallahassee, Florida 32314-6320**, within ninety (90) days of the filing of a Final Order accepting and incorporating this Settlement Agreement.

3. Respondent shall pay the administrative costs associated with the investigation and prosecution of this matter in an amount not to exceed one thousand five hundred dollars (\$1,500). Total costs shall be assessed when the Settlement Agreement is presented to the Board. The costs shall be paid by Respondent to the **Florida Department of Health, Compliance Management Unit, P.O. Box 6320, Tallahassee, Florida 32314-6320**, within ninety (90) days of the filing of a Final Order accepting and incorporating this Settlement Agreement.

3. Respondent's license shall be indefinitely suspended until such time as Respondent petitions and appears before the Board seeking reinstatement of his Florida license Board and proves that he is safe to practice pharmacy in the state of Florida and presents a practice plan for the Board's approval. Proof of competence to return to the practice of pharmacy shall include, at a minimum, an evaluation by the Professionals Resource Network (PRN) and execution of a contract with PRN if recommended by the evaluator. During the period of suspension, Respondent shall in no way participate in the preparation of medicinal drugs for dispensing or in the actual dispensing of medicinal drugs. If the Board determines that Respondent is not safe to practice pharmacy in the State of Florida, Respondent's suspension shall continue until such time as Respondent presents to the Board and proves that he or she is safe to practice pharmacy in the State of Florida. The Board expressly retains the right to impose restrictions, conditions or obligations (e.g., probation) at the time that the Board lifts the suspension of Respondent's license. Respondent may petition the Board to lift the suspension at the time this settlement agreement is presented to the Board.

4. Upon reinstatement of Respondent's license it shall be placed on a FIVE year probationary period. During the period of probation Respondent shall be subject to the following terms and conditions:

a. During Respondent's first year of probation, Respondent shall not function as a prescription department manager in any Florida permitted pharmacy.

b. Respondent shall successfully complete a continuing education course on the laws and rules governing the practice of pharmacy in Florida that is not shorter than twelve (12) hours in length, within one (1) year of entry of the Final Order accepting and adopting this Settlement Agreement or he shall take and successful pass the Multistate Jurisprudence Examination, within one (1) year of entry of the Final Order accepting and adopting this Stipulation. Respondent shall mail proof of successful completion of the Examination to the Pharmacy Compliance Officer at the address listed in paragraph one (1) above within thirty (30) days of successful completion of the examination. These continuing education hours shall be in addition to the hours required for license renewal. Within ten (10) days of completion of the course(s) and/or receipt of the

certificate of completion, Respondent shall mail a copy of the continuing education certificate of completion to the Pharmacy Compliance Officer at the address listed in paragraph three (3) above.

c. Respondent shall submit written quarterly reports to the Compliance Officer for the Board of Pharmacy, Department of Health, HMQ/AMS, Client Services, PO Box 6320, Tallahassee, Florida 32314-6320. These reports shall include Respondent's license number, current address, and phone number; current name, address, and phone number of each pharmacy in which Respondent is engaged in the practice of pharmacy; the names of all pharmacists, pharmacy interns, pharmacy technicians, relief pharmacists, and prescription department managers working with Respondent. These reports shall be submitted to the Compliance Officer every three (3) months in a manner as directed by the Compliance Officer.

d. Respondent shall ensure that his employer submits written quarterly reports to the Compliance Officer, Board of Pharmacy, Department of Health, HMQ/AMS, Client Services, PO Box 6320, Tallahassee, Florida 32314-6320, that contain: the name, address, license number, and phone number of each pharmacy intern, pharmacy

technician, relief pharmacist, and prescription department manager working in its prescription department; and a brief description of Respondent's duties and responsibilities and Respondent's usual working schedule. These reports shall be submitted to the Compliance Officer every three (3) months in a manner directed by the Compliance Officer.

e. If Respondent works for a placement agency, Respondent shall provide to the Department's Compliance Officer the name, address and telephone number of the agency. If Respondent works as a relief pharmacist, Respondent may not work at or for more than two pharmacies during each quarterly monitoring period, unless Respondent obtains prior approval from the Board. Respondent's report shall list the pharmacies, including addresses and dates that Respondent worked at each pharmacy, and the name of the supervising or primary pharmacist. These reports shall be submitted to the Compliance Officer every three (3) months in a manner as directed by the Compliance Officer.

i. Respondent shall submit documentation evidencing that his employer, or if employed as a relief pharmacist, his supervising pharmacist(s) and the relief agency, have been provided with a

copy of the Final Order describing these probationary terms within ten (10) days of the entry of the Final Order or upon initiation of employment.

- ii. Respondent shall ensure that his employer or, if employed as a relief pharmacist, the supervising pharmacist at each pharmacy at which Respondent works, submits written reports to the Compliance Officer for the Board of Pharmacy. These reports shall contain: the name, current address, license number, and telephone number of each pharmacy intern, pharmacy technician, relief pharmacist, and prescription department manager working with the Respondent in the prescription department; a brief description of Respondent's duties and responsibilities; and Respondent's work schedule. These reports shall be submitted by the employer to the Compliance Officer every three (3) months in a manner directed by the Department Compliance Officer.
- iii. During the period of Respondent's probation, the Department shall conduct semi-annual audits of five (5) randomly selected

controlled substances at the Respondent's place of employment at Respondent's cost.

- iv. Respondent shall make a mandatory appearance before the Board of Pharmacy during his last three (3) months of probation. The Board retains the right to extend Respondent's term of probation or to impose additional restrictions, conditions or limitations on Respondent's license.
- v. Respondent shall comply with any and all recommendations from the Board approved impaired practitioner's treatment provider (PRN).

6. If Respondent leaves the State of Florida for a period of thirty (30) days or more, or ceases the professional practice of pharmacy in the State, Respondent's probation shall be tolled until such time as the licensee returns to the active, professional practice of pharmacy in the State of Florida.

7. In the future, Respondent shall not violate Chapter 456, 465, 499, and/or 893, Florida Statutes, the rules promulgated pursuant thereto,

or any other state or federal law, rule, or regulation relating to the practice or to the ability to practice pharmacy.

8. It is expressly understood that a violation of the terms of this Settlement Agreement shall be considered a violation of a Final Order of the Board of Pharmacy for which disciplinary action may be initiated pursuant to Chapter 465, Florida Statutes.

9. It is expressly understood that this Settlement Agreement is subject to approval by the Board and Department and has no force or effect until the Board bases an Order upon it.

10. This Settlement Agreement is executed by Respondent for the purpose of avoiding further administrative action with respect to this particular cause. In this regard, Respondent authorizes the Board to review and examine all investigative file materials concerning Respondent prior to, or in conjunction with, consideration of the Settlement Agreement. Petitioner and Respondent agree to support this Settlement Agreement at the time it is presented to the Board and shall offer no evidence, testimony, or argument that disputes or contravenes any stipulated fact or conclusion of law. Furthermore, should this Settlement Agreement not be

accepted by the Board, it is agreed that the presentation and consideration of this Settlement Agreement and other documents and matters by the Board shall not unfairly or illegally prejudice the Board or any of its members from further participation, consideration, or resolution of these proceedings.

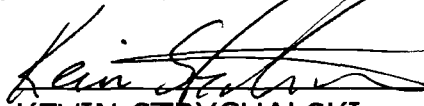
11. Respondent and the Department fully understand that this Settlement Agreement and subsequent Final Order incorporating same will in no way preclude additional proceedings by the Board and/or Department against Respondent for acts or omissions not specifically set forth in the Administrative Complaint, attached hereto as Exhibit A.

12. Respondent waives the right to seek any attorney's fees or costs from the Department in connection with this disciplinary proceeding.

13. Respondent waives all rights to appeal and further review of this Settlement Agreement and these proceedings.

WHEREFORE, the parties hereby request that the Board enter a Final Order accepting, adopting, and implementing the terms contained herein.

SIGNED this 20 day of April, 2007

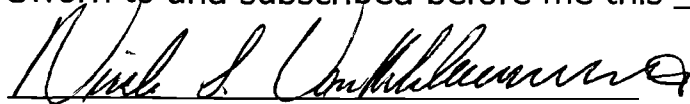


KEVIN STRYCHALSKI
CASE NO. 2006-21273

STATE OF Michigan
COUNTY OF Calhoun

Before me personally appeared KEVIN STRYCHALSKI, whose identity is known to me or by STATE ID (type of identification), and who, under oath, acknowledges that his signature appears above.

Sworn to and subscribed before me this 20th day of April, 2007

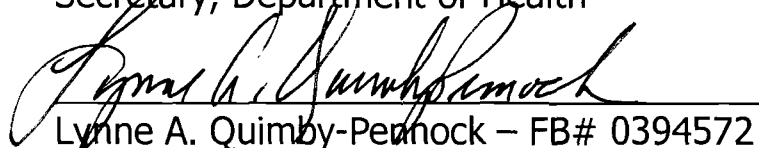


Notary Public

My Commission Expires: 05/21/08

APPROVED this 30 day of April, 2007.

Ana M. Viamonte Ros, M.D., M.P.H.,
Secretary, Department of Health



Lynne A. Quimby-Pennock – FB# 0394572
Assistant General Counsel –DOH -PSU
4052 Bald Cypress Way, Bin C-65
Tallahassee, Florida 32399-3265
850.245.4640 // 850.245.4682 (fax)

CONFIDENTIAL AND EXEMPT MATERIALS

**One or more pages have been removed
from this document for security reasons**

**Scroll down to see the available pages or
advance to the next document if all
pages have been removed.**

SOME OR ALL PAGES IN THIS DOCUMENT ARE PATIENT RECORDS
AND/OR DOCUMENTS THAT IDENTIFY THE PATIENT BY NAME AND ARE
EXEMPT FROM PUBLIC RECORDS LAWS.

456.057 - Ownership and control of patient records; report or copies of records to be
furnished.—

10)(a)All patient records obtained by the department and any other documents
maintained by the department which identify the patient by name are confidential and exempt
from s. 119.07(1) and shall be used solely for the purpose of the department and the appropriate
regulatory board in its investigation, prosecution, and appeal of disciplinary proceedings. The
records shall not be available to the public as part of the record of investigation for and
prosecution in disciplinary proceedings made available to the public by the department or the
appropriate board.

STATE OF FLORIDA
BOARD OF PHARMACY

Final Order No. DOH-10-0688-FOI-MQA
FILED DATE - 3/10/2010
Department of Health
By: Angela Baston
Deputy Agency Clerk

DEPARTMENT OF HEALTH,

Petitioner,

vs.

Case No.: 2009-14938

License No.: PS 25362

KEVIN STRYCHALSKI, RPH,

Respondent.

FINAL ORDER IMPOSING DISCIPLINE

This matter appeared before the Board of Pharmacy at a duly-noticed public meeting on February 10, 2010 in Jacksonville, Florida for a hearing not involving disputed issues of material fact pursuant to Sections 120.569 and 120.57(2), Florida Statutes, pursuant to Petitioner's Motion for Final Order. Petitioner filed an Administrative Complaint seeking disciplinary action against the license. A copy of the Administrative Complaint is attached to and made a part of this Final Order. At the hearing, Petitioner was represented by Billie Jo Owens, Assistant General Counsel, Department of Health. Respondent was present with his attorney Edwin Bayo.

Upon consideration it is ORDERED:

1. The material facts alleged in the Administrative Complaint are not in dispute.
2. Petitioner's motion for final order is granted.
3. The allegations of fact set forth in the Administrative Complaint, are approved, adopted and incorporated herein by reference as the findings of fact made by the Board.
4. The allegations of law alleged and set forth in the Administrative Complaint are approved, adopted and incorporated herein by reference as the conclusions of law made by the Board.

5. The violations set forth in the Administrative Complaint warrant disciplinary action by the Board.

THEREFORE IT IS ORDERED AND ADJUDGED:

6. Respondent's license is reprimanded.

7. Respondent shall be placed on a period of probation for one year, to run consecutive to the probation in Final Order Number DOH-06-2462-5-MQA. The terms of probation shall be the same as the probationary terms in Final Order Number DOH-06-2462-5-MQA.


8. The Board reviewed the Petitioner's Motion to Assess Costs and imposes the costs associated with this case in the amount of \$1,101.92. Said costs are to be paid within 90 days from the date this Final Order is filed.

9. Payment of fines and costs shall be made to the Board of Pharmacy and mailed to, Department of Health, Compliance Management Unit, Bin C76, P. O. Box 6320, Tallahassee, FL 32314-6320, Attention: Pharmacy Compliance Officer.

This Final Order shall become effective upon filing with the Clerk of the Department of Health.

DONE AND ORDERED this 8 day of March, 2010.

BOARD OF PHARMACY



Rebecca Poston, BPharm,
Executive Director for
Michele Weizer, PharmD, CHAIR

NOTICE OF APPEAL RIGHTS

PURSUANT TO SECTION 120.68 FLORIDA STATUTES, A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW UNLESS WAIVED. PROCEEDINGS ARE GOVERNED BY THE FLORIDA RULES OF APPELLATE PROCEDURE. SUCH PROCEEDINGS ARE COMMENCED BY FILING ONE COPY OF THE NOTICE OF APPEAL WITH THE AGENCY CLERK OF THE DEPARTMENT OF HEALTH AND A SECOND COPY, ACCOMPANIED BY FILING FEES PRESCRIBED BY LAW, WITH THE DISTRICT COURT OF APPEALS, FIRST DISTRICT, OR WITH THE DISTRICT COURT OF APPEAL IN THE APPELLATE DISTRICT WHERE THE PARTY RESIDES. THE NOTICE OF APPEAL MUST BE FILED WITHIN THIRTY (30) DAYS OF RENDITION OF THE ORDER TO BE REVIEWED.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail to Kevin Strychalski, RPH, , 2053 Courtyard Loop, #201, Sanford, FL 32771; Edwin Bayo, Metzger, Grossman, Furlow and Bayo, LLC, 1408 North Piedmont Way, Tallahassee, Florida 32308; by interoffice mail to Allison Dudley, Assistant Attorney General, Office of the Attorney General, PL-01, The Capitol, Tallahassee, Florida 32399-1050; to Billie Jo Owens, Assistant General Counsel, Department of Health, 4052 Bald Cypress Way, Bin # C-65, Tallahassee, Florida 32399-3265 this 10th day of March, 2010.


Deputy Agency Clerk

STATE OF FLORIDA
DEPARTMENT OF HEALTH

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK: *Amy R. Camp*
DATE 12-21-09

DEPARTMENT OF HEALTH,

Petitioner,

vs.

CASE NO. 2009-14938

KEVIN STRYCHALSKI, RPH,

Respondent.

**DEPARTMENT'S MOTION FOR FINAL ORDER BY
HEARING NOT INVOLVING DISPUTED ISSUES OF MATERIAL
FACT**

Petitioner Department of Health (Department), by and through its undersigned counsel, moves the Board of Pharmacy (Board) for entry of a Final Order. As grounds Petitioner states:

1. An Administrative Complaint was filed against Respondent Kevin Strychalski, RPh on November 24, 2009, alleging that Respondent violated Chapter 465, Florida Statutes. A copy of the Administrative Complaint is attached as Exhibit A.

2. Respondent has filed an Election of Rights form or other responsive pleading in which Respondent states that he does not dispute the allegations of fact included in the Administrative Complaint

and requests a hearing not involving disputed issues of material fact before the Board, pursuant to Section 120.57(2), Florida Statutes. A copy of the Election of Rights is attached as Exhibit B.

3. Respondent is informed by this Motion that Petitioner will move the investigative file in this case into evidence before the Board to establish a prima facie case of each violation alleged in the Administrative Complaint.

4. The parties request that this matter be scheduled for hearing by the Board of Pharmacy on **FEBRUARY 10, 2010** at the **EMBASSY SUITES, 9300 Baymeadows Road, JACKSONVILLE, FLORIDA 32256 (904)731-3555 beginning at 8:00 a.m.**

WHEREFORE, Petitioner respectfully requests the Board of Pharmacy enter a Final Order upon a hearing not involving disputed issues of material fact in final resolution of this case.

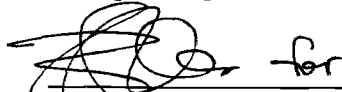
Respectfully submitted,



Wayne L. Schiefelbein
Assistant General Counsel
Florida Bar No. 265047
Department of Health
Prosecution Services Unit
4052 Bald Cypress Way, #C-65
Tallahassee, Florida 32399-3265
(850)245-4640
(850)245-4682 fax

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of this Department's Motion for Final Order by Hearing Not Involving Disputed issues of material fact has been provided to EDWIN A. BAYO, Metzger Grossman, Furlow & Bayo, LLC, 1408 North Piedmont Way, Tallahassee, Florida 32308 on December 3, 2009.



Wayne L. Schiefelbein
Assistant General Counsel

WLS/mt
12/16/09

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO. 2009-14938

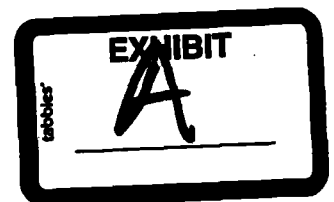
KEVIN STRYCHALSKI, RPH,

RESPONDENT.

ADMINISTRATIVE COMPLAINT

COMES NOW, Petitioner, Department of Health, by and through its undersigned counsel, and files this Administrative Complaint before the Board of Pharmacy against Respondent, Kevin Strychalski, RPh, and in support thereof alleges:

1. Petitioner is the state department charged with regulating the practice of pharmacy pursuant to Section 20.43, Florida Statutes; Chapter 456, Florida Statutes; and Chapter 465, Florida Statutes.
2. At all times material to this Complaint, Respondent was a licensed pharmacist within the state of Florida, having been issued license number PS 25362.



3. Respondent's address of record is 2053 Courtyard Loop, #201, Sanford, Florida 32771.

4. On May 5, 2006, the Department filed an Administrative Complaint in Case No. 2005-01518 with the Clerk for the Department, initiating disciplinary proceedings against Respondent and alleging that Respondent had violated an order of the Board of Pharmacy (hereinafter the Board) previously entered in a disciplinary hearing by failing to pay certain costs as ordered, in violation of Section 465.016(1)(n), Florida Statutes (2004).

5. By Final Order No. DOH-06-2462-S-MQA, filed with the Clerk of the Department on December 21, 2006, the Board approved a Settlement Agreement with Respondent in Case No. 2005-01518. Among other things, the approved Settlement Agreement provided for the indefinite suspension of Respondent's license until such time as Respondent petitions and appears before the Board seeking reinstatement of his license and proves that he is safe to practice pharmacy in the state of Florida. The approved Settlement Agreement further provided that the Board expressly retained the right to impose restrictions, conditions or obligations at the time that the Board lifts the suspension of Respondent's license. In addition, the Settlement Agreement provided that upon reinstatement of

Respondent's license, it shall be placed on a five year probationary period, with attendant terms and conditions specified therein.

6. By an Order filed with the Clerk for the Department on October 2, 2008, the Board granted reinstatement of Respondent's license to practice pharmacy subject to the terms and conditions, including those of probation, set forth in the Settlement Agreement incorporated in the December 21, 2006, Final Order. In addition, the Order Granting Reinstatement provided as follows:

Prior to commencing work as a pharmacist, Respondent shall submit a practice plan to the Board of Pharmacy for approval by the Chair of the Board. Once the Chair has approved Respondent's proposed practice plan, Respondent shall be allowed to work as restricted by the December 21, 2006, Final Order and the approved practice plan.

7. On or about May 11, 2009, Respondent began working as a pharmacist for a pharmacy operated by Winn Dixie and located at 1835 State Road #44, New Smyrna Beach, Florida 32168. This work assignment ended on or about May 25, 2009.

8. On or about June 26, 2009, Respondent began working as a pharmacist for a pharmacy operated by Winn Dixie and located at 2701 S. Woodland Boulevard, Deland, Florida 32720.

9. On or about June 30, 2009, Respondent submitted a proposed practice plan to the Department.

10. On or about July 22, 2009, the Chair of the Board approved Respondent's proposed practice plan.

11. Section 465.016(1)(n), Florida Statutes (2008), provides that violating a rule of the board or department or violating an order of the board or department previously entered in a disciplinary hearing constitutes grounds for disciplinary action by the Board of Pharmacy.

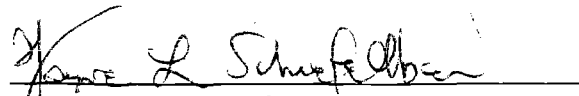
12. Based on the foregoing, Respondent has violated Section 465.016(1)(n), Florida Statutes (2008), by violating an order of the board previously entered in a disciplinary hearing, by commencing work as a pharmacist prior to the Chair's approval of Respondent's proposed practice plan.

WHEREFORE, Petitioner respectfully requests that the Board of Pharmacy enter an order imposing one or more of the following penalties: permanent revocation or suspension of Respondent's license, restriction of practice, imposition of an administrative fine, issuance of a reprimand,

placement of Respondent on probation, corrective action, refund of fees billed or collected, remedial education and/or any other relief that the Board deems appropriate.

SIGNED this 24th day of November, 2009.

Ana M. Viamonte Ros, M.D., M.P.H.
State Surgeon General



Wayne L. Schiefelbein
Assistant General Counsel
DOH Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, FL 32399-3265
Florida Bar # 0265047
(850) 245-4640
(850) 245-4682

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK: Angele Baiton
DATE 11/24/09

PCP: 11/24/09
PCP Members: Melvin + Kirsch

DOH v. Kevin Strychalski, RPh, Case Number 2009-14938

NOTICE OF RIGHTS

Respondent has the right to request a hearing to be conducted in accordance with Section 120.569 and 120.57, Florida Statutes, to be represented by counsel or other qualified representative, to present evidence and argument, to call and cross-examine witnesses and to have subpoena and subpoena duces tecum issued on his or her behalf if a hearing is requested.

NOTICE REGARDING ASSESSMENT OF COSTS

Respondent is placed on notice that Petitioner has incurred costs related to the investigation and prosecution of this matter. Pursuant to Section 456.072(4), Florida Statutes, the Board shall assess costs related to the investigation and prosecution of a disciplinary matter, which may include attorney hours and costs, on the Respondent in addition to any other discipline imposed.

DOH v. Kevin Strychalski, RPh, Case Number 2009-14938

STATE OF FLORIDA
DEPARTMENT OF HEALTH

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK: *Ang Lee*
DATE 12-21-09

DEPARTMENT OF HEALTH,

Petitioner,

v.

CASE NO. 2009-14938

KEVIN STRYCHALSKI, RPH,

Respondent.

DEPARTMENT'S MOTION TO ASSESS COSTS
PURSUANT TO SECTION 456.072(4), FLORIDA STATUTES

Petitioner Department of Health (Department), by and through undersigned counsel, moves the Board of Pharmacy (Board) for the entry of a Final Order assessing costs against Respondent for the investigation and prosecution of this case pursuant to Section 456.072(4), Florida Statutes, and states:

1. At its meeting scheduled for **FEBRUARY 10, 2010** at the **EMBASSY SUITES, 9300 Baymeadows Road, JACKSONVILLE, FLORIDA 32256 (904)731-3555** beginning **at 8:00 a.m.**, the Board of Pharmacy will take up for consideration this case for disciplinary action.

2. Section 456.072(4), Florida Statutes, provides:

456.072(4) In addition to any other discipline imposed through final order, or citation, entered on or after July 1, 2001, under this section or discipline imposed through final order, or citation, entered on or after July 1, 2001, for a violation of any practice act, the board, or the department when there is no board, shall assess costs related to the investigation and prosecution of the case. The costs related to the investigation and prosecution include, but are not limited to, salaries and benefits of personnel, costs related to the time spent by the attorney and other personnel working on the case, and any other expenses incurred by the department for the case. The board, or the department when there is no board, shall determine the amount of costs to be assessed after its consideration of an affidavit of itemized costs and any written objections thereto. In any case where the board or the department imposes a fine or assessment and the fine or assessment is not paid within a reasonable time, the reasonable time to be prescribed in the rules of the board, or the department when there is no board, or in the order assessing the fines or costs, the department or the Department of Legal Affairs may contract for the collection of, or bring a civil action to recover, the fine or assessment.

3. The investigation and prosecution of this case has resulted in costs in the total amount of \$1,101.92, based on the following itemized statement of costs:

| | |
|----------------|----------|
| Complaint: | \$ 53.18 |
| Investigation: | \$3.13 |

Legal: \$1,045.61

The Affidavit of Costs is attached as Exhibit A.

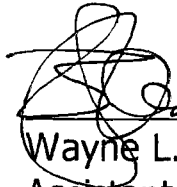
4. Should Respondent file written objections to the assessment of costs within 10 days of the date of this Motion, specifying the grounds for the objections and the specific elements of the costs to which the objections are made, Petitioner requests that the Board determine the amount of costs to be assessed based upon its consideration of the Affidavit attached as Exhibit A and any timely-filed written objections.

5. Petitioner requests that the Board grant this Motion and assess costs in the amount of \$1,101.92 as supported by competent, substantial evidence. This assessment of costs would be in addition to any other discipline imposed by the Board as provided in Section 456.072(4), Florida Statutes.

WHEREFORE, the Department of Health requests that the Board of Pharmacy enter a Final Order assessing costs against the Respondent in the amount of \$1,101.92.

DATED this _____ day of _____, 2009.

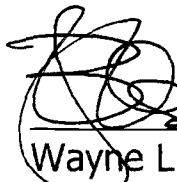
Respectfully submitted,

 for

Wayne L. Schiefelbein
Assistant General Counsel
Department of Health
Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, Florida 32399-3265
Florida Bar No. 265047
850.245.4640
850.245.4682 fax

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of this Department's Motion to Assess Costs has been provided by U.S.P.S. delivery on December 22, 2009, to EDWIN A. BAYÓ, ESQUIRE, Metzger, Grossman, Furlow & Bayó, 1408 North Piedmont Way, Tallahassee, Florida 32308.

 for

Wayne L. Schiefelbein
Assistant General Counsel

WLS/mt
12/16/09

AFFIDAVIT OF FEES AND COSTS EXPENDED

STATE OF FLORIDA
COUNTY OF LEON:

BEFORE ME, the undersigned authority, personally appeared **ELISA M. FLOYD** who was sworn and states as follows:

- 1) My name is Elisa M. Floyd.
- 2) I am over the age of 18, competent to testify, and make this affidavit upon my own personal knowledge and after review of the records at the Florida Department of Health (DOH).
- 3) I am a Regulatory Supervisor/ Consultant (RSC) for the Consumer Services and Compliance Management Unit for DOH. The Consumer Services Unit is where all complaints against Florida health care licensees (e.g., medical doctors, dentists, nurses, respiratory therapists) are officially filed. I have been in my current job position for more than one year. My business address is 4052 Bald Cypress Way, Bin C-75 Tallahassee, Florida 32399-3275.
- 4) As a RSC of the Consumer Services and Compliance Management Unit, my job duties include reviewing data in the Time Tracking System and verifying that the amounts correspond. The Time Tracking System is a computer program which records and tracks DOH's costs regarding the investigation and prosecution of cases against Florida health care licensees.
- 5) As of today, DOH's total costs for investigating and prosecuting DOH case number(s) **2009-14938** (Department of Health v **KEVIN STRYCHALSKI, RPH**) are **one thousand one hundred one dollars and ninety two cents (\$1,101.92)**.
- 6) The costs for DOH case numbers **2009-14938** (Department of Health v. **KEVIN STRYCHALSKI, RPH**) are summarized in Exhibit 1 (Cost Summary Report), which is attached to this document.
- 7) The itemized costs and expenses for DOH case numbers **2009-14938** (Department of Health v. **KEVIN STRYCHALSKI, RPH**) are detailed in Exhibit 2 (Itemized Cost Report and Itemized Expense Report and receipts), which is attached to this document.
- 8) The itemized costs as reflected in Exhibit 2 are determined by the following method: DOH employees who work on cases daily are to keep track of their time in six-minute increments (e.g., investigators

and lawyers). A designated DOH employee in the Consumer Services Unit, Legal Department, and in each area office, inputs the time worked and expenses spent into the Time Tracking System. Time and expenses are charged against a state health care Board (e.g., Florida Board of Medicine, Florida Board of Dentistry, Florida Board of Osteopathic Medicine), and/or a case. If no Board or case can be charged, then the time and expenses are charged as administrative time. The hourly rate of each employee is calculated by formulas established by the Department. (See the Itemized Cost Report)

- 9) Elisa M. Floyd, first being duly sworn, states that she has read the foregoing Affidavit and its attachments and the statements contained therein are true and correct to the best of her knowledge and belief.

FURTHER AFFIANT SAYETH NOT.

Elisa M. Floyd
Elisa M. Floyd, Affiant

State of Florida
County of Leon

Sworn to and subscribed before me this 16th day of December, 2009,
by Elisa M. Floyd, who is personally known to me.

[Signature]
Notary Signature

ANTOINETTE F. CARTER
Commission DD 719446
Expires September 26, 2011
Name of Notary Printed

Stamp Commissioned Name of Notary Public:

Complaint Cost Summary

Complaint Number: 200914938

Complainant's Name: DEPARTMENT OF HEALTH/COMPLIANCE MANAGEMEN

Subject's Name: STRYCHALSKI, KEVIN

| | ***** Cost to Date ***** | |
|-----------------------------|--------------------------|------------|
| | Hours | Costs |
| Complaint: | 1.70 | \$53.18 |
| Investigation: | 0.10 | \$3.13 |
| Legal: | 9.30 | \$1,045.61 |
| Compliance: | 0.00 | \$0.00 |
| | ***** | ***** |
| Sub Total: | 11.10 | \$1,101.92 |
| Expenses to Date: | | \$0.00 |
| Prior Amount: | | \$0.00 |
| Total Costs to Date: | | \$1,101.92 |



**Time Tracking System
Itemized Cost by Complaint**

Complaint 200914938

Report Date 12/16/2009

| Staff Code | Activity Hours | Staff Rate | Cost | Activity Date | Activity Code | Activity Description |
|------------|----------------|------------|------|---------------|---------------|----------------------|
|------------|----------------|------------|------|---------------|---------------|----------------------|

CONSUMER SERVICES UNIT

| | | | | | | |
|------------------|-------------|---------|----------------|------------|----|--|
| HA23 | 0.70 | \$31.28 | \$21.90 | 07/09/2009 | 78 | INITIAL REVIEW AND ANALYSIS OF COMPLAINT |
| HA23 | 0.10 | \$31.28 | \$3.13 | 07/13/2009 | 4 | ROUTINE INVESTIGATIVE WORK |
| HA23 | 1.00 | \$31.28 | \$31.28 | 07/20/2009 | 78 | INITIAL REVIEW AND ANALYSIS OF COMPLAINT |
| Sub Total | 1.80 | | \$56.31 | | | |

PROSECUTION SERVICES UNIT

| | | | | | | |
|------------------|-------------|----------|-------------------|------------|----|---|
| HLL50B | 0.50 | \$112.43 | \$56.22 | 08/26/2009 | 25 | REVIEW CASE FILE |
| HLL50B | 0.20 | \$112.43 | \$22.49 | 08/26/2009 | 46 | LEGAL RESEARCH |
| HLL50B | 0.40 | \$112.43 | \$44.97 | 08/26/2009 | 60 | MISCELLANEOUS |
| HLL50B | 0.80 | \$112.43 | \$89.94 | 08/27/2009 | 60 | MISCELLANEOUS |
| HLL50B | 0.40 | \$112.43 | \$44.97 | 08/28/2009 | 60 | MISCELLANEOUS |
| HLL50B | 0.30 | \$112.43 | \$33.73 | 09/01/2009 | 46 | LEGAL RESEARCH |
| HLL50B | 0.20 | \$112.43 | \$22.49 | 09/10/2009 | 60 | MISCELLANEOUS |
| HLL50B | 0.50 | \$112.43 | \$56.22 | 09/11/2009 | 60 | MISCELLANEOUS |
| HLL50B | 0.30 | \$112.43 | \$33.73 | 09/21/2009 | 60 | MISCELLANEOUS |
| HLL50B | 0.50 | \$112.43 | \$56.22 | 09/23/2009 | 60 | MISCELLANEOUS |
| HLL50B | 0.30 | \$112.43 | \$33.73 | 09/29/2009 | 60 | MISCELLANEOUS |
| HLL50B | 0.10 | \$112.43 | \$11.24 | 10/08/2009 | 37 | REVIEW LETTER |
| HLL50B | 1.00 | \$112.43 | \$112.43 | 10/08/2009 | 28 | PREPARE OR REVISE ADMINISTRATIVE COMPLAINT |
| HLL50B | 0.80 | \$112.43 | \$89.94 | 10/08/2009 | 60 | MISCELLANEOUS |
| HLL50B | 0.40 | \$112.43 | \$44.97 | 10/08/2009 | 46 | LEGAL RESEARCH |
| HLL50B | 0.70 | \$112.43 | \$78.70 | 11/13/2009 | 89 | PROBABLE CAUSE PREPARATION |
| HLL50B | 0.20 | \$112.43 | \$22.49 | 11/24/2009 | 63 | PRESENTATION OF CASES TO PROBABLE CAUSE PANEL |
| HLL50B | 0.30 | \$112.43 | \$33.73 | 11/24/2009 | 90 | POST PROBABLE CAUSE PROCESSING |
| HLL50B | 1.00 | \$112.43 | \$112.43 | 11/25/2009 | 90 | POST PROBABLE CAUSE PROCESSING |
| HLL50B | 0.40 | \$112.43 | \$44.97 | 12/03/2009 | 90 | POST PROBABLE CAUSE PROCESSING |
| Sub Total | 9.30 | | \$1,045.61 | | | |



*** CONFIDENTIAL ***

Time Tracking System
Itemized Cost by Complaint

Complaint 200914938

Report Date 12/16/2009

Page 2 of 2

| Staff Code | Activity Hours | Staff Rate | Cost | Activity Date | Activity Code | Activity Description |
|-------------------|----------------|------------|------|---------------|---------------|----------------------|
| Total Cost | | | | | | |
| \$1,101.92 | | | | | | |



*** CONFIDENTIAL ***

Time Tracking System
Itemized Expense by Complaint
Complaint

Report Date: 12/16/2009

Page 1 of 1

| Staff Code | Expense Date | Expense Amount | Expense Code | Expense Code Description |
|------------|--------------|----------------|--------------|--------------------------|
|------------|--------------|----------------|--------------|--------------------------|

SubTotal

Total Expenses

STATE OF FLORIDA
BOARD OF PHARMACY

DEPARTMENT OF HEALTH,

Petitioner,

vs.

KEVIN STRYCHALSKI, R.PH.,

Respondent.

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK: *Racaul*
DATE 10-2-08

Case No.: 2005-01518
License No.: PS 25362

ORDER GRANTING REINSTATEMENT

THIS MATTER came before the Board of Pharmacy (hereinafter "the Board") at a duly noticed public meeting on August 13, 2008, in Orlando, Florida, for consideration of Respondent's Petition for Reinstatement.

1. The Board was represented by Deborah Bartholow Loucks, Assistant Attorney General. Respondent was present with his counsel, Edwin A. Bayó, Attorney at Law. Dr. Judy Rivenbark of the Professionals Resource Network (PRN) appeared with Respondent.

2. Respondent petitioned the Board seeking reinstatement of his pharmacy license which had been suspended pursuant to a Board Final Order filed on December 21, 2006.

3. After reviewing this matter and hearing testimony from Respondent and Dr. Judy Rivenbark, (PRN), the Board voted to reinstate Respondent's license to practice pharmacy subject to the terms and conditions, including those of probation, set forth in the Settlement Agreement incorporated in the December 21, 2006, Final Order.

4. Prior to commencing work as a pharmacist, Respondent shall submit a practice plan to the Board of Pharmacy for approval by the Chair of the Board. Once the Chair has approved Respondent's proposed practice plan, Respondent shall be allowed to work as restricted by the December 21, 2006, Final Order and the approved practice plan.

It is therefore **ORDERED AND ADJUDGED** that:

Kevin Strychalski's Petition for Reinstatement is hereby **GRANTED** subject to the terms and conditions set forth in the Settlement Agreement incorporated into the Final Order filed on December 21, 2006, and approval by the Board Chair of Respondent's proposed practice plan.

This order shall become effective upon filing with the Clerk of the Department of Health.

DONE AND ORDERED this 25 day of September, 2008.

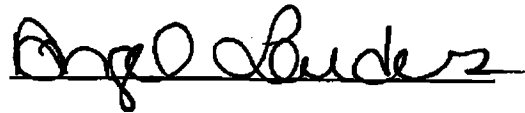
BOARD OF PHARMACY



Rebecca R. Poston, R.Ph.
Executive Director
on behalf of Albert Garcia, R.Ph., CHAIR

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail to: **Kevin Strychalski, R.Ph.**, by sending same to his attorney of record, Edwin A. Bayó, Metzger, Grossman, Furlow & Bayó, LLC, 1408 N. Piedmont Way, Tallahassee, Florida 32308; and by interoffice mail to **Deborah B. Loucks**, Assistant Attorney General, PL-01, The Capitol, Tallahassee, Florida 32399-1050; and **Billie Jo Owens**, Assistant General Counsel, Department of Health, 4052 Bald Cypress Way, Bin # C-65, Tallahassee, Florida 32399-3265, on October 2, 2008.



Deputy Agency Clerk

STATE OF FLORIDA
DEPARTMENT OF HEALTH

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK *Lilla M. [Signature]*
DATE 7/7/08

DEPARTMENT OF HEALTH

Petitioner,

v.

Case No. 2006-21273

KEVIN STRYCHALSKI, R.PH.

Respondent.

PETITION FOR REINSTATEMENT

COMES NOW Respondent, Kevin Strychalski, R.Ph., by and through his undersigned attorney, and hereby petitions the Board of Pharmacy for an Order Reinstating his license to practice, and as grounds therefore would show:

1. By Final Order in the above captioned case, Respondent's license was suspended until such time as he appeared before the Board to demonstrate his present ability to practice with reasonable skill and safety.

2. Respondent is ready to make such demonstration. He completed a two month residential chemical dependency program on April, 2008, and is currently in out-patient treatment. He was evaluated by Dr. Martha Brown on June, 2008, and has been recommended to return to practice under certain conditions. Undersigned Counsel has been informed that the Professional's Resource Network (PRN) will advocate on his behalf.

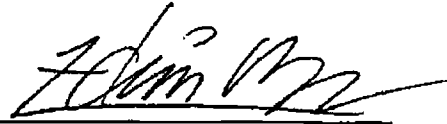
3. Respondent wishes to present a practice plan, as required by the Final Order, for the Board's consideration at the time of his appearance before the Board.

WHEREFORE, and for the foregoing reasons, Respondent prays that this matter be placed on the Board's agenda, and that upon a satisfactory demonstration of his present ability to practice, that his license be reinstated.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by E-MAIL and U.S. Mail to Billie Jo Owens, Assistant General Counsel, Department of Health, Prosecution Services Unit, 4052 Bald Cypress Way, Bin C-65, Tallahassee, FL 32399-3265 this 7 day of July, 2008.

Respectfully Submitted,



Edwin A. Bayó
Metzger, Grossman, Furlow, and Bayó
Fla. Bar No. 327727
1408 N. Piedmont Way
Tallahassee, FL 32308
Phone: (850)385-1314
Fax: (850)385-4240
Counsel for Respondent

Mission:

To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.

HEALTH

Vision: To be the Healthiest State in the Nation

Rick Scott
Governor

John H. Armstrong, MD, FACS
State Surgeon General & Secretary

June 12, 2014

Kevin Strychalski, R.Ph.
1232 Wilkinson Street
Orlando, FL 32803

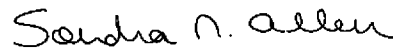
Final Order filed: December 21, 2006
Case Number: 200501518
License Number: 25362

Dear Mr. Strychalski:

The Compliance Management Unit has received and approved the June 25, 2014 respondent and supervisor probation reports.

The mission of the Department of Health is to protect, promote, & improve the health of all people in Florida through integrated state, county, & community efforts. If you have any questions, please contact me at (850) 245-4268, Option 6.

Sincerely,



Sondra N. Allen
Operations Analyst II

Florida Department of Health

Division of Medical Quality Assurance • Bureau of Enforcement
4052 Bald Cypress Way, Bin C-76 • Tallahassee, FL 32399-3276
PHONE: (850) 245-4268 • FAX: (850) 488-0796

www.FloridasHealth.com

TWITTER: HealthyFLA
FACEBOOK: FLDepartmentofHealth
YOUTUBE: fldoh

June 3, 2014

Compliance Management Team

Att: Sondra Nelson

4052 Bald Cypress Way

Bin C-76

Tallahassee, FL 32399

My name is Kevin Strychalski R.Ph and my license is PS25362. I am currently working at Winn-Dixie #2237 located at:

2 N US HWY 17-92

Debary, FL 32713

(386) 668-8845

My current residence is:

1232 Wilkinson St

Orlando, FL 32803

(201) 679-6144

Stryrx@aol.com

I work with Vamsi Neppalli R.Ph, the pharmacy manager.
I also work with Julie Lanoue, a certified technician.

Enclosed is a copy of my schedule over the last 3 month.

Sincerely,

A handwritten signature in black ink, appearing to read "Kevin Strychalski". The signature is fluid and cursive, with a large initial "K" and a long horizontal stroke at the end.

Kevin Strychalski R.Ph

Case Number - 200501518

| | | | | | | | | | | | | | |
|-------------------|----------|--------|----------|--------|--------|---------|-----------|----------|--------|----------|--------|-----------|---|
| W | 2237 | | | | | | | | | | | | |
| Schedule Month: | | April | | | | | | | | | | | |
| 4/3/14 | | 4/3/14 | | | | | | | | | | | |
| Pharmacy Staff | Thursday | Friday | Saturday | Sunday | Monday | Tuesday | Wednesday | Thursday | Friday | Saturday | Sunday | Total Hrs | OR |
| Vamsi Neppalli | Kevin | Vamsi | Vamsi | Vamsi | Kevin | Kevin | Vamsi | Vamsi | Kevin | Kevin | Vamsi | 80 | |
| Kevin Strychalski | Julie | Julie | | | Julie | Julie | | | Julie | Julie | Julie | 40 | |
| Julie Lanoue | | | | | | | | | | | | 0 | |
| | | | | | | | | | | | | 0 | |
| | | | | | | | | | | | | 0 | |
| | | | | | | | | | | | | 0 | Does this match your weekly budgeted hours? |

| | | | | | | | | | | | | | |
|-------------------|----------|---------|----------|--------|--------|---------|-----------|----------|--------|----------|--------|-----------|---|
| 4/10/14 | | 4/10/14 | | | | | | | | | | | |
| Pharmacy Staff | Thursday | Friday | Saturday | Sunday | Monday | Tuesday | Wednesday | Thursday | Friday | Saturday | Sunday | Total Hrs | OR |
| Vamsi Neppalli | Vamsi | Kevin | Kevin | Kevin | Vamsi | Kevin | Vamsi | Vamsi | Kevin | Kevin | Vamsi | 80 | |
| Kevin Strychalski | | Julie | | | Julie | Julie | | | Julie | Julie | Julie | 40 | |
| Julie Lanoue | | | | | | | | | | | | 0 | |
| | | | | | | | | | | | | 0 | |
| | | | | | | | | | | | | 0 | |
| | | | | | | | | | | | | 0 | Does this match your weekly budgeted hours? |

| | | | | | | | | | | | | | |
|-------------------|----------|---------|----------|--------|--------|---------|-----------|----------|--------|----------|--------|-----------|---|
| 4/17/14 | | 4/17/14 | | | | | | | | | | | |
| Pharmacy Staff | Thursday | Friday | Saturday | Sunday | Monday | Tuesday | Wednesday | Thursday | Friday | Saturday | Sunday | Total Hrs | OR |
| Vamsi Neppalli | Kevin | Vamsi | Vamsi | Vamsi | Kevin | Kevin | Vamsi | Vamsi | Kevin | Kevin | Vamsi | 80 | |
| Kevin Strychalski | Julie | Julie | | | Julie | Julie | | | Julie | Julie | Julie | 40 | |
| Julie Lanoue | | | | | | | | | | | | 0 | |
| | | | | | | | | | | | | 0 | |
| | | | | | | | | | | | | 0 | |
| | | | | | | | | | | | | 0 | Does this match your weekly budgeted hours? |

| | | | | | | | | | | | | | |
|-------------------|----------|---------|----------|--------|--------|---------|-----------|----------|--------|----------|--------|-----------|---|
| 4/24/14 | | 4/24/14 | | | | | | | | | | | |
| Pharmacy Staff | Thursday | Friday | Saturday | Sunday | Monday | Tuesday | Wednesday | Thursday | Friday | Saturday | Sunday | Total Hrs | OR |
| Vamsi Neppalli | Vamsi | Kevin | Kevin | Kevin | Vamsi | Kevin | Vamsi | Vamsi | Kevin | Kevin | Vamsi | 80 | |
| Kevin Strychalski | Julie | Julie | | | Julie | Julie | | | Julie | Julie | Julie | 40 | |
| Julie Lanoue | | | | | | | | | | | | 0 | |
| | | | | | | | | | | | | 0 | |
| | | | | | | | | | | | | 0 | |
| | | | | | | | | | | | | 0 | Does this match your weekly budgeted hours? |

| | | | | | | | | | | | | | |
|-------------------|----------|--------|----------|--------|--------|---------|-----------|----------|--------|----------|--------|-----------|---|
| 5/1/14 | | 5/1/14 | | | | | | | | | | | |
| Pharmacy Staff | Thursday | Friday | Saturday | Sunday | Monday | Tuesday | Wednesday | Thursday | Friday | Saturday | Sunday | Total Hrs | OR |
| Vamsi Neppalli | Kevin | Vamsi | Vamsi | Vamsi | Kevin | Kevin | Vamsi | Vamsi | Kevin | Kevin | Vamsi | 80 | |
| Kevin Strychalski | Julie | Julie | | | Julie | Julie | | | Julie | Julie | Julie | 40 | |
| Julie Lanoue | | | | | | | | | | | | 0 | |
| | | | | | | | | | | | | 0 | |
| | | | | | | | | | | | | 0 | |
| | | | | | | | | | | | | 0 | Does this match your weekly budgeted hours? |

| | | | | | | | | | | | | | |
|-------------------|----------|--------|----------|--------|--------|---------|-----------|----------|--------|----------|--------|-----------|---|
| 5/8/14 | | 5/8/14 | | | | | | | | | | | |
| Pharmacy Staff | Thursday | Friday | Saturday | Sunday | Monday | Tuesday | Wednesday | Thursday | Friday | Saturday | Sunday | Total Hrs | OR |
| Vamsi Neppalli | Vamsi | Kevin | Kevin | Kevin | Vamsi | Kevin | Vamsi | Vamsi | Kevin | Kevin | Vamsi | 80 | |
| Kevin Strychalski | Julie | Julie | | | Julie | Julie | | | Julie | Julie | Julie | 40 | |
| Julie Lanoue | | | | | | | | | | | | 0 | |
| | | | | | | | | | | | | 0 | |
| | | | | | | | | | | | | 0 | |
| | | | | | | | | | | | | 0 | Does this match your weekly budgeted hours? |

| Schedule Month: | 2237 | | | | | | | | Total Hrs | OR |
|-------------------|-------|---------|---------|---------|---------|---------|---------|---------|-----------|---|
| W | April | 5/15/14 | 5/16/14 | 5/17/14 | 5/18/14 | 5/19/14 | 5/20/14 | 5/21/14 | | |
| Pharmacy Staff | Kevin | Vamsi | Vamsi | Vamsi | Vamsi | Kevin | Kevin | Vamsi | 80 | |
| Vamsi Neppalli | Kevin | Vamsi | Vamsi | Vamsi | Vamsi | Kevin | Kevin | Vamsi | 0 | |
| Kevin Strychalski | Julie | Julie | | | | Julie | Julie | Julie | 40 | |
| Julie Lanoue | | | | | | | | | 0 | |
| | | | | | | | | | 0 | |
| | | | | | | | | | 0 | |
| | | | | | | | | | 0 | Does this match your weekly budgeted hours? |

| Schedule Month: | 2237 | | | | | | | | Total Hrs | OR |
|-------------------|-------|---------|---------|---------|---------|---------|---------|---------|-----------|---|
| W | April | 5/22/14 | 5/23/14 | 5/24/14 | 5/25/14 | 5/26/14 | 5/27/14 | 5/28/14 | | |
| Pharmacy Staff | Vamsi | Kevin | Kevin | Kevin | Kevin | Vamsi | Kevin | Vamsi | 80 | |
| Vamsi Neppalli | Vamsi | Kevin | Kevin | Kevin | Kevin | Vamsi | Kevin | Vamsi | 0 | |
| Kevin Strychalski | Julie | Julie | | | | Julie | Julie | Julie | 40 | |
| Julie Lanoue | | | | | | | | | 0 | |
| | | | | | | | | | 0 | |
| | | | | | | | | | 0 | |
| | | | | | | | | | 0 | Does this match your weekly budgeted hours? |

| Schedule Month: | 2237 | | | | | | | | Total Hrs | OR |
|-------------------|-------|---------|---------|---------|--------|--------|--------|--------|-----------|---|
| W | April | 5/29/14 | 5/30/14 | 5/31/14 | 6/1/14 | 6/2/14 | 6/3/14 | 6/4/14 | | |
| Pharmacy Staff | Kevin | Vamsi | Vamsi | Vamsi | Vamsi | Kevin | Kevin | Vamsi | 80 | |
| Vamsi Neppalli | Kevin | Vamsi | Vamsi | Vamsi | Vamsi | Kevin | Kevin | Vamsi | 0 | |
| Kevin Strychalski | Julie | Julie | | | | Julie | Julie | Julie | 40 | |
| Julie Lanoue | | | | | | | | | 0 | |
| | | | | | | | | | 0 | |
| | | | | | | | | | 0 | |
| | | | | | | | | | 0 | Does this match your weekly budgeted hours? |

| Schedule Month: | 2237 | | | | | | | | Total Hrs | OR |
|-------------------|-------|--------|--------|--------|--------|--------|---------|---------|-----------|---|
| W | April | 6/5/14 | 6/6/14 | 6/7/14 | 6/8/14 | 6/9/14 | 6/10/14 | 6/11/14 | | |
| Pharmacy Staff | Vamsi | Kevin | Kevin | Kevin | Kevin | Vamsi | Kevin | Vamsi | 80 | |
| Vamsi Neppalli | Vamsi | Kevin | Kevin | Kevin | Kevin | Vamsi | Kevin | Vamsi | 0 | |
| Kevin Strychalski | Julie | Julie | | | | Julie | Julie | Julie | 40 | |
| Julie Lanoue | | | | | | | | | 0 | |
| | | | | | | | | | 0 | |
| | | | | | | | | | 0 | |
| | | | | | | | | | 0 | Does this match your weekly budgeted hours? |

| Schedule Month: | 2237 | | | | | | | | Total Hrs | OR |
|-------------------|-------|---------|---------|---------|---------|---------|---------|---------|-----------|---|
| W | April | 6/12/14 | 6/13/14 | 6/14/14 | 6/15/14 | 6/16/14 | 6/17/14 | 6/18/14 | | |
| Pharmacy Staff | Kevin | Vamsi | Vamsi | Vamsi | Vamsi | Kevin | Kevin | Vamsi | 80 | |
| Vamsi Neppalli | Kevin | Vamsi | Vamsi | Vamsi | Vamsi | Kevin | Kevin | Vamsi | 0 | |
| Kevin Strychalski | Julie | Julie | | | | Julie | Julie | Julie | 40 | |
| Julie Lanoue | | | | | | | | | 0 | |
| | | | | | | | | | 0 | |
| | | | | | | | | | 0 | |
| | | | | | | | | | 0 | Does this match your weekly budgeted hours? |

| Schedule Month: | 2237 | | | | | | | | Total Hrs | OR |
|-------------------|-------|---------|---------|---------|---------|---------|---------|---------|-----------|---|
| W | April | 6/19/14 | 6/20/14 | 6/21/14 | 6/22/14 | 6/23/14 | 6/24/14 | 6/25/14 | | |
| Pharmacy Staff | Vamsi | Kevin | Kevin | Kevin | Kevin | Vamsi | Kevin | Vamsi | 80 | |
| Vamsi Neppalli | Vamsi | Kevin | Kevin | Kevin | Kevin | Vamsi | Kevin | Vamsi | 0 | |
| Kevin Strychalski | Julie | Julie | | | | Julie | Julie | Julie | 40 | |
| Julie Lanoue | | | | | | | | | 0 | |
| | | | | | | | | | 0 | |
| | | | | | | | | | 0 | |
| | | | | | | | | | 0 | Does this match your weekly budgeted hours? |

SN

June 3, 2014

Compliance Management Team
4052 Bald Cypress Way
Bin C-76
Tallahassee, FL 32399

Pharmacist:
Kevin Strychalski – License- PS25362
Case Number – 200501518
1232 Wilkinson St
Orlando, FL 32803
201-679-6144

Currently employed at:
Winn-Dixie #2237
2 N US HWY 17-92
Debary, FL 32713
386-668-8845

Kevin's duties include but not limited to proper filling and dispensing of prescriptions, evaluation of physician drug orders for appropriateness, provide patient counseling, immunizations as well as inventory control.

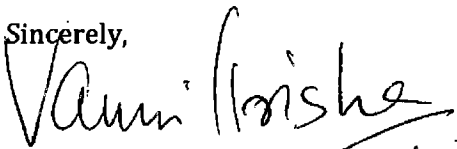
Enclosed is a copy of our schedule over the last 3 months. We have 1 certified pharmacy technician employed at this location.

Julie Ann Lanoue
700 E Roberts St.
Orange City, FL 32763
386-216-9312

My name is Vamsi Neppalli R.Ph License# PS42752 and I am the pharmacy manager. My current residence is:

3616 Simonton Place
Lake Mary, FL 32746
904-651-9748

Sincerely,



Vamsi Neppalli R.Ph

| Schedule Month: | W | 2237 | | | | | | | | Total Hrs | OR | Does this match your weekly budgeted hours? |
|-------------------|-------|----------|--------|----------|--------|--------|---------|-----------|----|-----------|----|---|
| | April | 4/3/14 | 4/4/14 | 4/5/14 | 4/6/14 | 4/7/14 | 4/8/14 | 4/9/14 | 80 | | | |
| Pharmacy Staff | | Thursday | Friday | Saturday | Sunday | Monday | Tuesday | Wednesday | | | | |
| Vamsi Neppalli | | Kevin | Vamsi | Vamsi | Vamsi | Kevin | Kevin | Vamsi | | | | |
| Kevin Strychalski | | Julie | Julie | | | Julie | Julie | Julie | | | | |
| Julie Lanoue | | | | | | | | | 40 | | | |
| | | | | | | | | | 0 | | | |
| | | | | | | | | | 0 | | | |
| | | | | | | | | | 0 | | | |
| | | | | | | | | | 0 | | | |

| Schedule Month: | W | 2237 | | | | | | | | Total Hrs | OR | Does this match your weekly budgeted hours? |
|-------------------|-------|----------|---------|----------|---------|---------|---------|-----------|----|-----------|----|---|
| | April | 4/10/14 | 4/11/14 | 4/12/14 | 4/13/14 | 4/14/14 | 4/15/14 | 4/16/14 | 80 | | | |
| Pharmacy Staff | | Thursday | Friday | Saturday | Sunday | Monday | Tuesday | Wednesday | | | | |
| Vamsi Neppalli | | Vamsi | Kevin | Kevin | Kevin | Vamsi | Kevin | Vamsi | | | | |
| Kevin Strychalski | | | Julie | | | Julie | Julie | Julie | | | | |
| Julie Lanoue | | | | | | | | | 40 | | | |
| | | | | | | | | | 0 | | | |
| | | | | | | | | | 0 | | | |
| | | | | | | | | | 0 | | | |
| | | | | | | | | | 0 | | | |

| Schedule Month: | W | 2237 | | | | | | | | Total Hrs | OR | Does this match your weekly budgeted hours? |
|-------------------|-------|----------|---------|----------|---------|---------|---------|-----------|----|-----------|----|---|
| | April | 4/17/14 | 4/18/14 | 4/19/14 | 4/20/14 | 4/21/14 | 4/22/14 | 4/23/14 | 80 | | | |
| Pharmacy Staff | | Thursday | Friday | Saturday | Sunday | Monday | Tuesday | Wednesday | | | | |
| Vamsi Neppalli | | Kevin | Vamsi | Vamsi | Vamsi | Kevin | Kevin | Vamsi | | | | |
| Kevin Strychalski | | Julie | Julie | | | Julie | Julie | Julie | | | | |
| Julie Lanoue | | | | | | | | | 40 | | | |
| | | | | | | | | | 0 | | | |
| | | | | | | | | | 0 | | | |
| | | | | | | | | | 0 | | | |
| | | | | | | | | | 0 | | | |

| Schedule Month: | W | 2237 | | | | | | | | Total Hrs | OR | Does this match your weekly budgeted hours? |
|-------------------|-------|----------|---------|----------|---------|---------|---------|-----------|----|-----------|----|---|
| | April | 4/24/14 | 4/25/14 | 4/26/14 | 4/27/14 | 4/28/14 | 4/29/14 | 4/30/14 | 80 | | | |
| Pharmacy Staff | | Thursday | Friday | Saturday | Sunday | Monday | Tuesday | Wednesday | | | | |
| Vamsi Neppalli | | Vamsi | Kevin | Kevin | Kevin | Vamsi | Kevin | Vamsi | | | | |
| Kevin Strychalski | | Julie | Julie | | | Julie | Julie | Julie | | | | |
| Julie Lanoue | | | | | | | | | 40 | | | |
| | | | | | | | | | 0 | | | |
| | | | | | | | | | 0 | | | |
| | | | | | | | | | 0 | | | |
| | | | | | | | | | 0 | | | |

| Schedule Month: | W | 2237 | | | | | | | | Total Hrs | OR | Does this match your weekly budgeted hours? |
|-------------------|-------|----------|--------|----------|--------|--------|---------|-----------|----|-----------|----|---|
| | April | 5/1/14 | 5/2/14 | 5/3/14 | 5/4/14 | 5/5/14 | 5/6/14 | 5/7/14 | 80 | | | |
| Pharmacy Staff | | Thursday | Friday | Saturday | Sunday | Monday | Tuesday | Wednesday | | | | |
| Vamsi Neppalli | | Kevin | Vamsi | Vamsi | Vamsi | Kevin | Kevin | Vamsi | | | | |
| Kevin Strychalski | | Julie | Julie | | | Julie | Julie | Julie | | | | |
| Julie Lanoue | | | | | | | | | 40 | | | |
| | | | | | | | | | 0 | | | |
| | | | | | | | | | 0 | | | |
| | | | | | | | | | 0 | | | |
| | | | | | | | | | 0 | | | |

| Schedule Month: | W | 2237 | | | | | | | | Total Hrs | OR | Does this match your weekly budgeted hours? |
|-------------------|-------|----------|--------|----------|---------|---------|---------|-----------|----|-----------|----|---|
| | April | 5/8/14 | 5/9/14 | 5/10/14 | 5/11/14 | 5/12/14 | 5/13/14 | 5/14/14 | 80 | | | |
| Pharmacy Staff | | Thursday | Friday | Saturday | Sunday | Monday | Tuesday | Wednesday | | | | |
| Vamsi Neppalli | | Vamsi | Kevin | Kevin | Kevin | Vamsi | Kevin | Vamsi | | | | |
| Kevin Strychalski | | Julie | Julie | | | Julie | Julie | Julie | | | | |
| Julie Lanoue | | | | | | | | | 40 | | | |
| | | | | | | | | | 0 | | | |
| | | | | | | | | | 0 | | | |
| | | | | | | | | | 0 | | | |
| | | | | | | | | | 0 | | | |

INVESTIGATIVE REPORT

| | | | | | |
|--|------------------|---------------------------|---|---------------------------|--|
| Office: Jacksonville | | Date of Case: 4/11/2011 | | Case Number: PS2005-01518 | |
| Subject: KEVIN STRYCHALSKI RPh 2902 N. Orange Avenue Orlando, Florida 32804 H (201)679-6144 | | | Source: Board of Pharmacy Department of Health 4052 Bald Cypress Way BIN #C04 Tallahassee, Florida 32399-3254 | | |
| Prefix: 2201 | License #: 25362 | Profession: Pharmacist | Board: PHARMACY | Report Date: 8/5/2013 | |
| Period of Investigation: 12/17/2013 to 1/3/2014 | | | Type of Report: PROBATION | | |

Alleged Violation: SEE FINAL ORDER

Synopsis:

This is a semi-annual probation report predicated upon a Board of Pharmacy Final Order dated 4/11/2011

The Board of Pharmacy suspended the license of STRYCHALSKI for one year, and imposed the following requirements:

- An administrative fine of \$500.00
- A fine of \$1,500.00 for administrative costs associated with investigation and prosecution
- Completing a continuing education course associated with laws and rules governing the practice of pharmacy in Florida that is not less than 12 hours in length
- Enter and successfully participate in a Professional Resources Network contract
- Not work at more than 2 pharmacies as a relief pharmacist in any given probation quarter without prior authorization from the Board
- Submit reports to the Compliance Officer for the Board of Pharmacy
- The Department will conduct semi-annual controlled substance audits of 5 randomly selected controlled substances
- The Department will conduct semi-annual inspections at STRYCHALSKI's place of employment
- May not work as a Pharmacy Manager at any Florida licensed pharmacy

STRYCHALSKI is practicing as a pharmacist at Winn Dixie Pharmacy, 2 N US Highway 17-92, Debary, FL 32713

STRYCHALSKI's supervisor is Vamsi Neppalli, RPh, Prescription Department Manager at Winn-Dixie Pharmacy, 2 N US Highway 17-92, Debary, FL 32713.

INTERVIEW OF VAMSI NEPPALLI RPH , SUPERVISOR

2N US Highway 17-92
Debary, Florida 32713
(W)(386)668-8845

CONTINUED NEXT PAGE

Related Case:

Investigator/Date:
Richard C. Walchle
Richard C. Walchle RPh, MS(J189)
Senior Pharmacist 1/3/2014

Approved By/Date:
Charles C. Coats
Charles C. Coats
District Manager 1-6-14

Distribution: HQ/ISU

Received

Page 1

A telephone interview was conducted with Vamsi NEPPALLI, RPh, Prescription Department Manager on 12/24/13. NEPPALLI stated the following:

- STRYCHALSKI is employed as a pharmacist at Winn Dixie Pharmacy, 2 N US Highway 17-92, Debarry 32713
- STRYCHALSKI has been an excellent pharmacist, does exemplary work, and has excellent rapport with patients and since his employment has not had any issues with the control or dispensing of controlled substances or non-controlled medication
- NEPPALLI has submitted all reports required of the final order of the Board of Pharmacy
- NEPPALI indicated that STRYCHALSKI continues to be an exemplary employee and pharmacist, and has the highest respect for STRYCHALSKI

INTERVIEW OF KEVIN STRYCHALSKI

2N US Highway 17-92
Debarry, Florida 32713
(386)668-8845

On 12/17/2013, STRYCHALSKI was interviewed at his place of employment listed above. STRYCHALSKI essentially stated:

- Has complied with all the fines imposed by the Board of Pharmacy
- Successfully completed the required continuing education
- Participated in Professional Resources Network
- Has not worked in more than 2 pharmacies as a relief pharmacist in any given quarter of probation
- Submitted required reports to the Compliance Officer of the Board of Pharmacy and has verified the assigned supervisor has submitted reports to the Compliance Officer of the Board of Pharmacy
- Has not worked as a pharmacy manager of any Florida licensed pharmacy

ADDITIONAL INFORMATION

On December 12/17/2013 a controlled substance inventory was conducted and dispensing records were obtained at STRYCHALSKI's Practice location. Purchasing records and dispensing information were requested from Winn-Dixie Corporate Offices prior to completion of the Probation audit. Exhibit P-1 is a CONTROLLED SUBSTANCE AUDIT WORKSHEET used to identify the controlled substances audited during the probation audit.

Exhibit P-2 is a Drug Accountability Report Summary summarizes the data collected during the probation controlled substance audit. Exhibit P-1 shows the current, on-hand inventory to be accounted for by the facility

Exhibit P-2 indicates the controlled substance audit was completed with minor discrepancies in inventory, but within normally accepted variations. All inventory discrepancies were overages. No issues were identified during the inspection.

EXHIBITS

P-1 CONTROLLED SUBSTANCE AUDIT WORK SHEET identifying the Controlled Substances audited, and the current on-hand inventory(Page 3)

P-2. DRUG ACCOUNTABILITY REPORT SUMMARY-Summarizes shortages/overages of Controlled Substances, and percent of controlled substance accountability(Page 4)

Time: 4.0 hrs
58 miles



CONTROLLED SUBSTANCE AUDIT WORKSHEET

CASE NO. 2005-01518

PHARMACY WINN-DIXIE PERMIT# PS 25362

PHYSICIAN/PHARMACIST KEVIN STRYCHALSKI DEA CERT.# BW 0813013

CORP. NAME WINN DIXIE INC

D.B.A. WINN DIXIE PHARMACY FF 2237 P19747

ADDRESS 3 NORTH 17-92, DEBARK, FL 32713

PRESCRIPTION DEPARTMENT MANAGER UJMSI NEPPALI

PERIOD COVERED BY AUDIT: START DATE 5.1.13 END DATE 12.17.13
12.1.13 5.18.13

ENTER RX# 22011035 (CIT) DATE 5.1.13 TIME 8:00AM OF FIRST PRESCRIPTION
4457944 (CIT) FILLED ON DAY AUDIT PERIOD STARTED.

ENTER RX# 2211660 DATE 12.17.13 (CIT) TIME 1:00PM OF LAST PRESCRIPTION
4459643 FILLED ON DAY AUDIT PERIOD ENDED.

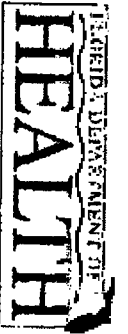
| | YES | NO | |
|---------------------------|-----|----|--|
| LOSS OF DRUGS BY | | | |
| 1) B&E or THEFT | | ✓ | ANY OF THESE SHOULD BE SUPPORTED BY DOCUMENTATION by Police, DEA, AHCA |
| 2) ROBBERY | | ✓ | |
| 3) RETURN TO DRUG COMPANY | | ✓ | |
| 4) DRUGS DESTROYED | | ✓ | |
| 5) PRESCRIPTIONS REMOVED | | ✓ | |

ON HAND COUNT OF ALL DRUGS WHICH ARE BEING AUDITED

| NAME OF DRUG | STRENGTH | AMOUNT | tab/cap/cc | DATE |
|---------------------|----------------------|--------|-----------------|----------|
| 1) HYDROCODONE/APAP | 10-325MG | 858 | 1187 | 12.17.13 |
| 2) OXYCODONE | 30 MG | 220 | TABS | 12.17.13 |
| 3) OXYCODONE | 15 MG | 693 | TABS | 12.17.13 |
| 4) OXYCODONE/APAP | 7.5/325MG | 0 | TABS | 12.17.13 |
| 5) ALPRAZOLAM | 2MG | 239 | TABS | 12.17.13 |
| 6) | | | | |
| 7) | | | | |
| 8) | | | | |
| 9) | | | | |
| 10) | EXHIBIT # P 1 | | PAGE # 3 | |

These on hand counts should be done by the Physician or Pharmacist witnessed by the Investigator.

SIGNED BY [Signature] DATE 12/17/13 SIGNED BY [Signature]
PHARMACIST OF PHYSICIAN INVESTIGATOR



Rick Scott
Governor
H. Frank Farmer, Jr., M.D., Ph.D., FACP
State Surgeon General

Drug Accountability Report Summary

Pharmacist: Kevin Struchalski Permit # PS25362 Case # PS2005-01518

Corp. Name: Winn Dixie, Inc PH9747 D.B.A. Winn-Dixie Pharmacy #PH9247 DEA Cert # BW0813813

Address #2 North US Highway 19-92, Debarry Florida 32127

Prescription Dept. Manager Yamsi Nappalli Audit Period: From 5/1/2013 To 12/17/2013

| Name of Drug and Strength with Dosage Form | Initial Inventory | Total Purchases | Total to be accounted for | Ending Inventory | Prescription dispensed by | Authorized person sold to | Drugs Returned, Stolen or Destroyed | Total accounted for | Short | Over | % | | | |
|--|-------------------|-----------------|---------------------------|------------------|---------------------------|---------------------------|-------------------------------------|---------------------|-------|------|-------|---|----|------|
| Hydrocodone/APAP 10/325mg Tablets | 640 | 17200 | 17840 | 858 | 17000 | | | 17858 | | 18 | 0.1 | | | |
| Oxycodone 15mg Tablets | 273 | 4700 | 4973 | 693 | 4280 | | | 4973 | | 0 | 0 | | | |
| Oxycodone 30mg Tablets | 60 | 1600 | 1660 | 220 | 1440 | | | 1660 | | 0 | 0 | | | |
| Oxycodone/APAP 7.5/325 mg Tablets | 53 | 1200 | 1253 | 0 | 1278 | | | 1278 | | 25 | 1.95 | | | |
| Alprazolam 2mg Tablets | 215 | 3500 | 3715 | 239 | 3279 | | | 3518 | | 3 | 0.08 | | | |
| Totals: 30441 | | | | | | | | | | | 29287 | 0 | 46 | 0.15 |

Investigator / Date: Richard C Wallace 1/3/2014 Approved by / Date: _____ Reviewed by: _____



4
P2

Mission:

To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.



Rick Scott
Governor

John H. Armstrong, MD, FACS
State Surgeon General & Secretary

Vision: To be the Healthiest State in the Nation

July 15, 2014

Michael Justo Reyes
81 East 33rd Street
Hialeah, FL 33013

RE: Petition for Removal of a Licensure Restriction

Dear Mr. Reyes,

This is to advise that the above reference matter will be reviewed by the Board at their next scheduled meeting which is Wednesday, August 13, 2014. The meeting is being held at the DoubleTree by Hilton, 100 Fairway Drive, Deerfield Beach, FL 33441, (800) 624-3606. The meeting will begin at 9:00 a.m.

You are not required to appear; however, you are encouraged to do so. Issues are heard in the order they are listed on the agenda. We are unable to give you an exact time your request will be heard. Our office will follow up in writing after the meeting regarding the Board's decision.

You may print a copy of the agenda which will be available on the Board of Pharmacy website a week before the meeting at: http://www.doh.state.fl.us/mqa/pharmacy/ph_meeting.html.

If you have any questions regarding this information, please contact me at 850-245-4444, ext. 3367.

Sincerely,

A handwritten signature in black ink, appearing to read "Jay Cumbie".

Jay Cumbie,
Regulatory Specialist II

Florida Department of Health

Board of Pharmacy
4052 Bald Cypress Way, Bin C-04 • Tallahassee, FL 32399
PHONE: 850/245-4292 • FAX 850/413-6982

www.FloridasHealth.com

TWITTER: HealthyFLA
FACEBOOK: FLDepartmentofHealth
YOUTUBE: fldoh

Mission:

To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.



Rick Scott
Governor

John H. Armstrong, MD, FACS
State Surgeon General & Secretary

Vision: To be the Healthiest State in the Nation

July 15, 2014

Michael Justo Reyes
6410 NW 186th Street
Miami Lakes, FL 33015

RE: Petition for Removal of a Licensure Restriction

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Regulatory Specialist II

Florida Department of Health

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TWITTER: HealthyFLA
FACEBOOK: FLDepartmentofHealth
YOUTUBE: fldoh

CONFIDENTIAL AND EXEMPT MATERIALS

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AND/OR DOCUMENTS THAT IDENTIFY THE PATIENT BY NAME AND ARE
EXEMPT FROM PUBLIC RECORDS LAWS.

456.057 - Ownership and control of patient records; report or copies of records to be
furnished.—

10)(a)All patient records obtained by the department and any other documents
maintained by the department which identify the patient by name are confidential and exempt
from s. 119.07(1) and shall be used solely for the purpose of the department and the appropriate
regulatory board in its investigation, prosecution, and appeal of disciplinary proceedings. The
records shall not be available to the public as part of the record of investigation for and
prosecution in disciplinary proceedings made available to the public by the department or the
appropriate board.

Nelson, Sondra

From: Cumbie, James A
Sent: Tuesday, June 24, 2014 1:11 PM
To: Nelson, Sondra
Cc: Ranne, Elizabeth
Subject: FW: Request for August Board Meeting PS29151

Hey Sondra,

We received this request earlier today that I believe was intended for you. Thanks Sondra!!

Sincerely,

Jay Cumbie

Regulatory Specialist II

Florida Board of Pharmacy

Phone: 850-245-4444 ext: 3367

James.Cumbie@flhealth.gov

From: Ranne, Elizabeth
Sent: Tuesday, June 24, 2014 12:45 PM
To: Cumbie, James A
Cc: Collins, Tammy
Subject: FW: Request for August Board Meeting PS29151

Please respond.

From: Michael Reyes [<mailto:michaelrph08@att.net>]
Sent: Tuesday, June 24, 2014 10:53 AM
To: Ranne, Elizabeth
Subject: Request for August Board Meeting PS29151

Hello. Beth,

I spoke to you 2 1/2 years ago when I went in front of the board. As per my final order of my 5 year probation. At my two year mark the Board allows me to go in front of them to request the removal of the pharmacy manager restriction. I have PRN support and need to place myself on the August calendar. Can you please instruct me on what I need to do to accomplish this. I saw on your website that there is a deadline or cut off On June 27th. I do not want to miss it because this hearing is near my home.

Thank you for your time

Sent from Michaels 4G device

STATE OF FLORIDA
BOARD OF PHARMACY

Final Order No. DOH-01-1447-FBI-MQA
FILED DATE - 8-31-01
Department of Health
By: Randa Bryan
Deputy Agency Clerk

DEPARTMENT OF HEALTH,
Petitioner,
vs.

CASE NO.: 98-17173

MICHAEL REYES, R.Ph.,
Respondent.

FINAL ORDER

Respondent, Michael Reyes, R.Ph., holds Florida license number PS 0029151 as a licensed pharmacist. Petitioner filed an Administrative Complaint seeking disciplinary action against the license. A copy of the Administrative Complaint is attached to and made a part of this Final Order.

Service of the Administrative Complaint was made upon Respondent by certified mail. Respondent has not filed an Election of Rights. Petitioner has filed a Motion for Default.

The cause came before the Board of Pharmacy on August 13, 2001, in Orlando, Florida, for final agency action, pursuant to Section 120.57(2), Florida Statutes. The Board finds that Petitioner has met its burden of notice, grants the Motion for Default, and further finds as follows:

FINDINGS OF FACT

Since the licensee has not replied to the Administrative Complaint nor contested the factual allegations, the prosecuting attorney offered the investigative file to prove the facts as alleged. The investigative file was received into evidence and the Board finds the uncontested facts adequately support the allegations. Therefore, the Board adopts the findings of fact of the Administrative Complaint as its Findings of Fact.

CONCLUSIONS OF LAW

The foregoing facts constitute a violation of Chapter 465, Florida Statutes, for which the Board may impose discipline pursuant to Section 465.016(2), Florida Statutes. Therefore it is

ORDERED that:

Respondent's license to practice pharmacy is SUSPENDED indefinitely and until such time as he appears before the Board and demonstrates the present ability to practice with reasonable skill and safety. Such demonstration shall require an evaluation through the Physician's Recovery Network (PRN), and a monitoring contract if so recommended by PRN. The Board reserves the right to impose disciplinary terms and conditions in connection with any reinstatement.

Pursuant to Section 120.68, Florida Statutes, the parties are hereby notified that they may appeal this Final Order by filing one copy of a notice of appeal with the clerk of the agency and by filing a filing fee and one copy of a notice of appeal with the District Court of Appeal within thirty days of the date this Final Order is filed.

This Final Order shall become effective upon filing with the Clerk of the Department.

DONE AND ORDERED this 27th day of August, 2001, by the Florida Board of Pharmacy.



JOHN D. TAYLOR, R.Ph.
EXECUTIVE DIRECTOR

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Final Order has been provided by United States Mail; to Michael Reyes, R.Ph., 81 East 33rd Street, Hialeah, Florida 33013; and by hand delivery/interoffice mail to Department of Health and its counsel, Lawrence F. Kranert, Jr., Senior Attorney, Agency for Health Care Administration, this _____ day of _____, 2001.

STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,

Petitioner,

Vs.

CASE NO. 98-17173

MICHAEL J. REYES,

Respondent.

ADMINISTRATIVE COMPLAINT

COMES NOW, the Petitioner, Department of Health, hereinafter referred to as "Petitioner," and files this Administrative Complaint before the Board of Pharmacy against Michael J. Reyes, hereinafter referred to as "Respondent," and alleges:

1. Petitioner is the state agency charged with regulating the practice of pharmacy pursuant to Section 20.43, Florida Statutes; Chapter 455, Florida Statutes; and Chapter 465, Florida Statutes.

2. Pursuant to the authority of Section 20.43(3)(g), Florida Statutes, the Petitioner has contracted with the Agency for Health Care Administration, hereinafter referred to as the "Agency," to provide consumer complaint, investigative, and prosecutorial services required by the



Division of Medical Quality Assurance, councils or board, as appropriate, including the issuance of emergency orders of suspension or restriction.

3. Respondent is, and has been at all times material hereto, a licensed pharmacist in the State of Florida, having been issued license number PS 0029151. Respondent's last known address is 81 East 33rd Street, Miami, Florida 33013.

4. In or around 1995, the Respondent contacted and entered into an advocacy contract with the Physicians Resource Network (hereinafter referred to as "PRN").

5. In or around 1996, the Respondent had a brief relapse and re-contracted with PRN.

6. Following a second relapse in or around 1997, the Respondent entered into an extended residential treatment facility from April 1997 through January 1998.

7. In or around January 1998, the Respondent again entered into an advocacy contract with PRN.

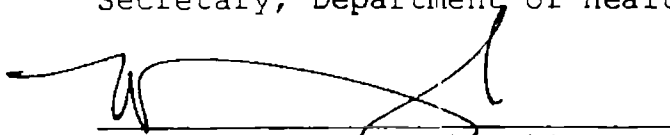
8. In or around July 1998, the Respondent failed to conform to his obligations under the advocacy contract with PRN. Subsequently, PRN reported to the Department of Health that the Respondent is "unable to practice his profession with reasonable skill and safety, due to the high probability of him being in relapse."

9. Based on the foregoing, the Respondent's license to practice pharmacy in the State of Florida is subject to discipline for violating Section 465.016(1)(m), Florida Statutes, for being unable to practice pharmacy with reasonable skill and safety by reason of illness, use of drugs, chemicals, or any other type of material or as a result of any mental or physical condition.

WHEREFORE, Petitioner respectfully requests the Board of Pharmacy enter an Order imposing one or more of the following penalties: revocation or suspension of the Respondent's license, restriction of the Respondent's practice, imposition of an administrative fine, issuance of a reprimand, placement of the Respondent on probation, and/or any other relief that the Board deems appropriate.


SIGNED this 23 day of June, 1999.

Robert G. Brooks, M.D.
Secretary, Department of Health



By: Nancy M. Snurkowski
Chief Attorney

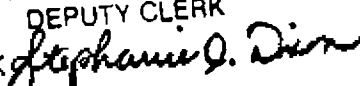
COUNSEL FOR AGENCY:

 Gregory W. Files
Contract Counsel
Agency for Health Care Administration
General Counsel's Office - MQA
Allied Health
P.O. Box 14229
Tallahassee, Florida 32317-4229
(850) 414-1981

GWF/

PCP:

DATE:

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK 
DATE 6-23-99

STATE OF FLORIDA
BOARD OF PHARMACY

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK Angel Sanders
DATE JUL 05 2012

DEPARTMENT OF HEALTH,

Petitioner,

vs.

DOH CASE NO.: 98-17173
LICENSE NO.: PS 29151

MICHAEL REYES, R.PH.,

Respondent.

ORDER GRANTING REQUEST FOR REINSTATEMENT OF LICENSE

This matter came before the Board of Pharmacy (hereinafter the "Board") at a duly noticed public meeting held on June 6, 2012 in Deerfield Beach, Florida, pursuant to the Applicant's request for reinstatement of his license. Respondent was present.

Upon consideration of Respondent's request, the arguments of the parties, and being otherwise advised in the premises,

IT IS HEREBY ORDERED AND ADJUDGED that the Respondent's request to reinstate his license is GRANTED with the following conditions:

1. Respondent's license shall be placed on probation for a period of five years to run concurrent with his contract with the Professional's Resource Network (PRN). Probation shall begin on the date this Final Order is filed.
2. During probation, Respondent must comply with the terms in the settlement agreement. In addition to those terms, Respondent must also comply with the following:

a. Respondent may not serve as Prescription Department Manager (PDM) of a pharmacy and he must have a supervisor. After two years, Respondent may apply to the Board to serve as a PDM if he has the full support of PRN.

a. Respondent may not work in more than two pharmacies per quarter;

b. If Respondent will be dispensing controlled substances, he must be on Naltrexone.

c. Respondent must have five biannual inspections at his own cost. These inspections must include audits of five randomly selected controlled substances.

d. Respondent shall ensure that the supervising pharmacist or PDM at each location he works, submits written reports to the Board. These reports shall contain: the name, current address, license number, and telephone number of each pharmacy intern, pharmacy technician, relief pharmacist and PDM working with Respondent; a brief description of Respondent's duties and responsibilities; and Respondent's work schedule. These reports must be submitted every three months in a manner directed by the compliance officer.


e. Respondent shall submit quarterly reports the Board describing any pharmacies that Respondent is working at. The reports shall include the dates worked and the name of the supervising pharmacist.

3. Respondent must appear before the Board in the three months preceding the date for termination of his probation. Respondent must demonstrate that he has complied with all terms of probation before probation may be terminated.

This Order shall take effect upon being filed with the Clerk of the Department of Health.

DONE AND ORDERED this 3rd day of July, 2012.

BOARD OF PHARMACY



Mark Whitten, Executive Director for
Cynthia Griffin, PharmD, Chair

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by Certified Mail to Michael Reyes at 81 East 33rd Street, Hialeah, Florida 33013; by interoffice mail to Allison Dudley, Assistant Attorney General, Office of the Attorney General, PL-01, The Capitol, Tallahassee, Florida 32399-1050; this 5th day of July, 2012.



Deputy Agency Clerk

7011 2970 0003 1594 3428

CONFIDENTIAL AND EXEMPT MATERIALS

**One or more pages have been removed
from this document for security reasons**

**Scroll down to see the available pages or
advance to the next document if all
pages have been removed.**

SOME OR ALL PAGES IN THIS DOCUMENT ARE PATIENT RECORDS
AND/OR DOCUMENTS THAT IDENTIFY THE PATIENT BY NAME AND ARE
EXEMPT FROM PUBLIC RECORDS LAWS.

456.057 - Ownership and control of patient records; report or copies of records to be
furnished.—

10)(a)All patient records obtained by the department and any other documents
maintained by the department which identify the patient by name are confidential and exempt
from s. 119.07(1) and shall be used solely for the purpose of the department and the appropriate
regulatory board in its investigation, prosecution, and appeal of disciplinary proceedings. The
records shall not be available to the public as part of the record of investigation for and
prosecution in disciplinary proceedings made available to the public by the department or the
appropriate board.

CONFIDENTIAL AND EXEMPT MATERIALS

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prosecution in disciplinary proceedings made available to the public by the department or the
appropriate board.

Mission:

To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.



Rick Scott
Governor

John H. Armstrong, MD, FACS
State Surgeon General & Secretary

Vision: To be the Healthiest State in the Nation

March 19, 2014

Mr. Michael J. Reyes
81 E. 33rd Street
Hialeah, FL 33013

Final Order filed: August 31, 2001
Case Number: 199817173
License Number: 29151

Dear Mr. Reyes:

The Compliance Management Unit has received and approved the April 5, 2014 respondent and supervisor reports. Please retain a copy of this letter for your records.

The mission of the Department of Health is to protect, promote, & improve the health of all people in Florida through integrated state, county, & community efforts. If you have any questions, please contact me by telephone at (850) 245-4268.

Sincerely,

A handwritten signature in cursive script that reads "Sondra N. Allen".

Sondra N. Allen
Operations Analyst II

/sna

Florida Department of Health

Division of Medical Quality Assurance • Bureau of Enforcement
4052 Bald Cypress Way, Bin C-76 • Tallahassee, FL 32399-3251
PHONE: (850) 245-4268 • FAX: (850) 488-0796

www.FloridasHealth.com

TWITTER: HealthyFLA
FACEBOOK: FLDepartmentofHealth
YOUTUBE: fldoh

SUPERVISOR'S REPORT

Due Date: 04-05-14

Supervisor Name : Doris Alvarez Respondent Name : **MICHAEL REYES**

Case# 199817173

Attention: Sondra Allen

Respondent License # **PS29151**

Store 28

(RPh, Intern, tech...)


| TITLE | NAME | CURRENT ADDRESS | LICENSE# | TELEPHONE# |
|-------|-------------------|--|----------|--------------|
| PDM | Doris I. Alvarez | 6285 NW 20th Lane Miami, FL 33015 | PS24240 | 786-554-6749 |
| RPT | Evelyn Fidalgo | 1800 W 57th St Hialeah, FL 33012 | RPT23347 | 786-600-8440 |
| RPT | Osama Armenteros | 3920 West 11th Ave Hialeah, FL 33012 | RPT19573 | 786-972-2296 |
| RPT | Ilsa Mary Guillen | 1027 W. Okeechobee Rd Hialeah, FL 33018 | RPT19546 | 786-715-8003 |
| | | | | |
| | | | | |
| | | | | |
| | | | | |

RESPONDENTS DUTIES and RESPONSIBILITIES:

Data Entry, third party Correction, Fill, Data Verification,
Product Verification, Order Entry, Order Relieving,
Delivery with Preparation, council patients, Prescription
Transfer, Cash Register, Doctor Calls, Drug-Drug
Interactions check.

RESPONDENTS WORK SCHEDULE:

Four Week Alternating Schedule. Also Alternating
Weekends Store Hours
M-F → 8 AM to 10 PM
Sat → 8 AM to 6 PM
SUN → 9 AM to 6 PM

SIGNATURE:  DATE: 4-4-14

Please Fax to 1-850-488-0796

Attention: Sondra Allen

Mission:

To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.

**Rick Scott**

Governor

John H. Armstrong, MD, FACS

State Surgeon General & Secretary

Vision: To be the Healthiest State in the Nation

July 15, 2014

Gene Lachney
716 Sky Hawk Drive
Pensacola, FL 32506

RE: Reconsideration of Final Order

Dear Mr. Lachney,

This is to advise that the above reference matter will be reviewed by the Board at their next scheduled meeting which is Wednesday, August 13, 2014. The meeting is being held at the DoubleTree by Hilton, 100 Fairway Drive, Deerfield Beach, FL 33441, (800) 624-3606. The meeting will begin at 9:00 a.m.

You are not required to appear; however, you are encouraged to do so. Issues are heard in the order they are listed on the agenda. We are unable to give you an exact time your request will be heard. Our office will follow up in writing after the meeting regarding the Board's decision.

You may print a copy of the agenda which will be available on the Board of Pharmacy website a week before the meeting at: http://www.doh.state.fl.us/mqa/pharmacy/ph_meeting.html.

If you have any questions regarding this information, please contact me at 850-245-4444, ext. 3367.

Sincerely,

A handwritten signature in black ink, appearing to read "Jay Cumbie".

Jay Cumbie,
Regulatory Specialist II

Florida Department of Health

Board of Pharmacy
4052 Bald Cypress Way, Bin C-04 • Tallahassee, FL 32399
PHONE: 850/245-4292 • FAX 850/413-6982

www.FloridasHealth.com

TWITTER:HealthyFLA
FACEBOOK:FLDepartmentofHealth
YOUTUBE: fidoh

Mission:

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Rick Scott
Governor

John H. Armstrong, MD, FACS
State Surgeon General & Secretary

Vision: To be the Healthiest State in the Nation

July 15, 2014

Ed Bayo
2022-2 Raymond Diehl Road
Tallahassee, FL 32308

RE: Reconsideration of Final Order (Gene Lachney – Case No. 2013-06754)

Dear Mr. Bayo,

This is to advise that the above reference matter will be reviewed by the Board at their next scheduled meeting which is Wednesday, August 13, 2014. The meeting is being held at the DoubleTree by Hilton, 100 Fairway Drive, Deerfield Beach, FL 33441, (800) 624-3606. The meeting will begin at 9:00 a.m.

You are not required to appear; however, you are encouraged to do so. Issues are heard in the order they are listed on the agenda. We are unable to give you an exact time your request will be heard. Our office will follow up in writing after the meeting regarding the Board's decision.

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If you have any questions regarding this information, please contact me at 850-245-4444, ext. 3367.

Sincerely,

A handwritten signature in black ink, appearing to read "Jay Cumbie".

Jay Cumbie,
Regulatory Specialist II

Florida Department of Health

Board of Pharmacy
4052 Bald Cypress Way, Bin C-04 • Tallahassee, FL 32399
PHONE: 850/245-4292 • FAX 850/413-6982

www.FloridasHealth.com

TWITTER: HealthyFLA
FACEBOOK: FLDepartmentofHealth
YOUTUBE: fldoh

STATE OF FLORIDA
DEPARTMENT OF HEALTH

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK ANGEL SANDERS
DATE MAY 19 2014

GENE R. LACHNEY, RPH,

Petitioner/Appellant,

v.

DOH CASE NO.: 2013-06754
LICENSE NO.: PS 28290

DEPARTMENT OF HEALTH,

Respondent/Appellee.

NOTICE OF ADMINISTRATIVE APPEAL

NOTICE IS GIVEN that Gene R. Lachney, R.Ph., Appellant, appeals to the First District Court of Appeal the Final Order of the Department of Health, rendered April 25, 2014 (conformed copy attached). The nature of the order is a final order requiring revocation of appellant's license.

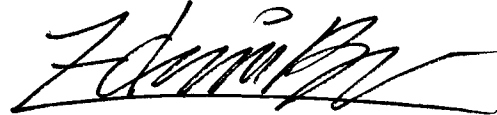
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been electronically filed via eDCA with Jon S. Wheeler, Clerk of the Court, First District Court of Appeal; provided by United States Mail to the Clerk of the Department of Health for filing at 4052 Bald Cypress Way, Bin A-02, Tallahassee, FL 32399-1703; to Jennifer Tschetter, General Counsel, Department of Health, 4052 Bald Cypress Way, Bin A-02, Tallahassee, FL 32399-1703 and electronically

RECEIVED
MAY 19 2014
DEPARTMENT OF HEALTH
LEGAL OFFICE

provided to Ana Gargollo-McDonald, Assistant General Counsel, Department of Health at ana.gargollo-mcdonald@myfloridahealth.gov on this 15th day of May, 2014.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Edwin Bayo', with a stylized flourish at the end.

Edwin A. Bayó (FBN 0327727)
Grossman, Furlow & Bayo, LLC
2022 Raymond Diehl Road, Unit 2
Tallahassee, Florida 32308
Phone: 850.385.1314
Fax: 850.385.3953
E-mail: e.bayo@gfblawfirm.com

Attachment: Final Order filed 4/25/2014

FILED DATE - APR 25 2014

Department of Health

By [Signature]
Deputy Agency Clerk**STATE OF FLORIDA
BOARD OF PHARMACY**DEPARTMENT OF HEALTH,
PETITIONER,GENE R. LACHNEY, RPH,
RESPONDENT.CASE NO.: 2013-06754
LICENSE NO.: PS 28290**FINAL ORDER**

This matter appeared before the Board of Pharmacy (hereinafter Board) at a duly-noticed public meeting held on April 2, 2014, in Tampa, Florida, for a hearing not involving disputed issues of material fact pursuant to Sections 120.569 and 120.57(2), *Florida Statutes*, pursuant to Petitioner's Motion for Determination of Waiver and Entry of Final Order. Petitioner has filed an Administrative Complaint seeking disciplinary action against the license. A copy of the Administrative Complaint was served on Respondent by personal service and is attached to and made a part of this Final Order. At the hearing, Petitioner was represented by Matthew Witters, Assistant General Counsel, Department of Health. Respondent was not present. Petitioner has filed a Motion for Determination of Waiver and Entry of Final Order.

Upon consideration, it is **ORDERED**:

1. The material facts are not in dispute. The Respondent was duly served with the Administrative Complaint and has waived the right to request a hearing by failing to respond to the Administrative Complaint or failing to dispute any material facts within 21 days of service.
2. Petitioner's Motion for Determination of Waiver and Entry of Final Order is granted.
3. The allegations of fact set forth in the Administrative Complaint, are approved, adopted, and incorporated herein by reference as the findings of fact made by the Board.

4. The allegations of law alleged and set forth in the Administrative Complaint are approved, adopted, and incorporated herein by reference as the conclusions of law made by the Board.

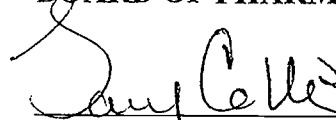
The violation of §465.015(2)(c), *Florida Statutes*, as set forth in the Administrative Complaint warrants disciplinary action by the Board.

THEREFORE IT IS ORDERED AND ADJUDGED: 1) Respondent's license is hereby **REVOKED**, and 2) The Department's request to withdraw the motion for costs is hereby **GRANTED**.

This Final Order shall become effective upon filing with the Clerk of the Department of Health.

DONE AND ORDERED this 25th day of APRIL, 2014.

BOARD OF PHARMACY



Tammy Collins, Acting Executive Director
for Jeffery J. Mesaros, PharmD, Chair

NOTICE OF APPEAL RIGHTS

PURSUANT TO SECTION 120.68 FLORIDA STATUTES, A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW UNLESS WAIVED. PROCEEDINGS ARE GOVERNED BY THE FLORIDA RULES OF APPELLATE PROCEDURE. SUCH PROCEEDINGS ARE COMMENCED BY FILING ONE COPY OF THE NOTICE OF APPEAL WITH THE AGENCY CLERK OF THE DEPARTMENT OF HEALTH AND A SECOND COPY, ACCOMPANIED BY FILING FEES PRESCRIBED BY LAW, WITH THE DISTRICT COURT OF APPEALS, FIRST DISTRICT, OR WITH THE DISTRICT COURT OF APPEAL IN THE APPELLATE DISTRICT WHERE THE PARTY RESIDES. THE NOTICE OF APPEAL MUST BE FILED WITHIN THIRTY (30) DAYS OF RENDITION OF THE ORDER TO BE REVIEWED.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail to **Gene R. Lachney**, 716 Sky Hawk Drive, Pensacola , Florida 32506; and by electronic mail to **David D. Flynn**, Assistant Attorney General, david.flynn@myfloridalegal.com; and **Matthew Witters**, Assistant General Counsel, Department of Health, matthew.witters@flhealth.com this 25th day of APRIL, 2014.



Deputy Agency Clerk

7013 1710 0002 1580 0730

STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,
PETITIONER,

v.

CASE NO. 2013-06754

GENE R. LACHNEY, RPH,
RESPONDENT.

ADMINISTRATIVE COMPLAINT

COMES NOW, Petitioner, Department of Health, by and through its undersigned counsel, and files this Administrative Complaint before the Board of Pharmacy against Respondent, Gene R. Lachney, and in support thereof alleges:

1. Petitioner is the state agency charged with regulating the practice of pharmacy pursuant to Section 20.43, Florida Statutes; Chapter 456, Florida Statutes; and Chapter 465, Florida Statutes.
2. At all times material to this Complaint, Respondent was a licensed pharmacist within the State of Florida, having been issued license number PS 28290.

EXHIBIT

A

3. Respondent's address of record is 716 Sky Hawk Drive, Pensacola, Florida 32506.

4. At all times material to this Administrative Complaint, Respondent was employed by Cantonment Pharmacy, located at 433 Highway 29 South, Cantonment, Florida 32533.

5. On or about February 4, 2013, the Department of Health Investigator went to Cantonment Pharmacy at 433 Highway 29 South, Cantonment, Florida 32533, and obtained six (6) azithromycin 250 mg tablets, a prescription only medication, without a valid prescription from Respondent.

6. Section 465.015(2)(c), Florida Statutes (2012), It is unlawful for any person to sell or dispense drugs as defined in s. 465.003(8) without first being furnished with a prescription.

7. Azithromycin is an antibiotic that fights bacteria and is a prescription drug.

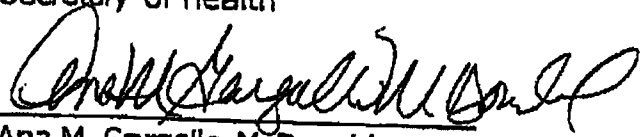
8. On or about February 4, 2013, Respondent sold or dispensed a drug as defined in Section 465.003(8), Florida Statutes, without first being furnished with a prescription.

9. . Based on the foregoing, Respondent violated Section 465.015(2)(c), Florida Statutes (2012), by selling or dispensing drugs as defined in Section 465.003(8), Florida Statutes, without first being furnished with a prescription.

WHEREFORE, Petitioner respectfully requests that the Board of Pharmacy enter an order imposing one or more of the following penalties: permanent revocation or suspension of Respondent's license, restriction of practice, imposition of an administrative fine, issuance of a reprimand, placement of Respondent on probation, corrective action, refund of fees billed or collected, remedial education and/or any other relief that the Board deems appropriate.

SIGNED this 5th day of September, 2013.

JOHN H. ARMSTRONG, MD, FACS
State Surgeon General and
Secretary of Health



Ana M. Gargollo-McDonald
Assistant General Counsel
DOH Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, Florida 32399-3265
Fla. Bar No. 0085907
Telephone: (850) 245-4444 Ext. 8133
Facsimile: (850) 245-4683
ana_gargollo-mcdonald@doh.state.fl.us

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK: Angelo Sauter
DATE: SEP 05 2013

/AGM

PCP: 9/5/13
PCP Members: Micros & Alan

NOTICE OF RIGHTS

Respondent has the right to request a hearing to be conducted in accordance with Section 120.569 and 120.57, Florida Statutes, to be represented by counsel or other qualified representative, to present evidence and argument, to call and cross-examine witnesses and to have subpoena and subpoena duces tecum issued on his or her behalf if a hearing is requested.

NOTICE REGARDING ASSESSMENT OF COSTS

Respondent is placed on notice that Petitioner has incurred costs related to the investigation and prosecution of this matter. Pursuant to Section 456.072(4), Florida Statutes, the Board shall assess costs related to the investigation and prosecution of a disciplinary matter, which may include attorney hours and costs, on the Respondent in addition to any other discipline imposed.

FILED DATE - APR 25 2014

Department of Health

By 
Deputy Agency Clerk**STATE OF FLORIDA
BOARD OF PHARMACY**DEPARTMENT OF HEALTH,
PETITIONER,GENE R. LACHNEY, RPH,
RESPONDENT.CASE NO.: 2013-06754
LICENSE NO.: PS 28290**FINAL ORDER**

This matter appeared before the Board of Pharmacy (hereinafter Board) at a duly-noticed public meeting held on April 2, 2014, in Tampa, Florida, for a hearing not involving disputed issues of material fact pursuant to Sections 120.569 and 120.57(2), *Florida Statutes*, pursuant to Petitioner's Motion for Determination of Waiver and Entry of Final Order. Petitioner has filed an Administrative Complaint seeking disciplinary action against the license. A copy of the Administrative Complaint was served on Respondent by personal service and is attached to and made a part of this Final Order. At the hearing, Petitioner was represented by Matthew Witters, Assistant General Counsel, Department of Health. Respondent was not present. Petitioner has filed a Motion for Determination of Waiver and Entry of Final Order.

Upon consideration, it is **ORDERED**:

1. The material facts are not in dispute. The Respondent was duly served with the Administrative Complaint and has waived the right to request a hearing by failing to respond to the Administrative Complaint or failing to dispute any material facts within 21 days of service.
2. Petitioner's Motion for Determination of Waiver and Entry of Final Order is granted.
3. The allegations of fact set forth in the Administrative Complaint, are approved, adopted, and incorporated herein by reference as the findings of fact made by the Board.

4. The allegations of law alleged and set forth in the Administrative Complaint are approved, adopted, and incorporated herein by reference as the conclusions of law made by the Board.

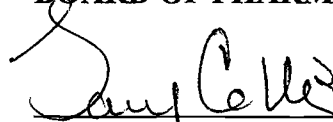
The violation of §465.015(2)(c), *Florida Statutes*, as set forth in the Administrative Complaint warrants disciplinary action by the Board.

THEREFORE IT IS ORDERED AND ADJUDGED: 1) Respondent's license is hereby **REVOKED**, and 2) The Department's request to withdraw the motion for costs is hereby **GRANTED**.

This Final Order shall become effective upon filing with the Clerk of the Department of Health.

DONE AND ORDERED this 25th day of APRIL, 2014.

BOARD OF PHARMACY



Tammy Collins, Acting Executive Director
for Jeffery J. Mesaros, PharmD, Chair

NOTICE OF APPEAL RIGHTS

PURSUANT TO SECTION 120.68 FLORIDA STATUTES, A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW UNLESS WAIVED. PROCEEDINGS ARE GOVERNED BY THE FLORIDA RULES OF APPELLATE PROCEDURE. SUCH PROCEEDINGS ARE COMMENCED BY FILING ONE COPY OF THE NOTICE OF APPEAL WITH THE AGENCY CLERK OF THE DEPARTMENT OF HEALTH AND A SECOND COPY, ACCOMPANIED BY FILING FEES PRESCRIBED BY LAW, WITH THE DISTRICT COURT OF APPEALS, FIRST DISTRICT, OR WITH THE DISTRICT COURT OF APPEAL IN THE APPELLATE DISTRICT WHERE THE PARTY RESIDES. THE NOTICE OF APPEAL MUST BE FILED WITHIN THIRTY (30) DAYS OF RENDITION OF THE ORDER TO BE REVIEWED.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail to **Gene R. Lachney**, 716 Sky Hawk Drive, Pensacola , Florida 32506; and by electronic mail to **David D. Flynn**, Assistant Attorney General, david.flynn@myfloridalegal.com; and **Matthew Witters**, Assistant General Counsel, Department of Health, matthew.witters@flhealth.com this 25th day of APRIL, 2014.



Deputy Agency Clerk

7013 1710 0002 1580 0730

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO. 2013-06754

GENE R. LACHNEY, RPH,

RESPONDENT.

ADMINISTRATIVE COMPLAINT

COMES NOW, Petitioner, Department of Health, by and through its undersigned counsel, and files this Administrative Complaint before the Board of Pharmacy against Respondent, Gene R. Lachney, and in support thereof alleges:

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2. At all times material to this Complaint, Respondent was a licensed pharmacist within the State of Florida, having been issued license number PS 28290.

EXHIBIT

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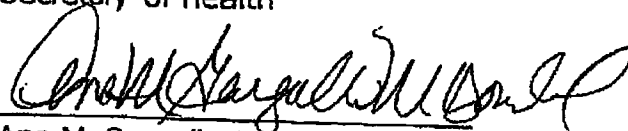
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9. Based on the foregoing, Respondent violated Section 465.015(2)(c), Florida Statutes (2012), by selling or dispensing drugs as defined in Section 465.003(8), Florida Statutes, without first being furnished with a prescription.

WHEREFORE, Petitioner respectfully requests that the Board of Pharmacy enter an order imposing one or more of the following penalties: permanent revocation or suspension of Respondent's license, restriction of practice, imposition of an administrative fine, issuance of a reprimand, placement of Respondent on probation, corrective action, refund of fees billed or collected, remedial education and/or any other relief that the Board deems appropriate.

SIGNED this 5th day of September, 2013.

JOHN H. ARMSTRONG, MD, FACS
State Surgeon General and
Secretary of Health



Ana M. Gargolio-McDonald
Assistant General Counsel
DOH Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, Florida 32399-3265
Fla. Bar No. 0085907
Telephone: (850) 245-4444 Ext. 8133
Facsimile: (850) 245-4683
ana_gargolio-mcdonald@doh.state.fl.us

FILED

DEPARTMENT OF HEALTH
DEPUTY CLERK

CLERK: *Angelo Sordani*

DATE: SEP 05 2013

/AGM

PCP: *9/5/13*
PCP Members: *Micros & Alan*

NOTICE OF RIGHTS

Respondent has the right to request a hearing to be conducted in accordance with Section 120.569 and 120.57, Florida Statutes, to be represented by counsel or other qualified representative, to present evidence and argument, to call and cross-examine witnesses and to have subpoena and subpoena duces tecum issued on his or her behalf if a hearing is requested.

NOTICE REGARDING ASSESSMENT OF COSTS

Respondent is placed on notice that Petitioner has incurred costs related to the investigation and prosecution of this matter. Pursuant to Section 456.072(4), Florida Statutes, the Board shall assess costs related to the investigation and prosecution of a disciplinary matter, which may include attorney hours and costs, on the Respondent in addition to any other discipline imposed.



Grossman, Furlow
& Bayó, LLC

July 15, 2014

Patrick Kennedy
Executive Director
4052 Bald Cypress Way, Bin C-04
Tallahassee, Florida 32399-3258
VIA EMAIL & U.S. Mail

RE: Gene R. Lachney, R.Ph. v. Department of Health, Case No. 2013-06754

Dear Mr. Kennedy:

As you are aware, this firm represents Mr. Lachney in connection with his Motion for Reconsideration of the Final Order in the above captioned matter. We requested that this Motion be placed on the Board of Pharmacy's agenda for its August 13, 2014, meeting in Deerfield Beach, FL. Originally the August meeting was going to be later on in the month, and I have had a longstanding commitment, for that date, so I will be unable to appear on Mr. Lachney's behalf, but somebody from my firm will be there. Please ensure that a copy of this letter is included in the Board's agenda under his tab.

As you are also aware, the Board voted to revoke Mr. Lachney's license during its April 2014 meeting in Tampa, FL. For reasons that will be further explained herein, our client was unable to attend that meeting. We believe that, given the facts of the underlying case, had Mr. Lachney been able to appear before the Board and explain his circumstances, the Board would not have revoked his license.

By way of procedural background, the case against Mr. Lachney alleges that he dispensed six tablets of azithromycin, a non-scheduled prescription antibacterial medication, to a DOH investigator. The investigator presented to Cantonment Pharmacy on February 4, 2013, without a prescription. An Administrative Complaint was issued against Mr. Lachney, charging him with a violation of sec. 465.015(2)(c), F.S., for selling or dispensing a prescription drug without first being furnished with a prescription. Our client failed to request a hearing within the 21-day deadline and the matter was presented to the Board as a Motion for Determination of Waiver and Entry of Final Order.

The allegations against Mr. Lachney do not warrant the revocation of his license. Pursuant to the Board's own disciplinary guidelines at Rule 64B16-30.001(2)(e)(1)(f)(I), F.A.C., a first-offense violation of sec. 465.015(2)(c), F.S., calls for a \$1,500 fine. We have no doubt that the Board would have adhered to these guidelines had Mr. Lachney appeared at the April 2014 meeting. However, personal difficulties made responding to these allegations almost impossible and his failure to do so caused this matter to escalate exponentially.

Patrick Kennedy
July 15, 2014
Page 2 of 3

On the day the investigator came into Cantonment Pharmacy, Mr. Lachney was scheduled to begin work in the morning. However, our client was also scheduled that morning to meet with an attorney to discuss a child support case brought against him by his ex-wife. The owner of the pharmacy, Mr. John Reading, understood Mr. Lachney's situation and kindly agreed to cover his first shift.

This was Mr. Lachney's first time in front of an attorney and, understandably given the circumstances, was an incredibly upsetting experience. In addition to dealing with the suit for child support, our client was also informed that, because his ex-wife had filed suit first, he would likely have to cover his attorney's fees as well as hers.

Mr. Lachney is the sole provider for his child and is of limited means. His ex-wife is unemployed and relies on Mr. Lachney for their child's complete support. In addition, Mr. Lachney's son suffers from rheumatoid arthritis and seizures. As such, our client's son is constantly in the hospital and Mr. Lachney provides 100% of his medical coverage. The out-of-pocket expenses for procedures not covered under insurance are astronomical.

To compound matters, Mr. Lachney's son and his ex-wife live over an hour away, and she refuses to assist in any of the driving to pick up or drop off their son. In order to see his son more, our client would be forced to move to their location. At that time, however, Mr. Lachney was working at two pharmacies to make ends meet, and such a move would have been impossible. In addition to his travels to see his son (both at home and the hospital), Mr. Lachney, an only child, must also travel regularly to take care of his elderly mother in Louisiana.

Cantonment Pharmacy serves many customers who cannot read or write. Many of them will only speak to regular staff and are uncomfortable dealing with anyone else. At the time the investigator purchased the azithromycin, Mr. Lachney had just returned to the pharmacy from seeing his attorney. Understandably, our client does not recall the incident. Nevertheless, he believes that the difficulty in dealing with the pharmacy's traditional clientele, and his personal issues, may have led to a breakdown in communication. Mr. Lachney admits that he may have let a colleague take on more responsibility, which in turn, could have led to the mistake in question.

Throughout the time of the investigation and subsequent issuance of the Administrative Complaint, Mr. Lachney continued to work two jobs, care for his mother and son, and deal with child support litigation brought on by his ex-wife. Three months prior to his scheduled appearance before the Board in April 2014, Mr. Lachney began to experience health problems and was in and out of the hospital trying to determine the cause. The week before his appearance before the Board, Mr. Lachney went to the emergency room, where he was admitted for a weeklong stay.

Patrick Kennedy
July 15, 2014
Page 3 of 3

During this time, it was discovered that Mr. Lachney would need his gallbladder removed and that a biopsy of his liver would also need to be performed. Surgery was scheduled for that week.

Despite these obstacles, our client still had every intention of appearing before the Board. Because of the medications he was on, Mr. Lachney was not allowed to drive and enlisted the help of his girlfriend to help him get to the meeting. The day before his appearance, our client reviewed his Notice of Hearing and discovered that the Board meeting had actually already occurred. Mr. Lachney had reviewed this documentation on several occasions, but attributes the mistake to the prescription medications (primarily Dilaudid) he was put on during preparation for surgery.


Mr. Lachney sincerely regrets missing the meeting, but regrets the incident leading up to this matter even more. Although no patient was hurt, our client knows that any medication, even an antibiotic, can cause adverse reactions when not prescribed properly.

Our client has been a licensed Florida pharmacist for over 22 years with no records of disciplinary action. In addition to being the sole provider for his son and mother, he has had to overcome the loss of his home and most of his personal possessions during one of the hurricanes that hit New Orleans. The pharmacy where he worked was also destroyed. He moved back to Florida to start anew, but shortly thereafter, his marriage ended and an ongoing custody battle began. Mr. Lachney has dealt with significant adversity in his personal life, and now most recently, with his professional life.

Attached please find several letters in support of Mr. Lachney. These letters are from several pharmacists throughout Florida who have worked with our client and know him to be an exceptional and professional pharmacist.

We pray for the Board's compassion and understanding in reviewing this matter. We respectfully request that it use its discretion in overturning its previous decision to revoke our client's license. In addition to the mitigating circumstances presented above, the facts surrounding Mr. Lachney's case would not warrant the revocation of his license had he been able to appear before the Board.

Sincerely,



Edwin Bayó

cc: Gene R. Lachney, R.Ph

Florida Department of Health
Board of Pharmacy
4052 Bald Cypress Way
Tallahassee, FL 32399

5/25/2014

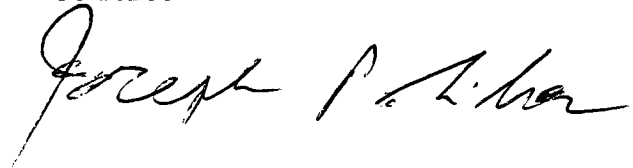
Gentlemen:

I am submitting this letter to the Board of Pharmacy in support of Gene Lachney. I have known Mr. Lachney both personally and professionally since about 1994. On a personal basis, I know some of his history of working in Florida for a few years and then moving back to the New Orleans area and going through one of the many hurricanes that we have had while losing most of his personal possessions and having the store he worked at destroyed. He then moved back to Florida with his wife and new son. Not too long after return to Florida he went through a divorce as well as a custody battle this year with his ex-wife. Additionally, in April of this year he had to have emergency gall bladder surgery.

As to a professional nature, we have worked separately for competing companies and also on occasion for the same company. Through this time span I have always known Mr. Lachney to be a very professional pharmacist who cared about his professional conduct, his work ethic, and the manner in which he interacted and served his patients and interrelated with his fellow co-workers. I believe that his professional conduct could be verified by the board with former state inspector Sarah Helen Lowe if necessary.

If there are any questions by the board, I will be glad to answer their questions. Thank you for time and consideration.

Joseph P Gibson
810 Panferio Dr
Pensacola Beach, FL 32561
FL PS 26203
La 9886
Co 18200



To Whom it may concern;

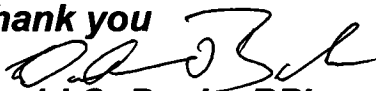
This letter is to serve as a personal reference for Mr Gene Lachney.

I have know Gene since 1996 both personally and professionally and have found him to be of the highest character in his relationships regarding his profession of pharmacy. When I first met Gene, He served as a liason between the district manager of Kmart corporation and the Pharmacists of various stores. His ability to communicate the needs of the various store pharmacist managers and upper level management was handled with a high level of responsibility and professionalism. After 18 years, our paths continue to cross in the profession of Pharmacy.

Gene is a person who deeply cares for his son and his mother. He speaks of them with great passion and pride and concern regarding their future and his ability to be a positive influence in their lives.

I would trust Gene with my healthcare and management of my business transactions. He is trustworthy and loyal to those of whom, he works for. He is respectful to those that he serves as their trusted professional.

Thank you



**David O. Banks RPh
5855 Hogans Alley
Milton, Fl 32570
850-375-2658 Cell**

Connie N. Best RPh
2363 Tall Oak Drive
Cantonment, Fl 32533

May 20, 2014

Florida Board of Pharmacy

4052 Bald Cypress Way

Tallahassee, Fl 32399

Dear Sirs & Madam;

I have known Gene Laschney for almost 20 years and have always found him to be honest, forthright and intelligent. While he has been through a great deal of adversity in the last few years, I have seen him handle it with humor and a great deal of strength. He has always been a good pharmacist; dependable, trustworthy and compassionate.

I hope that you will take into consideration the value of Gene as a pharmacist and as a person when making your decision regarding his licensure. He is a good father and a good person. One minor error in judgement should not negate 22 years of conscientious service to the profession.

Please feel free to contact me if you have any further questions.

Sincerely,

A handwritten signature in cursive script that reads "Connie N. Best RPh". The signature is written in black ink and is positioned below the word "Sincerely,".

Connie N. Best RPh

I , John Kamm, have been a pharmacist since 1995. I have known Gene Lachney since I was a little kid growing up in New Orleans, La. He was one of the reasons why I decided to move to Pensacola and be a Pharmacist here. Over the years he has been a great friend and he is a great father to his son Logan. Gene is a great pharmacist and is great with his customers. Everyone I know just says how great a person he is. I talked to gene about what happen and he assures me that it was a mistake and that it will not happen again.

John Kamm

ps 30652

Pensacola,fl

A handwritten signature in cursive script that reads "John P. Kamm". The signature is fluid and extends to the right with a long horizontal stroke.



5001 Commercial Park Circle - Pensacola, FL 32505
www.americanpharmacysolutions.com
(850) 266-2333 Toll Free (877) 729-1015 Fax (877) 729-1019

To whom it may concern

My name is Darian Chandler and I am currently the COO for American Pharmacy Solutions, LLC in Pensacola, Florida. I have known Gene Lachney for the past 5 years through a working relationship and then on a personal level.

Gene was one my pharmacist in charge for a period of time in 2012 and 2013. Gene was always and continues to be a very professional Pharmacist and is a great asset to the pharmacy community. You will not find a more caring pharmacist and person when it comes to the needs of customers/patients that bring their prescriptions in to the pharmacy to be filled on a regular basis. Gene has a loyal customer base that follows him and appreciates the time that he takes in making sure the patient is taken care of in their medical needs and often goes beyond the call of duty outside the pharmacy.

I employ this board to please consider reinstating Gene Lachney his Florida pharmacy license. I feel we would be losing a great colleague and pharmacist if he is not allowed to perform his profession that he loves so much. If I need to be contacted, I can be reached @ 251-510-7466.

Thanking you in advance,

A handwritten signature in black ink, appearing to read 'Darian Chandler', is written over the typed name below it.

Darian Chandler



Rick Scott
Governor

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John H. Armstrong, MD, FACS

Surgeon General & Sec

Vision: To be the Healthiest State in the Nation

**STATE OF FLORIDA
BOARD OF PHARMACY**

DEPARTMENT OF HEALTH,
PETITIONER,

VS.

CASE NO. 201306754

GENE R LACHNEY,
RESPONDENT.

NOTICE

TO: GENE R LACHNEY
716 SKY HAWK DR
PENSACOLA, FL 32506

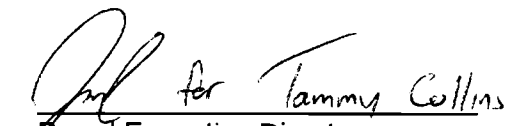
PLEASE TAKE NOTICE that a disciplinary hearing will be heard before the BOARD OF PHARMACY on Wednesday, April 2, 2014, commencing at 9 a.m. Although the Respondent is not required to be present, it is in their best interest to attend. This hearing will be held at 1001 N. Westshore Boulevard, Tampa, FL 33607, (800) 627-7468.

The purpose of the hearing is to consider a motion for: Determination of Waiver

Note: Cases shown on the agenda as "timed" items may be heard in a different order or may be heard earlier if all parties are present. Cases are scheduled beginning at 9 a.m.; therefore, it is imperative that you arrive promptly at 9 a.m. and be prepared to be at the meeting for several hours until your case is heard.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Hearing has been sent by U.S. Mail to the above address(es) this 26th day of February, 2014.


Board Executive Director
BOARD OF PHARMACY
Florida Department of Health
4052 Bald Cypress Way, Bin #
Tallahassee, FL 32399 -

Florida Department of Health
Division of Medical Quality Assurance
4052 Bald Cypress Way, Bin C10 • Tallahassee, FL 32399-3260
PHONE: (850) 245-4444 • FAX : (850) 245-4791

www.FloridasHealth.com
TWITTER:HealthyFLA
FACEBOOK:FLDepartmentofHealth
YOUTUBE: fldoh

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Rick Scott
Governor

John H. Armstrong, MD, FACS
State Surgeon General & Secretary

Vision: To be the Healthiest State in the Nation

MEMORANDUM

TO: Tammy Collins, Acting Executive Director, Board of Pharmacy
FROM: Ana Gargollo-McDonald, Assistant General Counsel
RE: **Determination of Waiver**
SUBJECT: DOH v. Gene R Lachney, R.Ph.
DOH Case Number 2013-06754
DATE: February 14, 2014

Enclosed you will find materials in the above-referenced case to be placed on the agenda for final agency action for the **April 2, 2014** meeting of the board. The following information is provided in this regard.

Subject: Gene R Lachney
Subject's Address of Record: 716 Sky Hawk Dr
Pensacola, FL 32506
Enforcement Address: 716 Sky Hawk Dr
Pensacola, FL 32506
Subject's License No: 28290 **Rank:** PS
Licensure File No: 17317
Initial Licensure Date: 3/8/1993
Board Certification: No
Required to Appear: No
Current IPN/PRN Contract: No
Allegation(s): 465.015(2)(c), FS (2012)
Prior Discipline: None
Probable Cause Panel: September 5, 2013; Mesros & Glass
Subject's Attorney: Pro Se
Complainant/Address: Department Of Health/Investigative Services
Unit-Pensacola
Materials Submitted: Memorandum to the Board
Motion For Determination of Waiver
Exhibit A: Administrative Complaint
Exhibit B: Copy of Certified Mail Receipt
Exhibit C: Affidavit of Service
Exhibit D: Affidavit of Non-Receipt – Board Office
Exhibit E: Affidavit of Non-Receipt – Agency Clerk
Defense Attorney/Respondent Documents
Motion to Assess Costs with Attachments

Exhibit A: Affidavit of Fees and Costs Expended
Exhibit 1: Complaint Cost Summary
Exhibit 2: Itemized Cost by Complaint
Supplemental Investigative Report dated 7/31/2013
Probable Cause Memorandum
Final Investigative Report with Exhibits 1-7

Disciplinary Guidelines:

465.015(2)(c), Florida Statutes (2012): from \$1,500 fine to Revocation

PRELIMINARY CASE REMARKS: DETERMINATION OF WAIVER

This is a one-count administrative complaint alleging Respondent violated Section 465.015(2)(c), Florida Statutes (2012), by selling or dispensing drugs as defined in Section 465.003(8), Florida Statutes, without first being furnished with a prescription.

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

**DEPARTMENT OF HEALTH,
Petitioner,**

v.

CASE NO. 2013-06754

**GENE R. LACHNEY, R.PH.,
Respondent.**

**MOTION FOR DETERMINATION OF WAIVER AND FOR
FINAL ORDER BY HEARING NOT INVOLVING DISPUTED
ISSUES OF MATERIAL FACT**

Petitioner, Department of Health, by and through counsel, moves the Board of Pharmacy to find that Respondent has waived his/her right to elect a method of disposition of the pending Administrative Complaint, to determine that no material facts are in dispute, to conduct a hearing not involving disputed issues of material fact, and to enter a Final Order. As grounds therefore, Petitioner states:

1. An Administrative Complaint was filed against Respondent on September 5, 2013. A copy of said Administrative Complaint is attached hereto as Petitioner's Exhibit A.
2. Copies of the Administrative Complaint, Explanation of Rights form, and Election of Rights forms were sent to Respondent, via certified US mail delivery, on September 18, 2013 (7196 9008 9111 1387 0971). A

signed green receipt card was not returned. A copy of the certified mail receipt is attached as Petitioner's Exhibit B.

3. Thereafter, the Department requested personal service on Respondent, which was successfully completed on October 29, 2013. The affidavit of personal service is attached as Petitioner's Exhibit C.

4. Respondent has not filed with either the Department of Health or the Board of Pharmacy, an Election of Rights form or other responsive pleading in this case within the twenty-one (21) day period to dispute the allegations contained in the Administrative Complaint. Copies of affidavits supporting the same are attached hereto as Petitioner's Exhibits D and E.

5. Rule 28-106.111(2), Florida Administrative Code, provides in pertinent part that:

. . . persons seeking a hearing on an agency decision which does or may determine their substantial interests shall file a petition for hearing with the agency within 21 days of receipt of written notice of the decision.

6. Rule 28.106.111(4), Florida Administrative Code, provides in pertinent part that:

. . . any person who received written notice of an agency decision and who fails to file a written request for a hearing within 21 days waives the right to request a hearing on such matters.

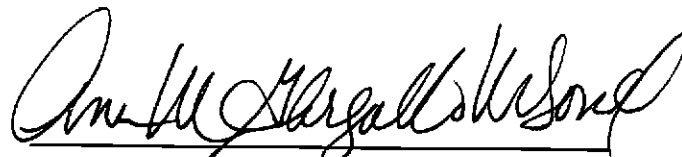
7. Respondent has been advised, by a copy of this motion sent to his/her address of record, that a copy of the investigative file in this case shall be furnished to the Board to establish a prima facie case regarding the violations as set forth in the Administrative Complaint.

8. The Department has determined that there are no material facts in dispute and has concluded that Respondent has waived his/her right to elect the method of resolution.

9. The Department requests that this Motion and a hearing be placed on the agenda for the next regularly scheduled meeting of the Board of Pharmacy.

WHEREFORE, Petitioner respectfully requests that the Board find that Respondent has waived his/her right to elect a method of resolution of this matter, find that there are no material facts in dispute, hold a hearing not involving material issues of disputed fact based on the information contained in the investigative file, find that Respondent violated Chapters 456 and 465, Florida Statutes, as alleged in the Administrative Complaint, impose discipline in accordance with the disciplinary guidelines, and enter a Final Order.

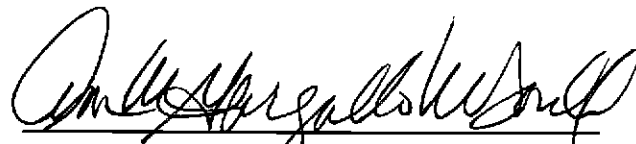
Respectfully submitted,

A handwritten signature in black ink, appearing to read "Ana M. Gargollo-McDonald". The signature is written in a cursive style and is positioned above a horizontal line.

Ana M. Gargollo-McDonald
Assistant General Counsel
Florida Bar No. 85907
Department of Health
Prosecution Services Unit
4052 Bald Cypress Way Bin C-65
Tallahassee, Florida 32399-3265
Telephone: (850) 245-4444
Facsimile: (850) 245-4681
Email: ana.gargollo-mcdonald@flhealth.gov

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Motion for Determination of Waiver and for Final Order by Hearing Not Involving Disputed Issues of Material Fact has been furnished via U.S. mail this 15th day of January, 2014, to Gene Lachney, 716 Sky Hawk Drive, Pensacola, FL 32506.



Ana M. Gargollo-McDonald
Assistant General Counsel

STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO. 2013-06754

GENE R. LACHNEY, RPH,

RESPONDENT.

ADMINISTRATIVE COMPLAINT

COMES NOW, Petitioner, Department of Health, by and through its undersigned counsel, and files this Administrative Complaint before the Board of Pharmacy against Respondent, Gene R. Lachney, and in support thereof alleges:

1. Petitioner is the state agency charged with regulating the practice of pharmacy pursuant to Section 20.43, Florida Statutes; Chapter 456, Florida Statutes; and Chapter 465, Florida Statutes.

2. At all times material to this Complaint, Respondent was a licensed pharmacist within the State of Florida, having been issued license number PS 28290.

EXHIBIT

A

3. Respondent's address of record is 716 Sky Hawk Drive, Pensacola, Florida 32506.

4. At all times material to this Administrative Complaint, Respondent was employed by Cantonment Pharmacy, located at 433 Highway 29 South, Cantonment, Florida 32533.

5. On or about February 4, 2013, the Department of Health Investigator went to Cantonment Pharmacy at 433 Highway 29 South, Cantonment, Florida 32533, and obtained six (6) azithromycin 250 mg tablets, a prescription only medication, without a valid prescription from Respondent.

6. Section 465.015(2)(c), Florida Statutes (2012), it is unlawful for any person to sell or dispense drugs as defined in s. 465.003(8) without first being furnished with a prescription.

7. Azithromycin is an antibiotic that fights bacteria and is a prescription drug.

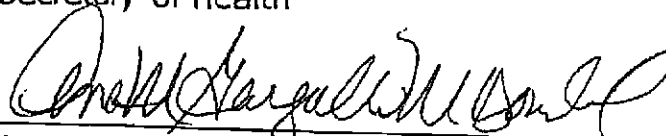
8. On or about February 4, 2013, Respondent sold or dispensed a drug as defined in Section 465.003(8), Florida Statutes, without first being furnished with a prescription.

9. Based on the foregoing, Respondent violated Section 465.015(2)(c), Florida Statutes (2012), by selling or dispensing drugs as defined in Section 465.003(8), Florida Statutes, without first being furnished with a prescription.

WHEREFORE, Petitioner respectfully requests that the Board of Pharmacy enter an order imposing one or more of the following penalties: permanent revocation or suspension of Respondent's license, restriction of practice, imposition of an administrative fine, issuance of a reprimand, placement of Respondent on probation, corrective action, refund of fees billed or collected, remedial education and/or any other relief that the Board deems appropriate.

SIGNED this 5th day of September, 2013.

JOHN H. ARMSTRONG, MD, FACS
State Surgeon General and
Secretary of Health



Ana M. Gargollo-McDonald
Assistant General Counsel
DOH Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, Florida 32399-3265
Fla. Bar No. 0085907
Telephone: (850) 245-4444 Ext. 8133
Facsimile: (850) 245-4683
ana_gargollo-mcdonald@doh.state.fl.us

FILED

DEPARTMENT OF HEALTH
DEPUTY CLERK

CLERK: *Angelo Sauter*

DATE: SEP 05 2013

/AGM

PCP: *9/5/13*
PCP Members: *Micro & Alan*

NOTICE OF RIGHTS

Respondent has the right to request a hearing to be conducted in accordance with Section 120.569 and 120.57, Florida Statutes, to be represented by counsel or other qualified representative, to present evidence and argument, to call and cross-examine witnesses and to have subpoena and subpoena duces tecum issued on his or her behalf if a hearing is requested.

NOTICE REGARDING ASSESSMENT OF COSTS

Respondent is placed on notice that Petitioner has incurred costs related to the investigation and prosecution of this matter. Pursuant to Section 456.072(4), Florida Statutes, the Board shall assess costs related to the investigation and prosecution of a disciplinary matter, which may include attorney hours and costs, on the Respondent in addition to any other discipline imposed.

7196 9008 9111 1387 0971

TO:

Gene R. Lachney, R.Ph
2013-06754
AM/ab/Stip Pk
Sent 9/18/2013

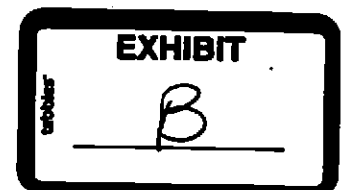
Gene R. Lachney
716 Sky Hawk Drive
Pensacola, FL 32506

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| RECEIPT SERVICE | Certified Fee | |
| | Return Receipt Fee | |
| | Restricted Delivery | |
| | Total Postage & Fees | |

USPS®
Receipt for
Certified Mail™

No Insurance Coverage Provided
Do Not Use for International Mail

POSTMARK OR DATE




Florida Department of Health
Office of the General Counsel
Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, Florida 32399-1701
PHONE: 850/245-4444

A. Gargallo McDonald



7196 9008 9111 1387 0971

 **VACANT**

Gene R. Lachney
716 Sky Hawk Drive
Pensacola

VACANT

no response

9/20

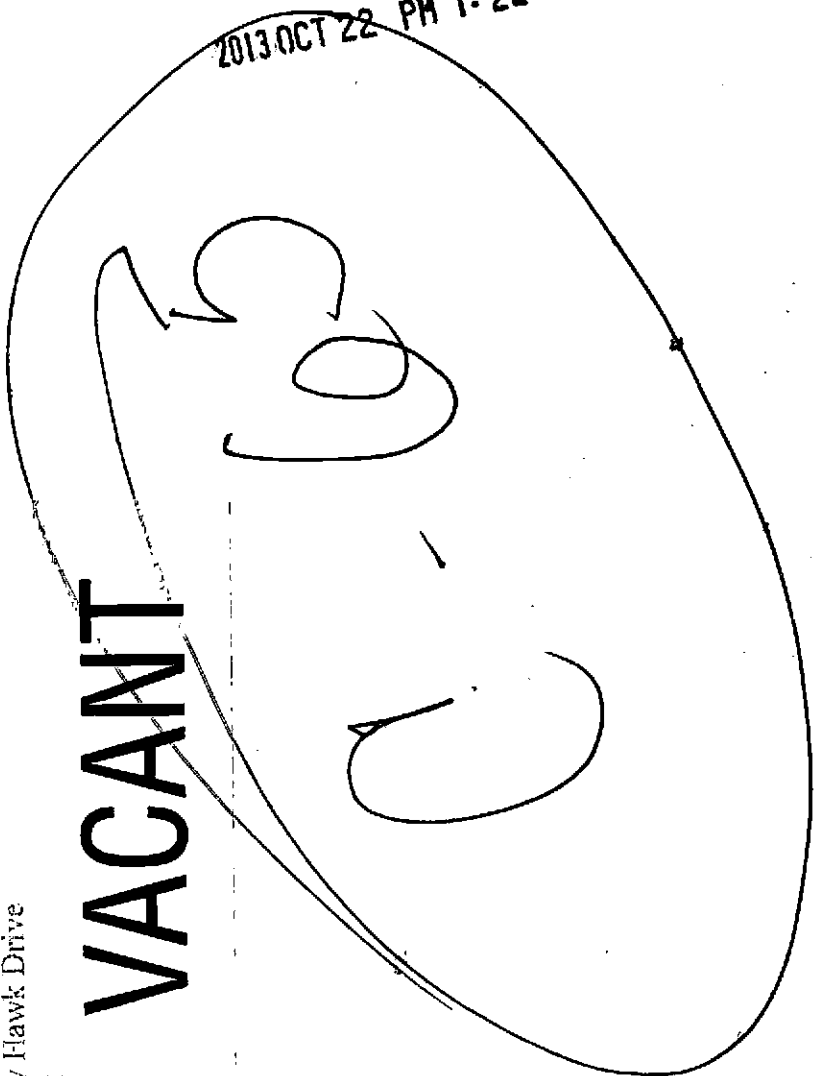
RLS

CPA

9/26/01

PRACTITIONER REGULATION
LEGAL

2013 OCT 22 PM 1:22



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State Surgeon General & Secretary

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AFFIDAVIT OF SERVICE

DEPARTMENT OF HEALTH

Petitioner

vs

Case No. PS 2013-06754

GENE R. LACHNEY, RPH

Respondent

COMES NOW, the affiant, who first being duly sworn, deposes and states:

- 1) Affiant is an Investigator/Inspector employed by the DEPARTMENT OF HEALTH, State of Florida.
- 2) That from 10/28/13-10/29/13, Affiant made a diligent effort to locate Respondent, to serve XX Administrative Complaint and related papers; Order compelling examination(s); Subpoena(s); Final order; Notice to cease and desist; ESO/ERO and related papers.

3) Check applicable answer below:

XX Affiant made personal service on 10/29/13 by serving the AC to GENE R. LACHNEY, RPh at Cantonment Pharmacy located at 433 Hwy 29 South, Cantonment, FL 32533.

 Affiant was unable to make service after searching for Respondent at: (a) all addresses for Respondent shown in the DOH investigation of the case; (b) all official addresses for Respondent shown in his licensing records on the computer terminal or Board office; (c) Local telephone company for the last area Respondent was known to frequent; (d) Division of Drivers Licenses; and (e) Utilities (electric, cable, etc.); any others:

Ben Lanier

Affiant

State Of Florida
County Of Escambia

Before me, personally appeared Ben Lanier whose identity is known to me by Personally known (type of identification) and who, acknowledges that his/her signature appears above.

Sworn to or affirmed by Affiant before me this 29th day of October, 2013.



Lora Boyd

Notary Public-State of Florida

My Commission Expires

Type or Print Name

Florida Department of Health
Division of Medical Quality Assurance • Bureau of Enforcement
5016 N. Davis Hwy • Pensacola, FL 32503
PHONE: (850) 475-5474 • FAX (850) 475-5475

www.Florida...
FACEBOOK:...

Exhibit S2-2

EXHIBIT

C

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John H. Armstrong, MD, FACS
State Surgeon General & Secretary

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Affidavit of Non-Receipt

I, Tammy Collins, hereby certify in my official capacity as custodian for the Board's licensure files that the Board of Pharmacy as of 27 Nov 2013, has no evidence of an Election of Rights form or other responsive pleading requesting a hearing prior to any agency action regarding **Gene R. Lachney, R.Ph.; 2013-06754**, which would affect the Subject's substantial interests or rights.

Tammy Collins
Custodian of Records
Florida Board of Pharmacy

Before me, personally appeared Tammy Collins, whose identity is known to me personally and who, under, oath, acknowledges that his/her signature appears above.

Sworn to and subscribed before me this 5 day of Dec, 2013.



[Signature]
Notary Public
My commission expires:



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Rick Scott
Governor

John H. Armstrong, MD, FACS
State Surgeon General & Secretary

Vision: To be the Healthiest State in the Nation

AFFIDAVIT

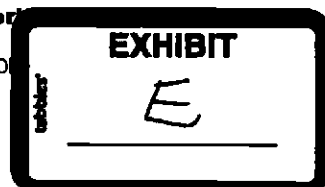
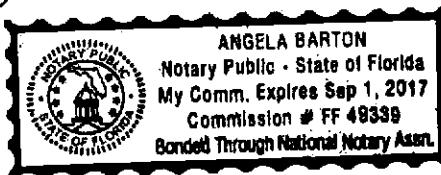
I, Amy Carraway, Deputy Clerk for the Department Clerk's Office, hereby certify in my official capacity as custodian for the Department Clerk's records, that the Department Clerk's Office has not received an Election of Rights form or other responsive pleading, which requests a hearing prior to any Department action regarding Gene R. Lachney, R.Ph.; 2013-06754, which would affect the Respondent's substantial interests or rights.

Amy Carraway
Custodian of Record
Department Clerk's Office

Before me, personally appeared Amy Carraway, whose identity is known to me personally and who, under oath, acknowledges that his/her signature appears above.

Sworn to and subscribed before me this 27th day of November, 2013.

Angela Barton
Notary Public
My Commission Expires:



PRACTITIONER REGULATION
LEGAL

2013 DEC -2 AM 9:40

STATE OF FLORIDA
DEPARTMENT OF HEALTH

PRACTITIONER REGULATION
LEGAL

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO. 2013-06754

GENE R. LACHNEY, R.PH.,

RESPONDENT.

SETTLEMENT AGREEMENT

Pursuant to Section 120.57(4), Florida Statutes, the parties offer this Settlement Agreement to the Board of Pharmacy (Board) as disposition of the Administrative Complaint, attached as Exhibit A, in lieu of further administrative proceedings.

STIPULATED FACTS

1. At all times material to this matter, Gene R. Lachney, R.Ph., was a licensed pharmacist in the state of Florida, having been issued license number PS 28290. Respondent's mailing address of record is 716 Sky Hawk Drive, Pensacola, Florida 32506.

2. Respondent was charged by an Administrative Complaint, filed by the Department of Health (Department) and properly served upon Respondent, with violations of Chapters 456 and 465, Florida Statutes.

STIPULATED LAW

3. Respondent admits that he is subject to the provisions of Chapters 456 and 465, Florida Statutes, and the jurisdiction of the Department.

4. Respondent admits that the allegations in the Administrative Complaint, if proven true, constitute violations of law and cause the Respondent to be subject to discipline by the Board of Pharmacy.

PROPOSED DISPOSITION

5. **Appearance-** Respondent shall be present when this Settlement Agreement is presented to the Board and under oath shall answer all questions asked by the Board concerning this case and its disposition.

6. **Fine-** The Board of Pharmacy shall impose an administrative fine of **TWO THOUSAND DOLLARS** (\$2,000.00). The fine shall be paid by Respondent to the **Department of Health, Compliance Management Unit, Bin C76, Post Office Box 6320, Tallahassee,**

Florida 32314-6320, within 90 days from the date the Final Order approving and incorporating this Settlement Agreement (Final Order) is filed with the Department Clerk.

7. **Costs**- The Board of Pharmacy shall impose the total, administrative costs associated with the investigation and prosecution of this matter in an amount not to exceed **ONE THOUSAND SEVEN HUNDRED AND FORTY-FIVE DOLLARS** (\$1,745.00). Total costs shall be assessed when the Settlement Agreement is presented to the Board. The costs shall be paid by Respondent to the **Department of Health, Compliance Management Unit, Bin C76, Post Office Box 6320, Tallahassee, Florida 32314-6320**, within 90 days from the date the Final Order is filed with the Department Clerk.

8. **CE Course**- Respondent shall successfully complete a Continuing Education Course on the subject of Laws and Rules consisting of 3 hours of credit, which has been approved by the Florida Board of Pharmacy, within one (1) year of the filing of a Final Order accepting and incorporating this Settlement Agreement. These continuing education hours shall be in addition to the hours required for license renewal. Within ten (10) days of completion of the course and/or receipt of the certificate

of completion, Respondent shall mail a copy of the continuing education certificate of completion to the Pharmacy Compliance Officer at the address listed in paragraph two (2) above.

9. **Future Conduct-** Respondent shall not violate Chapter 456, 465, 499 or 893, Florida Statutes; the rules promulgated pursuant thereto; or any other state or federal law, rule, or regulation relating to the practice or to the ability to practice pharmacy.

10. **Violation of Terms-** It is expressly understood that a violation of the provisions of this Settlement Agreement as approved and incorporated into the Final Order of the Board of Pharmacy shall constitute a violation of an order of the Board for which disciplinary action may be initiated against Respondent pursuant to Chapter 465, Florida Statutes.

11. **No Force or Effect until Final Order-** It is expressly understood that this Settlement Agreement is subject to approval by the Board and has no force or effect until the Board incorporates the terms of this Settlement Agreement into its Final Order.

12. **Purpose of Agreement-** This Settlement Agreement is executed by Respondent for the purpose of avoiding further administrative action with respect to this particular case. In this regard, Respondent

authorizes the Board to review and examine all investigative file materials concerning Respondent prior to, or in conjunction with, consideration of the Settlement Agreement. Petitioner and Respondent agree to support this Settlement Agreement at the time it is presented to the Board and shall offer no evidence, testimony, or argument that disputes or contravenes any stipulated fact or conclusion of law. Furthermore, should this Settlement Agreement not be accepted by the Board, it is agreed that the presentation and consideration of this Settlement Agreement and other documents and matters by the Board shall not unfairly or illegally prejudice the Board or any of its members from further participation, consideration, or resolution of these proceedings.

13. **Not Preclude Additional Proceedings**- Respondent and the Department fully understand that this Settlement Agreement as approved and incorporated into the Final Order will not preclude additional proceedings by the Board or Department against Respondent for acts or omissions not specifically set forth in the Administrative Complaint.

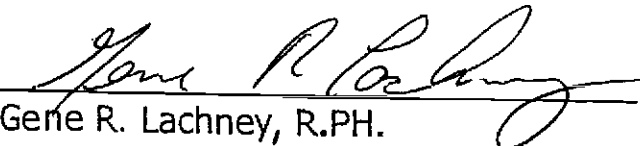
14. **Waiver of Attorney's Fees and Costs**- Respondent waives the right to seek any attorney's fees and costs from the Department in connection with this disciplinary proceeding.

15. **Waiver of Procedural Rights**- Respondent waives all rights to further administrative procedure and to appeal and further review of this Settlement Agreement and the Final Order.

16. **Current Addresses**- Respondent shall keep current his mailing address and his practice address with the Board of Pharmacy and the Compliance Officer and shall notify the Board of Pharmacy and the Compliance Officer of any change of mailing address or practice address within 10 days of the change.

WHEREFORE, the parties request that the Board enter a Final Order approving and incorporating this Settlement Agreement in resolution of this matter.

SIGNED this 25th day of November, 2013.


Gene R. Lachney, R.P.H.
CASE NO. 2013-06754

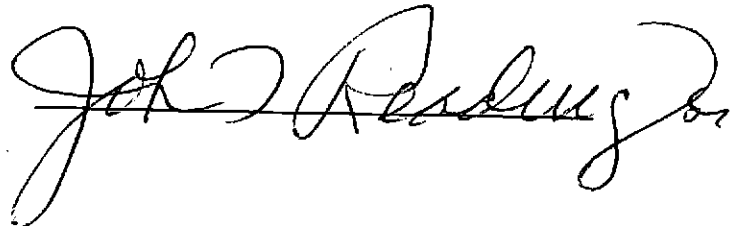
STATE OF Florida

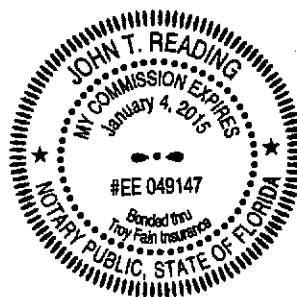
COUNTY OF Escambia

Before me personally appeared Gene R. Lachney, R.Ph., whose identity is known to me or by personally (type of identification), and who, under oath, acknowledges that his signature appears above.

Sworn to and subscribed before me this 25 day of November, 2013.

Notary Public
My Commission number:
My Commission Expires:





APPROVED this _____ day of _____, 2013.

JOHN H. ARMSTRONG, MD, FACS
State Surgeon General and
Secretary of Health

Ana M. Gargollo-McDonald
Assistant General Counsel

Counsel for Petitioner

Ana M. Gargollo-McDonald
Assistant General Counsel
DOH Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, Florida 32399-3265
Fla. Bar No. 0085907
Telephone: (850) 245-4444 Ext. 8133
Facsimile: (850) 245-4683
ana_gargollo-mcdonald@doh.state.fl.us

STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,
Petitioner,

v.

CASE NO. 2013-06754

GENE R. LACHNEY, R.PH.,
Respondent.

MOTION TO ASSESS COSTS IN ACCORDANCE
WITH SECTION 456.072(4)

COMES NOW the Department of Health, by and through undersigned counsel, and moves the Board of Pharmacy for the entry of a Final Order assessing costs against the Respondent for the investigation and prosecution of this case in accordance with Section 456.072(4), Florida Statutes. As grounds therefore, the Petitioner states the following:

1. At its next regularly scheduled meeting, the Board of Pharmacy will take up for consideration the above-styled disciplinary action and will enter a Final Order therein.

2. Section 456.072(4), Florida Statutes, states as follows:

In addition to any other discipline imposed through final order, or citation, entered on or

after July 1, 2001, pursuant to this section or discipline imposed through final order, or citation, entered on or after July 1, 2001, for a violation of any practice act, the board, or the department when there is not board, shall assess costs related to the investigation and prosecution of the case. Such costs related to the investigation and prosecution include, but are not limited to, salaries and benefits of personnel, costs related to the time spent by the attorney and other personnel working on the case, and any other expenses incurred by the department for the case. The board, or the department when there is no board, shall determine the amount of costs to be assessed after its consideration of an affidavit of itemized costs and any written objections thereto.

3. The investigation and prosecution of this case has resulted in costs in the total amount of \$961.00, based on the following itemized statement of costs:

| | ***** Cost to Date ***** | |
|-------------------|--------------------------|----------|
| | Hours | Costs |
| Complaint: | 0.50 | \$27.45 |
| Investigation: | 9.90 | \$615.81 |
| Legal: | 3.00 | \$317.74 |
| Compliance: | 0.00 | \$0.00 |
| Sub Total: | 13.40 | \$961.00 |
| Expenses to Date: | | \$0.00 |
| Prior | | \$0.00 |

| | | |
|----------------------|--|----------|
| Amount: | | |
| Total Costs to Date: | | \$961.00 |

Therefore, the Petitioner seeks an assessment of costs against the Respondent in the amount of \$643.26 as evidenced in the attached affidavit. (Exhibit A).

4. Should the Respondent file written objections to the assessment of costs, within ten (10) days of the date of this motion, specifying the grounds for the objections and the specific elements of the costs to which the objections are made, the Petitioner requests that the Board determine the amount of costs to be assessed based upon its consideration of the affidavit attached as Exhibit A and any timely-filed written objections.

5. Petitioner requests that the Board grant this motion and assess costs in the amount of \$643.26 as supported by competent, substantial evidence. This assessment of costs is in addition to any other discipline imposed by the Board and is in accordance with Section 456.072(4), Florida Statutes.

WHEREFORE, the Department of Health requests that the Board of Pharmacy enter a Final Order assessing costs against the Respondent in the amount of \$643.26.

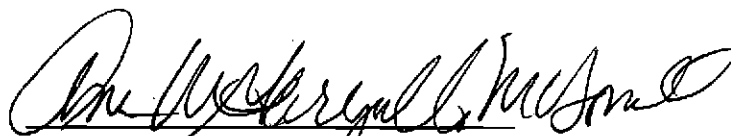
DATED this 15th day of January, 2014.

A handwritten signature in black ink, appearing to read "Ana M. Gargollo-McDonald". The signature is written in a cursive style and is positioned above a horizontal line.

Ana M. Gargollo-McDonald
Assistant General Counsel
Fla. Bar No. 85907
Florida Department of Health
Office of the General Counsel
4052 Bald Cypress Way, Bin #C65
Tallahassee, FL 32399-3265
Telephone: (850) 245-4444
Facsimile: (850) 245-4683
Email: ana.gargollo-mcdonald@flhealth.gov

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Motion to Assess Costs has been provided by U.S. Mail this 15th day of January, 2014, to Gene Lachney, 716 Sky Hawk Drive, Pensacola, Florida 32506.

A handwritten signature in black ink, appearing to read 'Ana M. Gargollo-McDonald', written in a cursive style.

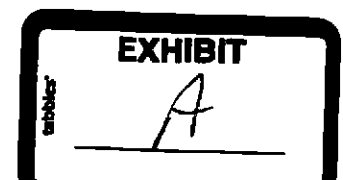
Ana M. Gargollo-McDonald
Assistant General Counsel

AFFIDAVIT OF FEES AND COSTS EXPENDED

STATE OF FLORIDA
COUNTY OF LEON:

BEFORE ME, the undersigned authority, personally appeared **SHANE WALTERS** who was sworn and states as follows:

- 1) My name is Shane Walters.
- 2) I am over the age of 18, competent to testify, and make this affidavit upon my own personal knowledge and after review of the records at the Florida Department of Health (DOH).
- 3) I am the Operations and Management Consultant Manager (OMCM) for the Consumer Services and Compliance Management Unit for DOH. The Consumer Services Unit is where all complaints against Florida health care licensees (e.g., medical doctors, dentists, nurses, respiratory therapists) are officially filed. I have been in my current job position for more than one year. My business address is 4052 Bald Cypress Way, Bin C-75 Tallahassee, Florida 32399-3275.
- 4) As OMCM of the Consumer Services and Compliance Management Unit, my job duties include reviewing data in the Time Tracking System and verifying that the amounts correspond. The Time Tracking System is a computer program which records and tracks DOH's costs regarding the investigation and prosecution of cases against Florida health care licensees.
- 5) As of today, DOH's total costs for investigating and prosecuting DOH case number(s) **2013-06754** (Department of Health v. **GENE R. LACHNEY**) are **NINE HUNDRED SIXTY-ONE DOLLARS AND ZERO CENTS (\$961.00)**.
- 6) The costs for DOH case number(s) **2013-06754** (Department of Health v. **GENE R. LACHNEY**) are summarized in Exhibit 1 (Cost Summary Report), which is attached to this document.
- 7) The itemized costs and expenses for DOH case number(s) **2013-06754** (Department of Health v. **GENE R. LACHNEY**) are detailed in Exhibit 2 (Itemized Cost Report and Itemized Expense Report and receipts), which is attached to this document.
- 8) The itemized costs as reflected in Exhibit 2 are determined by the following method: DOH employees who work on cases daily are to keep track of their time in six-minute increments (e.g., investigators



and lawyers). A designated DOH employee in the Consumer Services Unit, Legal Department, and in each area office, inputs the time worked and expenses spent into the Time Tracking System. Time and expenses are charged against a state health care Board (e.g., Florida Board of Medicine, Florida Board of Dentistry, Florida Board of Osteopathic Medicine), and/or a case. If no Board or case can be charged, then the time and expenses are charged as administrative time. The hourly rate of each employee is calculated by formulas established by the Department. (See the Itemized Cost Report)

- 9) Shane Walters, first being duly sworn, states that she has read the foregoing Affidavit and its attachments and the statements contained therein are true and correct to the best of her knowledge and belief.

FURTHER AFFIANT SAYETH NOT.

Shane Walters
Shane Walters, Affiant

State of Florida
County of Leon

Sworn to and subscribed before me this 24 day of December, 2013,
by Shane Walters, who is personally known to me.

Towanda Burnett
Notary Signature



Towanda Burnett
Name of Notary Printed

Stamp Commissioned Name of Notary Public:

Complaint Cost Summary

Complaint Number: 201306754

Subject's Name: LACHNEY, GENE R.

| | ***** Cost to Date ***** | |
|----------------------|--------------------------|----------|
| | Hours | Costs |
| Complaint: | 0.50 | \$27.45 |
| Investigation: | 9.90 | \$615.81 |
| Legal: | 3.00 | \$317.74 |
| Compliance: | 0.00 | \$0.00 |
| | ***** | ***** |
| Sub Total: | 13.40 | \$961.00 |
| Expenses to Date: | | \$0.00 |
| Prior Amount: | | \$0.00 |
| Total Costs to Date: | | \$961.00 |

EXHIBIT

tabular

1

**Time Tracking System
Itemized Cost by Complaint**

Complaint 201306754

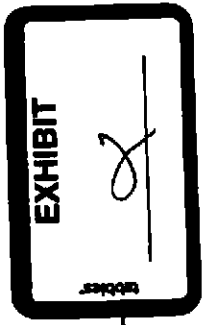
Report Date 12/02/2013

Page 1 of 3

| Staff Code | Activity Hours | Staff Rate | Cost | Activity Date | Activity Code | Activity Description |
|------------------|----------------|------------|----------------|---------------|---------------|--|
| HA167 | 0.50 | \$54.90 | \$27.45 | 04/30/2013 | 78 | INITIAL REVIEW AND ANALYSIS OF COMPLAINT |
| Sub Total | 0.50 | | \$27.45 | | | |

INVESTIGATIVE SERVICES UNIT

| | | | | | | |
|------|------|---------|---------|------------|----|----------------------------|
| B135 | 0.20 | \$63.98 | \$12.80 | 05/02/2013 | 4 | ROUTINE INVESTIGATIVE WORK |
| B135 | 0.40 | \$63.98 | \$25.59 | 05/02/2013 | 76 | REPORT PREPARATION |
| B135 | 0.10 | \$63.98 | \$6.40 | 05/06/2013 | 4 | ROUTINE INVESTIGATIVE WORK |
| B135 | 0.20 | \$63.98 | \$12.80 | 05/06/2013 | 76 | REPORT PREPARATION |
| B135 | 0.10 | \$63.98 | \$6.40 | 05/10/2013 | 76 | REPORT PREPARATION |
| B135 | 0.10 | \$63.98 | \$6.40 | 05/14/2013 | 4 | ROUTINE INVESTIGATIVE WORK |
| B135 | 0.20 | \$63.98 | \$12.80 | 05/14/2013 | 76 | REPORT PREPARATION |
| B135 | 0.10 | \$63.98 | \$6.40 | 05/15/2013 | 4 | ROUTINE INVESTIGATIVE WORK |
| B135 | 0.30 | \$63.98 | \$19.19 | 05/15/2013 | 76 | REPORT PREPARATION |
| B135 | 0.30 | \$63.98 | \$19.19 | 05/17/2013 | 4 | ROUTINE INVESTIGATIVE WORK |
| B135 | 0.20 | \$63.98 | \$12.80 | 05/17/2013 | 76 | REPORT PREPARATION |
| B135 | 0.50 | \$63.98 | \$31.99 | 05/30/2013 | 4 | ROUTINE INVESTIGATIVE WORK |
| B135 | 0.50 | \$63.98 | \$31.99 | 05/30/2013 | 76 | REPORT PREPARATION |
| B135 | 0.30 | \$63.98 | \$19.19 | 05/31/2013 | 4 | ROUTINE INVESTIGATIVE WORK |
| B135 | 0.30 | \$63.98 | \$19.19 | 05/31/2013 | 76 | REPORT PREPARATION |
| B135 | 0.20 | \$63.98 | \$12.80 | 06/05/2013 | 76 | REPORT PREPARATION |
| B135 | 0.20 | \$63.98 | \$12.80 | 06/14/2013 | 4 | ROUTINE INVESTIGATIVE WORK |
| B135 | 0.30 | \$63.98 | \$19.19 | 06/14/2013 | 76 | REPORT PREPARATION |
| B135 | 0.30 | \$63.98 | \$19.19 | 06/26/2013 | 4 | ROUTINE INVESTIGATIVE WORK |
| B135 | 0.30 | \$63.98 | \$19.19 | 06/26/2013 | 76 | REPORT PREPARATION |
| B135 | 0.20 | \$63.98 | \$12.80 | 06/27/2013 | 4 | ROUTINE INVESTIGATIVE WORK |
| B135 | 0.20 | \$63.98 | \$12.80 | 06/27/2013 | 76 | REPORT PREPARATION |
| B135 | 0.10 | \$63.98 | \$6.40 | 06/28/2013 | 4 | ROUTINE INVESTIGATIVE WORK |
| B135 | 0.20 | \$63.98 | \$12.80 | 06/28/2013 | 76 | REPORT PREPARATION |





**Time Tracking System
Itemized Cost by Complaint**

Complaint 201306754

Report Date 12/02/2013

| Staff Code | Activity Hours | Staff Rate | Cost | Activity Date | Activity Code | Activity Description |
|------------------|----------------|------------|-----------------|---------------|---------------|--|
| B135 | 0.50 | \$63.98 | \$31.99 | 07/01/2013 | 76 | REPORT PREPARATION |
| B135 | 0.10 | \$63.98 | \$6.40 | 07/01/2013 | 4 | ROUTINE INVESTIGATIVE WORK |
| B135 | 0.30 | \$63.98 | \$19.19 | 07/02/2013 | 76 | REPORT PREPARATION |
| B135 | 0.50 | \$63.98 | \$31.99 | 07/03/2013 | 76 | REPORT PREPARATION |
| B135 | 0.20 | \$63.98 | \$12.80 | 07/08/2013 | 76 | REPORT PREPARATION |
| B135 | 0.60 | \$63.98 | \$38.39 | 07/22/2013 | 6 | SUPPLEMENTAL INVESTIGATION |
| B135 | 0.70 | \$63.98 | \$44.79 | 07/30/2013 | 76 | REPORT PREPARATION |
| B135 | 0.20 | \$63.98 | \$12.80 | 07/31/2013 | 76 | REPORT PREPARATION |
| B135 | 0.20 | \$46.35 | \$9.27 | 10/29/2013 | 6 | SUPPLEMENTAL INVESTIGATION |
| B135 | 0.30 | \$46.35 | \$13.91 | 10/29/2013 | 100 | SERVICE OF ADMINISTRATIVE COMPLAINTS, SUBPOENAS, NOTICE TO CEASE |
| B135 | 0.50 | \$46.35 | \$23.18 | 10/29/2013 | 76 | REPORT PREPARATION |
| Sub Total | 9.90 | | \$615.81 | | | |

PROSECUTION SERVICES UNIT

| | | | | | | |
|------------------|-------------|----------|-----------------|------------|-----|--|
| HLL106A | 0.20 | \$106.35 | \$21.27 | 07/12/2013 | 25 | REVIEW CASE FILE |
| HLL106A | 0.20 | \$106.35 | \$21.27 | 07/16/2013 | 36 | PREPARATION OR REVISION OF LETTER |
| HLL106A | 1.00 | \$106.35 | \$106.35 | 08/02/2013 | 28 | PREPARE OR REVISE ADMINISTRATIVE COMPLAINT |
| HLL106A | 0.80 | \$106.35 | \$85.08 | 09/18/2013 | 90 | POST PROBABLE CAUSE PROCESSING |
| HLL106A | 0.20 | \$106.35 | \$21.27 | 10/07/2013 | 25 | REVIEW CASE FILE |
| HLL106A | 0.20 | \$106.35 | \$21.27 | 10/07/2013 | 25 | REVIEW CASE FILE |
| HLL106A | 0.10 | \$106.35 | \$10.64 | 10/24/2013 | 37 | REVIEW LETTER |
| HLL106A | 0.10 | \$101.95 | \$10.20 | 10/28/2013 | 37 | REVIEW LETTER |
| HLL106A | 0.20 | \$101.95 | \$20.39 | 11/01/2013 | 103 | REVIEW SUPPLEMENTAL REPORT |
| Sub Total | 3.00 | | \$317.74 | | | |

Total Cost **\$961.00**

*** CONFIDENTIAL ***

**Time Tracking System
Itemized Cost by Complaint**

Complaint 201306754

Report Date 12/02/2013

Page 3 of 3

| Staff Code | Activity Hours | Staff Rate | Cost | Activity Date | Activity Code | Activity Description |
|------------|----------------|------------|------|---------------|---------------|----------------------|
|------------|----------------|------------|------|---------------|---------------|----------------------|



***** CONFIDENTIAL *****
Time Tracking System
Itemized Expense by Complaint
Complaint

Report Date: 12/02/2013

Page 1 of 1

| Staff Code | Expense Date | Expense Amount | Expense Code | Expense Code Description |
|------------|--------------|----------------|--------------|--------------------------|
|------------|--------------|----------------|--------------|--------------------------|

SubTotal

Total Expenses

CONFIDENTIAL AND EXEMPT MATERIALS

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from this document for security reasons**

**Scroll down to see the available pages or
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pages have been removed.**

SOME OR ALL PAGES IN THIS DOCUMENT ARE PATIENT RECORDS
AND/OR DOCUMENTS THAT IDENTIFY THE PATIENT BY NAME AND ARE
EXEMPT FROM PUBLIC RECORDS LAWS.

456.057 - Ownership and control of patient records; report or copies of records to be
furnished.—

10)(a)All patient records obtained by the department and any other documents
maintained by the department which identify the patient by name are confidential and exempt
from s. 119.07(1) and shall be used solely for the purpose of the department and the appropriate
regulatory board in its investigation, prosecution, and appeal of disciplinary proceedings. The
records shall not be available to the public as part of the record of investigation for and
prosecution in disciplinary proceedings made available to the public by the department or the
appropriate board.

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prosecution in disciplinary proceedings made available to the public by the department or the
appropriate board.

MEMORANDUM OF PROBABLE CAUSE DETERMINATION

TO: Department of Health, Prosecution Services Unit
FROM: Chair, Probable Cause Panel, Florida Board of Pharmacy
RE: Gene R. Lachney, R.Ph. (AMM)
Case Number: 2013-06754
MEMBERS: Cynthia ^{Glenn} Griffin, PharmD and Jeffrey Mesaros

DATE OF PCP: September 5, 2013 **AGENDA ITEM:** A-17

.....
This matter came before the Probable Cause Panel on the above date. Having reviewed the complete investigative file, recommendations of the Department, and any information submitted by the Subject, and being otherwise fully advised in the premises, the panel finds that:

Probable cause exists and a formal complaint shall be filed for violation of statutes and rules, including but not limited to:

Section 465.015(2)(c), Florida Statutes (2012);

Probable Cause was **not** found in this case

In lieu of probable cause, issue **letter of guidance**

Case requires **expert review**

Case needs **further investigation**

a)
b)

Upon **reconsideration**, dismiss

other



Chair, Probable Cause Panel
Board of Pharmacy

9/5/13

Date

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AND/OR DOCUMENTS THAT IDENTIFY THE PATIENT BY NAME AND ARE
EXEMPT FROM PUBLIC RECORDS LAWS.

456.057 - Ownership and control of patient records; report or copies of records to be
furnished.—

10)(a)All patient records obtained by the department and any other documents
maintained by the department which identify the patient by name are confidential and exempt
from s. 119.07(1) and shall be used solely for the purpose of the department and the appropriate
regulatory board in its investigation, prosecution, and appeal of disciplinary proceedings. The
records shall not be available to the public as part of the record of investigation for and
prosecution in disciplinary proceedings made available to the public by the department or the
appropriate board.



STATE OF FLORIDA
DEPARTMENT OF HEALTH
INVESTIGATIVE SERVICES



WWW.DOH.STATE.FL.US

COMMUNITY PHARMACY

File # 498

Insp # 86062

ROUTINE CHANGE LOC NEW CURRENTLY NOT OPERATING CHANGE OWNER

INSPECTION AUTHORITY - CHAPTER 465.017, CHAPTER 893.09 AND CHAPTER 456, FLORIDA STATUTES

Note: If establishment is engaged in parenteral/enteral compounding, license must so indicate and a separate inspection form should be completed

| | | | | | | | | | | | | | | | | | | | |
|---|--|--------------|-----------|-----------------------------|--------|----------|--------|--|-------------------------------------|----|---|--------------|--|--|--|--------------------------|--------------------------|-------------------------------------|-------------------------------------|
| NAME OF ESTABLISHMENT CANTONMENT PHARMACY INC | | | | PERMIT NUMBER 2748 | | | | DATE OF INSPECTION 9/22/2009 | | | | | | | | | | | |
| DOING BUSINESS AS | | | | DEA NUMBER AC5573767 | | | | PRESCRIPTION DEPARTMENT MANAGER JOHN T READING | | | | | | | | | | | |
| STREET ADDRESS 433 HIGHWAY 29 S | | | | TELEPHONE # 850-968-2489 | | EXT. | | PRESCRIPTION DEPARTMENT MANAGER LICENSE # 10065 | | | | | | | | | | | |
| CITY CANTONMENT | | COUNTY 27 | | STATE/ZIP 32533-1401 | | | | | | | | | | | | | | | |
| PRESCRIPTION DEPARTMENT HOURS | | | | | | | | REGISTERED PHARMACIST/INTERN/TECHNICIAN | | | | LICENSE # | | | | | | | |
| | Monday | Tuesday | Wednesday | Thursday | Friday | Saturday | Sunday | 1. Benjamin Fenn PS 13028 | | | | | | | | | | | |
| Open | 9am | 9am | 9am | 9am | 9am | 9am | closed | 2. Johnny Reading PTech | | | | | | | | | | | |
| Close | 6pm | 6pm | 6pm | 6pm | 6pm | 3pm | | 3. Karen Bonanno PTech | | | | | | | | | | | |
| | | | | | | | | SATISFACTORY | | | | SATISFACTORY | | | | | | | |
| | | | | | | | | N/A | | | | N/A | | | | | | | |
| | | | | | | | | YES | | | | YES | | | | | | | |
| | | | | | | | | NO | | | | NO | | | | | | | |
| 1 | Current pharmacy permit displayed. [465.015(1)(a), F.S.] | | | | | | | <input checked="" type="checkbox"/> | <input type="checkbox"/> | 26 | All medicinal drug Rx's require date dispensed. [64B16-28.140(3)(b)2, F.A.C.] | | | | | | | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 2 | Board of Pharmacy notified in writing of current Rx department manager. [465.018, F.S.] | | | | | | | <input checked="" type="checkbox"/> | <input type="checkbox"/> | 27 | Prescription records identify the responsible dispensing pharmacists. [64B16-28.140(3)(b)7, F.A.C.] | | | | | | | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 3 | Current DEA registration. [21CFR 1301.11] [465.023(1)(c), F.S.] | | | | | | | <input checked="" type="checkbox"/> | <input type="checkbox"/> | 28 | Complete pharmacy prescription records. [64B16-28.140, F.A.C.] | | | | | | | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 4 | Rx department hours open for business are posted and are a minimum of 40 hours per week. [64B16-28.404, F.A.C.] | | | | | | | <input checked="" type="checkbox"/> | <input type="checkbox"/> | 29 | Pharmacy maintains patient profile records. [64B16-27.800, F.A.C.] | | | | | | | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 5 | Interns properly registered and supervised. [465.013, F.S.] [64B16-26.400(4), F.A.C.] | | | | | | | <input checked="" type="checkbox"/> | <input type="checkbox"/> | 30 | Controlled substance records readily retrievable. [893.07, F.S.] | | | | | | | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 6 | Pharmacy technicians properly identified and supervised. [64B16-27.410, F.A.C.] | | | | | | | <input checked="" type="checkbox"/> | <input type="checkbox"/> | 31 | Initials of pharmacist filling controlled substance Rx. [893.04(1)(c)6, F.S.] | | | | | | | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 7 | Proper pharmacist technician ratio. If 2:1 or 3:1 Pharmacy Manager has Board of Pharmacy approval. [64B16-27.410] [64B16-27.420, F.A.C.] | | | | | | | <input checked="" type="checkbox"/> | <input type="checkbox"/> | 32 | Prescriber's name/address/DEA # on all controlled substance Rx. [893.04(1)(c)2, F.S.] | | | | | | | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 8 | Pharmacist license/renewal certificate displayed. [64B16-27.100(1), F.A.C.] | | | | | | | <input checked="" type="checkbox"/> | <input type="checkbox"/> | 33 | Patient's name/address on controlled substance Rx. [893.04(1)(c)1, F.S.] | | | | | | | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 9 | Pharmacist on duty when Rx department open. [64B16-28.109, F.A.C.] | | | | | | | <input checked="" type="checkbox"/> | <input type="checkbox"/> | 34 | Date controlled substance Rx was filled on Rx. [893.04(1)(c)6, F.S.] | | | | | | | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 10 | Generic drug sign displayed. [465.025(7), F.S.] | | | | | | | <input checked="" type="checkbox"/> | <input type="checkbox"/> | 35 | All controlled substance prescriptions must have: drug prescribed, quantity and directions for use. [893.04(1)(c)4, F.S.] | | | | | | | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 11 | Sign displayed "Rx Dept Closed" if establishment is open and Rx Department closed. [64B16-28.109(1), F.A.C.] | | | | | | | <input checked="" type="checkbox"/> | <input type="checkbox"/> | 36 | Date of refills written on controlled substance Rx or on computer records. [893.04(1)(c)6, F.S.] | | | | | | | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 12 | Sign with meal break hours of Pharmacist, (no more than half hour), and stating that a pharmacist is available on premises for consultation upon request. [64B16-27.400(6), F.A.C.]* | | | | | | | <input checked="" type="checkbox"/> | <input type="checkbox"/> | 37 | Pharmacist's initials on controlled substance Rx refills. [893.04(1)(c)6, F.S.] | | | | | | | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 13 | Sign designating the private patient consultation area [64B16-28.1035, F.A.C.] | | | | | | | <input checked="" type="checkbox"/> | <input type="checkbox"/> | 38 | Controlled substance refills limited to 5 within 6 months from date prescription was signed. [893.04(1)(g), F.S.] | | | | | | | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 14 | Adequate written and verbal offer to counsel patients. [64B16-27.920, F.A.C.] | | | | | | | <input checked="" type="checkbox"/> | <input type="checkbox"/> | 39 | Controlled substance inventory taken on a biennial basis and available for inspection. [893.07(1)(a), F.S.] | | | | | | | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 15 | Adequate patient counseling by pharmacist when offer is accepted. [64B16-27.820, F.A.C.] | | | | | | | <input checked="" type="checkbox"/> | <input type="checkbox"/> | 40 | DEA 222 order forms properly completed. [893.07(2), F.S.] | | | | | | | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 16 | Rx dept. has sink/running water convenient to Rx dept. [64B16-28.102, F.A.C.] | | | | | | | <input checked="" type="checkbox"/> | <input type="checkbox"/> | 41 | Controlled substance Rx information in computer system is retrievable. [CFR 1306.22] [893.07, F.S.] [64B16-28.140, F.A.C.]* | | | | | | | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 17 | Prescription department has drug refrigeration storage. [64B16-28.104, F.A.C.] | | | | | | | <input checked="" type="checkbox"/> | <input type="checkbox"/> | 42 | Controlled substance records maintained for 2 years. [CFR 1304.04 & 1306.22] [893.07(4)(b), F.S.] | | | | | | | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 18 | Prescription department clean and safe. [64B16-28.105, F.A.C.] | | | | | | | <input checked="" type="checkbox"/> | <input type="checkbox"/> | 43 | Schedule V drug records/sales properly kept. [893.08(3)(a), F.S.] | | | | | | | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 19 | Rx balance and weights or electronic balance; counting tray or other suitable counting device; assortment of graduates/spatulas/mortar and pestles. [64B16-28.107(2)(e-d), F.A.C.] | | | | | | | <input checked="" type="checkbox"/> | <input type="checkbox"/> | 44 | Certified daily log OR printout maintained as required by section. [64B16-28.140(3)(c) OR (e), F.A.C.]* | | | | | | | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 20 | Current reference books and current copy of laws and rules in hard copy or in a readily available electronic data format [64B16-28.107(1), F.A.C.] | | | | | | | <input checked="" type="checkbox"/> | <input type="checkbox"/> | 45 | Registered pharmacist properly prescribing. [64B16-27.210, F.A.C.]* | | | | | | | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 21 | Medication properly labeled [64B16-27.101, F.A.C.] | | | | | | | <input type="checkbox"/> | <input checked="" type="checkbox"/> | 46 | Compounding records properly maintained [64B16-28.140(4), F.A.C.]* | | | | | | | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 22 | All Rx medication within the Rx department. [64B16-28.120(1), F.A.C.] | | | | | | | <input checked="" type="checkbox"/> | <input type="checkbox"/> | 47 | Unit dose records properly maintained [64B16-27.410 (1), F.A.C.]* | | | | | | | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 23 | CQI Policy and Procedures and proof of quarterly meetings (protected under [766.101, F.S.] [64B16-27.300, F.A.C.] | | | | | | | <input checked="" type="checkbox"/> | <input type="checkbox"/> | | | | | | | <input type="checkbox"/> | <input type="checkbox"/> | | |
| 24 | Outdated pharmaceuticals removed from active stock. [64B16-28.110, F.A.C.] | | | | | | | <input checked="" type="checkbox"/> | <input type="checkbox"/> | | | | | | | <input type="checkbox"/> | <input type="checkbox"/> | | |
| 25 | "Discard after date" on Rx label. [64B16-28.402(1)(h), F.A.C.] | | | | | | | <input checked="" type="checkbox"/> | <input type="checkbox"/> | | | | | | | <input type="checkbox"/> | <input type="checkbox"/> | | |
| Remarks: Missy Shores PTech. #3 DEA expires 8-31-2011. #5 NA. #7 Tech ratio letter 6-22-1994. #21 Two bottles of OTC drug in pharmacy stock without expiration date. #23 Last CQI meeting 9-15-2009. #39 CS inventory 5-1-2009. #44 Logbook. Rx drug purchases from Smith Drug, AmerisourceBergen, Masters, & Top Rx. | | | | | | | | | | | | | | | | | | | |

* Questions with (*) may be answered n/a (not applicable).

I have read and have had this inspection report and the laws and regulations concerned herein explained, and do affirm that the information given herein is true and correct to the best of my knowledge.

PRINT NAME OF RECIPIENT Benjamin Fenn, RPh

Benjamin Fenn
Institutional Representative
INV 359 Revised 01/07 Replaces 12/02

09-22-2009
Date
John E. Pugh
Investigator/Sr. Pharmacist Signature

ID CI20

Exhibit 3

: 00027



STATE OF FLORIDA
DEPARTMENT OF HEALTH
INVESTIGATIVE SERVICES
COMMUNITY PHARMACY



WWW.DOH.STATE.FL.US

File # 498

Insp # 94915

ROUTINE CHANGE LOC NEW CURRENTLY NOT OPERATING CHANGE OWNER

INSPECTION AUTHORITY - CHAPTER 465.017, CHAPTER 893.09 AND CHAPTER 456, FLORIDA STATUTES

Note: If establishment is engaged in parenteral/enteral compounding, license must so indicate and a separate inspection form should be completed

| | | | |
|--|--------------|-----------------------------|--|
| NAME OF ESTABLISHMENT CANTONMENT PHARMACY INC | | PERMIT NUMBER 2748 | DATE OF INSPECTION 10/18/2010 |
| DOING BUSINESS AS | | DEA NUMBER AC5573787 | PRESCRIPTION DEPARTMENT MANAGER JOHN T READING |
| STREET ADDRESS 433 HIGHWAY 29 S | | TELEPHONE # 850-968-2489 | EXT. |
| CITY CANTONMENT | COUNTY 27 | STATE/ZIP 32533-1401 | PRESCRIPTION DEPARTMENT MANAGER LICENSE # 10065 |

| PRESCRIPTION DEPARTMENT HOURS | | | | | | | | REGISTERED PHARMACIST/INTERN/TECHNICIAN | | | | LICENSE # | | | |
|-------------------------------|--------|---------|-----------|----------|--------|----------|--------|---|--|--|--|--------------------------|--|--|--|
| | Monday | Tuesday | Wednesday | Thursday | Friday | Saturday | Sunday | | | | | | | | |
| Open | 9am | 9am | 9am | 9am | 9am | 9am | closed | 1. Benjamin Fenn PS 13028 | | | | 2. Wilton Glover PS 7751 | | | |
| Close | 6pm | 6pm | 6pm | 6pm | 6pm | 3pm | | 3. Melissa Shores RPT 21008 | | | | | | | |

| SATISFACTORY | | | | N/A | | | | YES | | | | NO | | | |
|--------------|--|-------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--|---|-------------------------------------|-------------------------------------|--------------------------|--------------------------|--|--|
| 1 | Current pharmacy permit displayed. [465.015(1)(a), F.S.] | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 26 | All medicinal drug Rx's require date dispensed. [64B16-28.140(3)(b)2, F.A.C.] | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | | |
| 2 | Board of Pharmacy notified in writing of current Rx department manager. [465.018, F.S.] | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 27 | Prescription records identify the responsible dispensing pharmacists. [64B16-28.140(3)(b)7, F.A.C.] | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | | |
| 3 | Current DEA registration. [21CFR 1301.11] [465.023(1)(c), F.S.] | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 28 | Complete pharmacy prescription records. [64B16-28.140, F.A.C.] | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | | |
| 4 | Rx department hours open for business are posted and are a minimum of 40 hours per week. [64B16-28.404, F.A.C.] | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 29 | Pharmacy maintains patient profile records. [64B16-27.800, F.A.C.] | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | | |
| 5 | Interns properly registered and supervised. [465.013, F.S.] [64B16-26.400(4), F.A.C.] | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 30 | Controlled substance records readily retrievable. [893.07, F.S.] | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | | |
| 6 | Pharmacy technicians properly identified and supervised. [64B16-27.410, F.A.C.] | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 31 | Initials of pharmacist filling controlled substance Rx. [893.04(1)(c)6, F.S.] | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | | |
| 7 | Proper pharmacist technician ratio. If 2:1 or 3:1 Pharmacy Manager has Board of Pharmacy approval. [64B16-27.410] [64B16-27.420, F.A.C.] | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 32 | Prescriber's name/address/DEA # on all controlled substance Rx. [893.04(1)(c)2, F.S.] | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | | |
| 8 | Pharmacist license/renewal certificate displayed. [64B16-27.100(1), F.A.C.] | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 33 | Patient's name/address on controlled substance Rx. [893.04(1)(c)1, F.S.] | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | | |
| 9 | Pharmacist on duty when Rx department open. [64B16-28.109, F.A.C.] | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 34 | Date controlled substance Rx was filled on Rx. [893.04(1)(c)6, F.S.] | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | | |
| 10 | Generic drug sign displayed. [465.025(7), F.S.] | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 35 | All controlled substance prescriptions must have: drug prescribed, quantity and directions for use. [893.04(1)(c)4, F.S.] | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | | |
| 11 | Sign displayed "Rx Dept Closed" if establishment is open and Rx Department closed. [64B16-28.109(1), F.A.C.] | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 36 | Date of refills written on controlled substance Rx or on computer records. [893.04(1)(c)6, F.S.] | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | | |
| 12 | Sign with meal break hours of Pharmacist. (no more than half hour), and stating that a pharmacist is available on premises for consultation upon request. [64B16-27.400(6), F.A.C.]* | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 37 | Pharmacist's initials on controlled substance Rx refills. [893.04(1)(c)6, F.S.] | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | | |
| 13 | Sign designating the private patient consultation area [64B16-28.1035, F.A.C.] | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 38 | Controlled substance refills limited to 5 within 6 months from date prescription was signed. [893.04(1)(g), F.S.] | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | | |
| 14 | Adequate written and verbal offer to counsel patients. [64B16-27.820, F.A.C.] | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 39 | Controlled substance inventory taken on a biennial basis and available for inspection. [893.07(1)(a), F.S.] | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | | |
| 15 | Adequate patient counseling by pharmacist when offer is accepted. [64B16-27.820, F.A.C.] | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 40 | DEA 222 order forms properly completed. [893.07(2), F.S.] | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | | |
| 16 | Rx dept. has sink/running water convenient to Rx dept. [64B16-28.102, F.A.C.] | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 41 | Controlled substance Rx information in computer system is retrievable. [CFR 1306.22] [893.07, F.S.] [64B16-28.140, F.A.C.]* | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | | |
| 17 | Prescription department has drug refrigeration storage. [64B16-28.104, F.A.C.] | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 42 | Controlled substance records maintained for 2 years. [CFR 1304.04 & 1306.22] [893.07(4)(b), F.S.] | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | | |
| 18 | Prescription department clean and safe. [64B16-28.105, F.A.C.] | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 43 | Schedule V drug records/sales properly kept. [893.08(3)(a), F.S.] | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | | |
| 19 | Rx balance and weights or electronic balance; counting tray or other suitable counting device; assortment of graduates/spatulas/mortar and pestles. [64B16-28.107(2)(a-d), F.A.C.] | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 44 | Certified daily log OR printout maintained as required by section. [64B16-28.140(3)(c) OR (e), F.A.C.]* | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | | |
| 20 | Current reference books and current copy of laws and rules in hard copy or in a readily available electronic data format [64B16-28.107(1), F.A.C.] | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 45 | Registered pharmacist properly prescribing. [64B16-27.210, F.A.C.]* | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | | |
| 21 | Medication properly labeled [64B16-27.101, F.A.C.] | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 46 | Compounding records properly maintained [64B16-28.140(4), F.A.C.]* | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | | |
| 22 | All Rx medication within the Rx department. [64B16-28.120(1), F.A.C.] | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 47 | Unit dose records properly maintained [64B16-27.410 (1), F.A.C.]* | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | | |
| 23 | CQI Policy and Procedures and proof of quarterly meetings (protected under [766.101, F.S.] [64B16-27.300, F.A.C.] | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | * Questions with (*) may be answered n/a (not applicable). | | | | | | | |
| 24 | Outdated pharmaceuticals removed from active stock. [64B16-28.110, F.A.C.] | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | | | | | | | | |
| 25 | "Discard after date" on Rx label. [64B16-28.402(1)(h), F.A.C.] | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | | | | | | | | |

Remarks: Leslie Johnson RPT 21005; John Reading, Jr. RPT 21007. #3 DEA expires 8-31-2011. #5 NA. #7 Tech ratio letter: 6-22-1994. #23 Last CQI meeting #39 CS inventory #43 Book - OK. #44 Logbook. Rx drug purchases from Smith Drug-Valdosta and AmerisourceBergen-Orlando.

I have read and have had this inspection report and the laws and regulations concerned herein explained, and do affirm that the information given herein is true and correct to the best of my knowledge.

PRINT NAME OF RECIPIENT Benjamin Fenn, RPh

Institutional Representative
INV 359 Revised 01/07 Replaces 12/02

10-18-2010
Date

Investigator/Sr. Pharmacist Signature

ID c120

: 00028



STATE OF FLORIDA
DEPARTMENT OF HEALTH
INVESTIGATIVE SERVICES
COMMUNITY PHARMACY



WWW.DOH.STATE.FL.US

File # 498

Insp # 103821

ROUTINE CHANGE LOG NEW CURRENTLY NOT OPERATING CHANGE OWNER

INSPECTION AUTHORITY - CHAPTER 465.017, CHAPTER 893.09 AND CHAPTER 456, FLORIDA STATUTES

| | | | |
|--|--------------|-----------------------------|--|
| NAME OF ESTABLISHMENT CANTONMENT PHARMACY INC | | PERMIT NUMBER 2748 | DATE OF INSPECTION 1/23/2012 |
| DOING BUSINESS AS | | DEA NUMBER Ac5573767 | PREScription DEPARTMENT MANAGER JOHN T READING |
| STREET ADDRESS 433 HIGHWAY 29 S | | TELEPHONE # 850-968-2489 | EXT. |
| CITY CANTONMENT | COUNTY 27 | STATE/ZIP 32533-1401 | PREScription DEPARTMENT MANAGER LICENSE # 10065 |

| PRESCRIPTION DEPARTMENT HOURS | | | | | | | | REGISTERED PHARMACIST/INTERN/TECHNICIAN | | LICENSE # |
|-------------------------------|--------|---------|-----------|----------|--------|----------|--------|---|---------------------------|-----------|
| | Monday | Tuesday | Wednesday | Thursday | Friday | Saturday | Sunday | | | |
| Open | 9am | 9am | 9am | 9am | 9am | 9am | closed | 1. Joseph Gibson PS 26203 | 2. Benjamin Fenn PS 13028 | |
| Close | 6pm | 6pm | 6pm | 6pm | 6pm | 3pm | | 3. Melissa Shores RPT 21008 | | |

| | | SATISFACTORY | N/A | YES | NO |
|----|---|-------------------------------------|-------------------------------------|-------------------------------------|--------------------------|
| 1 | Rx department hours open 5 days for 40 hours per week. [64B16-28.1081, F.A.C.] | | | <input checked="" type="checkbox"/> | |
| 2 | Pharmacy technicians properly identified and supervised. [64B16-27.410, F.A.C.] | | | <input checked="" type="checkbox"/> | |
| 3 | Pharmacist on duty when Rx department open. [64B16-28.109, F.A.C.] | | | <input checked="" type="checkbox"/> | |
| 4 | Proper signs displayed. [465.025(7), F.S.] [64B16-28.109(1), F.A.C.] [64B16-28.1081, F.A.C.] [64B16-28.1035, F.A.C.] [64B16-27.1001, F.A.C.] | | | <input checked="" type="checkbox"/> | |
| 5 | A verbal and printed offer to counsel is made to the patient or the patient's agent. [64B16-27.820(1), F.A.C.] | | | <input checked="" type="checkbox"/> | |
| 6 | Prescription department has convenient sink/running water. [64B16-28.102(1), F.A.C.] | | | <input checked="" type="checkbox"/> | |
| 7 | Prescription department clean and safe. [64B16-28.102(4), F.A.C.] | | | <input checked="" type="checkbox"/> | |
| 8 | Proper equipment and references as required. [64B16-28.102(5)(a), F.A.C.] | | | <input checked="" type="checkbox"/> | |
| 9 | Medication properly labeled. [465.0255, F.S.] [64B16-28.108, F.A.C.] | | | <input checked="" type="checkbox"/> | |
| 10 | Expired medications removed from the shelves. [64B16-28.110, F.A.C.] | | | <input checked="" type="checkbox"/> | |
| 11 | CQI Policy and Procedures and quarterly meetings. [766.101, F.S.] [64B16-27.300, F.A.C.] | | | <input checked="" type="checkbox"/> | |
| 12 | Board-approved Policy and Procedure implemented to prevent the fraudulent dispensing of controlled substances. [465.022(4), F.S.] | | <input checked="" type="checkbox"/> | | |
| 13 | Prescriptions have the date dispensed and dispensing pharmacists. [893.04(1)(c) 6, F.S.] [64B16-28.140(3)(b), F.A.C.] | | | <input checked="" type="checkbox"/> | |
| 14 | Pharmacy maintains patient profile records. [64B16-27.800, F.A.C.] | | | <input checked="" type="checkbox"/> | |
| 15 | All controlled substance prescriptions contain information required. [893.04, F.S.] | | | <input checked="" type="checkbox"/> | |
| 16 | Prescriptions for controlled substances are on counterfeit-proof prescription pads or blanks purchased from a Department-approved vendor and the quantity and date meet the requirements of [456.42(2), F.S.] | <input type="checkbox"/> | <input checked="" type="checkbox"/> | | <input type="checkbox"/> |
| 17 | Prescriptions may not be filled in excess of one year or six months for controls from the date written. [893.04(1)(g), F.S.] [64B16-27.211, F.A.C.] | | | <input checked="" type="checkbox"/> | |
| 18 | Controlled substance inventory taken on a biennial basis and available for inspection. [893.07(1)(a), F.S.] | | | <input checked="" type="checkbox"/> | |
| 19 | DEA 222 order forms properly completed. [893.07, F.S.] | | | <input checked="" type="checkbox"/> | |
| 20 | Controlled substance records and Rx information in computer system is retrievable. [21CFR 1306.22] [64B16-28.140, F.A.C.] | | | <input checked="" type="checkbox"/> | |
| 21 | Controlled substance records maintained for 4 years. [465.022(12)(b), F.S.] | | | <input checked="" type="checkbox"/> | |
| 22 | Certified daily log OR printout maintained. [21CFR 1306.22(b)(3)] [64B16-28.140(3)(b), F.A.C.] | | | <input checked="" type="checkbox"/> | |
| 23 | Pharmacy is reporting to law enforcement any instance of fraudulent prescriptions within 24 hours or close of business on next business day of learning of instance. Reports include all required information. [465.015(3), F.S.] | <input type="checkbox"/> | <input checked="" type="checkbox"/> | | <input type="checkbox"/> |
| 24 | Record of theft or significant loss of all controlled substances is being maintained and is being reported to the sheriff within 24 hours of discovery. [893.07(5), F.S.] [465.015, F.S.] | <input checked="" type="checkbox"/> | | | |
| 25 | Pharmacy is reporting to the PDMP within 7 days of dispensing controlled substance. [893.055(4), F.S.] | | | <input checked="" type="checkbox"/> | |
| 26 | Pharmacy with a retail pharmacy wholesaler permit is reporting sales to the Controlled Substance Reporting system monthly by the 20th of the following month. [499.0121(14), F.S.] | <input type="checkbox"/> | <input checked="" type="checkbox"/> | | <input type="checkbox"/> |
| 27 | Registered pharmacist properly prescribing. [64B16-27.210, F.A.C.] | | | <input checked="" type="checkbox"/> | |
| 28 | Compounding records properly maintained. [64B16-27.700, F.A.C.] | | | <input checked="" type="checkbox"/> | |
| 29 | Unit dose records properly maintained. [465.016(1)(i), F.S.] [64B16-28.118, F.A.C.] | | | <input checked="" type="checkbox"/> | |
| 30 | Pedigree records retrievable. [64F-12.012(3)(a)2., (d), F.A.C.] | | | <input checked="" type="checkbox"/> | |

* Note: If establishment is engaged in parenteral/enteral compounding, a separate inspection form should be completed.

Remarks: Adam Bass RPT 21001; John Reading RPT 21007; Karin Bonano RPT 21006; Leslie Johnson RPT 21005. DEA expires 8-31-2014. #2 Tech ratio letter 6-22-1994. #11 Last CQI meeting 9-1-2011. #12 Future requirement. #18 CS inventory 5-1-2011. #22 Logbook. #23 One Incident - Escambia CSO. #24 None since 7-1-2011. CII prescription file survey (60Rxs): Local Practitioner - 97%; Local Patient - 100%; Pain Therapy - 78%; Non-pain Therapy - 22%. No batch compounding. No compounding for practitioner office stock. Rx drug suppliers: Smith Drug-Valdosta; AmericansourceBergen-Orlando.

I have read and have had this inspection report and the laws and regulations concerned herein explained, and do affirm that the information given herein is true and correct to the best of my knowledge. I have received a copy of the Licensee Bill of Rights.

PRINT NAME OF RECIPIENT Joseph Gibson, RPh

Joseph Gibson

01-23-2012

Date

Joseph Gibson

Investigator/Sr. Pharmacist Signature

ID ci20

Institutional Representative

INV 359 Revised 12/11, 10/11, 9/11, 10/10, 10/09, 5/08, 12/02, 12/00

: 00029

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456.057 - Ownership and control of patient records; report or copies of records to be
furnished.—

10)(a)All patient records obtained by the department and any other documents
maintained by the department which identify the patient by name are confidential and exempt
from s. 119.07(1) and shall be used solely for the purpose of the department and the appropriate
regulatory board in its investigation, prosecution, and appeal of disciplinary proceedings. The
records shall not be available to the public as part of the record of investigation for and
prosecution in disciplinary proceedings made available to the public by the department or the
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The 2012 Florida Statutes

Chapter 465 Pharmacy

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- 465.003 Definitions.
- 465.004 Board of Pharmacy.
- 465.005 Authority to make rules.
- 465.006 Disposition of fees; expenditures.
- 465.007 Licensure by examination.
- 465.0075 Licensure by endorsement; requirements; fee.
- 465.008 Renewal of license.
- 465.009 Continuing professional pharmaceutical education.
- 465.012 Reactivation of license; continuing education.
- 465.0125 Consultant pharmacist license; application, renewal, fees; responsibilities; rules.
- 465.0126 Nuclear pharmacist license; application, renewal, fees.
- 465.013 Registration of pharmacy interns.
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- 465.015 Violations and penalties.
- 465.0155 Standards of practice.
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- 465.016 Disciplinary actions.
- 465.0161 Distribution of medicinal drugs without a permit.
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- 465.019 Institutional pharmacies; permits.
- 465.0193 Nuclear pharmacy permits.
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- 465.023 Pharmacy permittee; disciplinary action.
- 465.0235 Automated pharmacy systems used by long-term care facilities, hospices, or state correctional institutions.
- 465.024 Promoting sale of certain drugs prohibited.
- 465.0244 Information disclosure.
- 465.025 Substitution of drugs.
- 465.0251 Generic drugs; removal from formulary under specified circumstances.
- 465.0255 Expiration date of medicinal drugs; display; related use and storage instructions.
- 465.026 Filling of certain prescriptions.
- 465.0265 Centralized prescription filling.
- 465.0266 Common database.
- 465.027 Exceptions.
- 465.0275 Emergency prescription refill.
- 465.0276 Dispensing practitioner.
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465.185 Rebates prohibited; penalties.
465.186 Pharmacist's order for medicinal drugs; dispensing procedure;
development of formulary.
465.187 Sale of medicinal drugs.
465.188 Medicaid audits of pharmacies.
465.189 Administration of vaccines and epinephrine autoinjection.
465.1901 Practice of orthotics and pedorthics.

465.001 Short Title.—This chapter shall be known as the "Florida Pharmacy Act." History.—ss. 1, 7, ch. 79-226; ss. 2, 3, ch. 81-318; ss. 26, 27, ch. 86-256; s. 59, ch. 91-137; s. 6, ch. 91-156; s. 4, ch. 91-429.

465.002 Legislative findings; intent.—The Legislature finds that the practice of pharmacy is a learned profession. The sole legislative purpose for enacting this chapter is to ensure that every pharmacist practicing in this state and every pharmacy meet minimum requirements for safe practice. It is the legislative intent that pharmacists who fall below minimum competency or who otherwise present a danger to the public shall be prohibited from practicing in this state. History.—ss. 1, 7, ch. 79-226; ss. 2, 3, ch. 81-318; ss. 1, 26, 27, ch. 86-256; s. 59, ch. 91-137; s. 6, ch. 91-156; s. 4, ch. 91-429.

465.003 Definitions.—As used in this chapter, the term:

(1) "Administration" means the obtaining and giving of a single dose of medicinal drugs by a legally authorized person to a patient for her or his consumption.

(2) "Board" means the Board of Pharmacy.

(3) "Consultant pharmacist" means a pharmacist licensed by the department and certified as a consultant pharmacist pursuant to s. 465.0125.

(4) "Data communication device" means an electronic device that receives electronic information from one source and transmits or routes it to another, including, but not limited to, any such bridge, router, switch, or gateway.

(5) "Department" means the Department of Health.

(6) "Dispense" means the transfer of possession of one or more doses of a medicinal drug by a pharmacist to the ultimate consumer or her or his agent. As an element of dispensing, the pharmacist shall, prior to the actual physical transfer, interpret and assess the prescription order for potential adverse reactions, interactions, and dosage regimen she or he deems appropriate in the exercise of her or his professional judgment, and the pharmacist shall certify that the medicinal drug called for by the prescription is ready for transfer. The pharmacist shall also provide counseling on proper drug usage, either orally or in writing, if in the exercise of her or his professional judgment counseling is necessary. The actual sales transaction and delivery of such drug shall not be considered dispensing. The administration shall not be considered dispensing.

(7) "Institutional formulary system" means a method whereby the medical staff evaluates, appraises, and selects those medicinal drugs or proprietary preparations which in the medical staff's clinical judgment are most useful in patient care, and which are available for dispensing by a practicing pharmacist in a Class II institutional pharmacy.

(8) "Medicinal drugs" or "drugs" means those substances or preparations commonly known as "prescription" or "legend" drugs which are required by federal or state law to be dispensed only on a prescription, but shall not include patents or proprietary preparations as hereafter defined.

(9) "Patent or proprietary preparation" means a medicine in its unbroken, original package which is sold to the public by, or under the authority of, the manufacturer or primary distributor thereof and which is not misbranded under the provisions of the Florida Drug and Cosmetic Act.

(10) "Pharmacist" means any person licensed pursuant to this chapter to practice the profession of pharmacy.

(11)(a) "Pharmacy" includes a community pharmacy, an institutional pharmacy, a nuclear pharmacy, a special pharmacy, and an Internet pharmacy.

1. The term "community pharmacy" includes every location where medicinal drugs are compounded, dispensed, stored, or sold or where prescriptions are filled or dispensed on an outpatient basis.

2. The term "institutional pharmacy" includes every location in a hospital, clinic, nursing home, dispensary, sanitarium, extended care facility, or other facility, hereinafter referred to as "health care institutions," where medicinal drugs are compounded, dispensed, stored, or sold.

3. The term "nuclear pharmacy" includes every location where radioactive drugs and chemicals within the classification of medicinal drugs are compounded, dispensed, stored, or sold. The term "nuclear pharmacy" does not include hospitals licensed under chapter 395 or the nuclear medicine facilities of such hospitals.

4. The term "special pharmacy" includes every location where medicinal drugs are compounded, dispensed, stored, or sold if such locations are not otherwise defined in this subsection.

5. The term "Internet pharmacy" includes locations not otherwise licensed or issued a permit under this chapter, within or outside this state, which use the Internet to communicate with or obtain information from consumers in this state and use such communication or information to fill or refill prescriptions or to dispense, distribute, or otherwise engage in the practice of pharmacy in this state. Any act described in this definition constitutes the practice of pharmacy as defined in subsection (13).

(b) The pharmacy department of any permittee shall be considered closed whenever a Florida licensed pharmacist is not present and on duty. The term "not present and on duty" shall not be construed to prevent a pharmacist from exiting the prescription department for the purposes of consulting or responding to inquiries or providing assistance to patients or customers, attending to personal hygiene needs, or performing any other function for which the pharmacist is responsible, provided that such activities are conducted in a manner consistent with the pharmacist's responsibility to provide pharmacy services.

(12) "Pharmacy intern" means a person who is currently registered in, and attending, a duly accredited college or school of pharmacy, or who is a graduate of such a school or college of pharmacy, and who is duly and properly registered with the department as provided for under its rules.

(13) "Practice of the profession of pharmacy" includes compounding, dispensing, and consulting concerning contents, therapeutic values, and uses of any medicinal drug; consulting concerning therapeutic values and interactions of patent or proprietary preparations, whether pursuant to prescriptions or in the absence and entirely independent of such prescriptions or orders; and other pharmaceutical services. For purposes of this subsection, "other pharmaceutical services" means the monitoring of the patient's drug therapy and assisting the patient in the management of his or her drug therapy, and includes review of the patient's drug therapy and communication with the patient's prescribing health care provider as licensed under chapter 458, chapter 459, chapter 461, or chapter 466, or similar statutory provision in another jurisdiction, or such provider's agent or such other persons as specifically authorized by the patient, regarding the drug therapy. However, nothing in this subsection may be interpreted to permit an alteration of a

prescriber's directions, the diagnosis or treatment of any disease, the initiation of any drug therapy, the practice of medicine, or the practice of osteopathic medicine, unless otherwise permitted by law. "Practice of the profession of pharmacy" also includes any other act, service, operation, research, or transaction incidental to, or forming a part of, any of the foregoing acts, requiring, involving, or employing the science or art of any branch of the pharmaceutical profession, study, or training, and shall expressly permit a pharmacist to transmit information from persons authorized to prescribe medicinal drugs to their patients. The practice of the profession of pharmacy also includes the administration of vaccines to adults pursuant to s. 465.189.

(14)"Prescription" includes any order for drugs or medicinal supplies written or transmitted by any means of communication by a duly licensed practitioner authorized by the laws of the state to prescribe such drugs or medicinal supplies and intended to be dispensed by a pharmacist. The term also includes an orally transmitted order by the lawfully designated agent of such practitioner. The term also includes an order written or transmitted by a practitioner licensed to practice in a jurisdiction other than this state, but only if the pharmacist called upon to dispense such order determines, in the exercise of her or his professional judgment, that the order is valid and necessary for the treatment of a chronic or recurrent illness. The term "prescription" also includes a pharmacist's order for a product selected from the formulary created pursuant to s. 465.186. Prescriptions may be retained in written form or the pharmacist may cause them to be recorded in a data processing system, provided that such order can be produced in printed form upon lawful request.

(15)"Nuclear pharmacist" means a pharmacist licensed by the department and certified as a nuclear pharmacist pursuant to s. 465.0126.

(16)"Centralized prescription filling" means the filling of a prescription by one pharmacy upon request by another pharmacy to fill or refill the prescription. The term includes the performance by one pharmacy for another pharmacy of other pharmacy duties such as drug utilization review, therapeutic drug utilization review, claims adjudication, and the obtaining of refill authorizations.

(17)"Automated pharmacy system" means a mechanical system that delivers prescription drugs received from a Florida licensed pharmacy and maintains related transaction information.

History.—ss. 1, 7, ch. 79-226; s. 322, ch. 81-259; ss. 14, 15, ch. 81-302; ss. 2, 3, ch. 81-318; ss. 1, 2, ch. 82-179; s. 1, ch. 83-101; s. 36, ch. 83-216; s. 3, ch. 83-265; s. 29, ch. 83-329; s. 1, ch. 85-35; ss. 2, 26, 27, ch. 86-256; s. 1, ch. 88-172; s. 1, ch. 89-77; s. 59, ch. 91-137; s. 6, ch. 91-156; s. 4, ch. 91-429; s. 123, ch. 94-218; s. 239, ch. 97-103; s. 87, ch. 97-264; s. 118, ch. 99-397; s. 1, ch. 2002-182; s. 1, ch. 2004-25; s. 1, ch. 2004-387; s. 2, ch. 2007-152; s. 2, ch. 2012-60.

465.004 Board of Pharmacy.—

(1)The Board of Pharmacy is created within the department and shall consist of nine members to be appointed by the Governor and confirmed by the Senate.

(2)Seven members of the board must be licensed pharmacists who are residents of this state and who have been engaged in the practice of the profession of pharmacy in this state for at least 4 years and, to the extent practicable, represent the various pharmacy practice settings. Of the pharmacist members, one must be currently engaged in the practice of pharmacy in a community pharmacy, one must be currently engaged in the practice of pharmacy in a Class II institutional pharmacy or a Modified Class II institutional pharmacy, and five shall be pharmacists licensed in this state irrespective of practice setting. The remaining two members must be residents of the state who have never been licensed as pharmacists and who are in

no way connected with the practice of the profession of pharmacy. No person may be appointed as a consumer member who is in any way connected with a drug manufacturer or wholesaler. At least one member of the board must be 60 years of age or older.

(3)As the terms of the members expire, the Governor shall appoint successors for terms of 4 years, and such members shall serve until their successors are appointed.

(4)All provisions of chapter 456 relating to activities of the board shall apply.
History.—ss. 1, 7, ch. 79-226; ss. 2, 3, ch. 81-318; ss. 3, 26, 27, ch. 86-256; s. 16, ch. 87-172; s. 59, ch. 91-137; s. 6, ch. 91-156; s. 4, ch. 91-429; s. 124, ch. 94-218; s. 88, ch. 97-264; s. 67, ch. 98-166; s. 124, ch. 2000-160.

465.00 5Authority to make rules.—The Board of Pharmacy has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this chapter conferring duties upon it.
History.—ss. 1, 7, ch. 79-226; ss. 2, 3, ch. 81-318; ss. 4, 26, 27, ch. 86-256; s. 59, ch. 91-137; s. 6, ch. 91-156; s. 4, ch. 91-429; s. 126, ch. 98-200.

465.006 Disposition of fees; expenditures.—All moneys received under this chapter shall be deposited and expended pursuant to the provisions of s. 456.025. All expenditures for duties of the board authorized by this chapter shall be paid upon presentation of vouchers approved by the executive director of the board.
History.—ss. 1, 7, ch. 79-226; ss. 2, 3, ch. 81-318; ss. 26, 27, ch. 86-256; s. 59, ch. 91-137; s. 6, ch. 91-156; s. 4, ch. 91-429; s. 68, ch. 98-166; s. 125, ch. 2000-160.

465.007 Licensure by examination.—

(1)Any person desiring to be licensed as a pharmacist shall apply to the department to take the licensure examination. The department shall examine each applicant who the board certifies has:

(a)Completed the application form and remitted an examination fee set by the board not to exceed \$100 plus the actual per applicant cost to the department for purchase of portions of the examination from the National Association of Boards of Pharmacy or a similar national organization. The fees authorized under this section shall be established in sufficient amounts to cover administrative costs.

(b)Submitted satisfactory proof that she or he is not less than 18 years of age and:
1.Is a recipient of a degree from a school or college of pharmacy accredited by an accrediting agency recognized and approved by the United States Office of Education; or

2.Is a graduate of a 4-year undergraduate pharmacy program of a school or college of pharmacy located outside the United States, has demonstrated proficiency in English by passing both the Test of English as a Foreign Language (TOEFL) and the Test of Spoken English (TSE), has passed the Foreign Pharmacy Graduate Equivalency Examination that is approved by rule of the board, and has completed a minimum of 500 hours in a supervised work activity program within this state under the supervision of a pharmacist licensed by the department, which program is approved by the board.

(c)Submitted satisfactory proof that she or he has completed an internship program approved by the board. No such board-approved program shall exceed 2,080 hours, all of which may be obtained prior to graduation.

(2)The department may permit an applicant who has satisfied all requirements of subsection (1), except those relating to age or the internship program, to take the written examination, but the passing of the examination shall confer no rights or

privileges upon the applicant in connection with the practice of pharmacy in this state.

(3) Except as provided in subsection (2), the department shall issue a license to practice pharmacy to any applicant who successfully completes the examination in accordance with this section.

History.—ss. 1, 7, ch. 79-226; ss. 13, 15, 23, 25, 30, 34, 62, ch. 80-406; ss. 2, 3, ch. 81-318; s. 30, ch. 83-329; ss. 5, 26, 27, ch. 86-256; s. 13, ch. 88-205; s. 59, ch. 91-137; s. 6, ch. 91-156; s. 4, ch. 91-429; s. 240, ch. 97-103.

465.0075 Licensure by endorsement; requirements; fee.—

(1) The department shall issue a license by endorsement to any applicant who applies to the department and remits a nonrefundable fee of not more than \$100, as set by the board, and whom the board certifies:

(a) Has met the qualifications for licensure in s. 465.007(1)(b) and (c);

(b) Has obtained a passing score, as established by rule of the board, on the licensure examination of the National Association of Boards of Pharmacy or a similar nationally recognized examination, if the board certifies that the applicant has taken the required examination;

(c) 1. Has submitted evidence of the active licensed practice of pharmacy, including practice in community or public health by persons employed by a governmental entity, in another jurisdiction for at least 2 of the immediately preceding 5 years or evidence of successful completion of board-approved postgraduate training or a board-approved clinical competency examination within the year immediately preceding application for licensure; or

2. Has completed an internship meeting the requirements of s. 465.007(1)(c) within the 2 years immediately preceding application; and

(d) Has obtained a passing score on the pharmacy jurisprudence portions of the licensure examination, as required by board rule.

(2) An applicant licensed in another state for a period in excess of 2 years from the date of application for licensure in this state shall submit a total of at least 30 hours of board-approved continuing education for the 2 calendar years immediately preceding application.

(3) The department may not issue a license by endorsement to any applicant who is under investigation in any jurisdiction for an act or offense that would constitute a violation of this chapter until the investigation is complete, at which time the provisions of s. 465.016 apply.

(4) The department may not issue a license by endorsement to any applicant whose license to practice pharmacy has been suspended or revoked in another state or who is currently the subject of any disciplinary proceeding in another state.

History.—s. 1, ch. 2001-166; s. 1, ch. 2008-216.

465.008 Renewal of license.—

(1) The department shall renew a license upon receipt of the renewal application, verification of compliance with s. 465.009, and receipt of a fee set by the board not to exceed \$250.

(2) The department shall adopt rules establishing a procedure for the biennial renewal of licenses.

(3) Any person licensed under this chapter for 50 years or more is exempt from the payment of the renewal or delinquent fee, and the department shall issue a lifetime license to such a person.

History.—ss. 1, 7, ch. 79-226; ss. 2, 3, ch. 81-318; ss. 6, 26, 27, ch. 86-256; s. 7, ch. 90-341; s. 59, ch. 91-137; s. 6, ch. 91-156; s. 4, ch. 91-429; s. 178, ch. 94-119; s. 32, ch. 2001-277.

465.009 Continuing professional pharmaceutical education.—

(1) No license renewal shall be issued by the department until the licensee submits proof satisfactory to the board that during the 2 years prior to her or his application for renewal the licensee has participated in not less than 30 hours of continuing professional pharmaceutical education in courses approved by the board.

(2) The board shall approve only those courses that build upon the basic courses offered in the curricula of accredited colleges or schools of pharmacy, and the board shall require that the provider meets the educational standards for the program design, administration, and evaluation established by the board.

(3) Upon initial licensure, the department may reduce the number of required hours consistent with the requirements of biennial renewal.

(4) The department may make exception from the requirements of this section in an emergency or hardship case.

(5) The board may adopt rules within the requirements of this section that are necessary for its implementation, including a rule creating a committee composed of equal representation from the board, the colleges of pharmacy in the state, and practicing pharmacists within the state, whose purpose shall be to approve the content of each course offered for continuing education credit prior to the time such course is offered.

(6) Notwithstanding subsections (1)-(5):

(a) Each pharmacist certified to administer a vaccine or epinephrine autoinjection under s. 465.189 must complete a 3-hour continuing education course, which shall be offered by a statewide professional association of physicians in this state accredited to provide educational activities designated for the American Medical Association Physician's Recognition Award (AMA PRA) Category I credit, on the safe and effective administration of vaccines and epinephrine autoinjection as part of biennial relicensure or recertification. This course may be offered in a distance-learning format and must be included in the 30 hours of continuing professional pharmaceutical education specified in subsection (1).

(b) Each pharmacist must submit confirmation of having completed the course specified in paragraph (a) on a form provided by the board when submitting fees for license renewal.

(c) Failure to comply with paragraphs (a) and (b) results in the revocation of the authorization for a pharmacist to administer a vaccine or epinephrine autoinjection under s. 465.189. Such authorization may be restored upon completion of such requirements.

History.—ss. 1, 7, ch. 79-226; ss. 2, 3, ch. 81-318; ss. 7, 26, 27, ch. 86-256; s. 59, ch. 91-137; s. 6, ch. 91-156; s. 4, ch. 91-429; s. 241, ch. 97-103; s. 1, ch. 2002-184; s. 3, ch. 2012-60.

465.012 Reactivation of license; continuing education.—

(1) The board shall prescribe by rule continuing education requirements as a condition of reactivating a license. The continuing education requirements for reactivating a license shall be at least 15 classroom hours for each year the license was inactive in addition to completion of the number of hours required for renewal on the date the license became inactive.

(2) The board shall adopt rules relating to application procedures for inactive status, to the biennial renewal of inactive licenses, and to the reactivation of

licenses. The board shall prescribe by rule an application fee for inactive status, a renewal fee for inactive status, a delinquency fee, and a fee for the reactivation of a license. None of these fees may exceed the biennial renewal fee established by the board for an active license. The department may not reactivate a license unless the inactive or delinquent licensee has paid any applicable biennial renewal or delinquency fee, or both, and a reactivation fee.

History.—ss. 1, 7, ch. 79-226; s. 323, ch. 81-259; ss. 2, 3, ch. 81-318; ss. 2, 30, ch. 82-179; s. 3, ch. 83-265; ss. 8, 26, 27, ch. 86-256; s. 8, ch. 90-341; s. 59, ch. 91-137; s. 6, ch. 91-156; s. 4, ch. 91-429; s. 179, ch. 94-119.

465.0125 Consultant pharmacist license; application, renewal, fees; responsibilities; rules.—

(1)The department shall issue or renew a consultant pharmacist license upon receipt of an initial or renewal application which conforms to the requirements for consultant pharmacist initial licensure or renewal as promulgated by the board by rule and a fee set by the board not to exceed \$250. The consultant pharmacist shall be responsible for maintaining all drug records required by law and for establishing drug handling procedures for the safe handling and storage of drugs. The consultant pharmacist may also be responsible for ordering and evaluating any laboratory or clinical testing when, in the judgment of the consultant pharmacist, such activity is necessary for the proper performance of the consultant pharmacist's responsibilities. Such laboratory or clinical testing may be ordered only with regard to patients residing in a nursing home facility, and then only when authorized by the medical director of the nursing home facility. The consultant pharmacist must have completed such additional training and demonstrate such additional qualifications in the practice of institutional pharmacy as shall be required by the board in addition to licensure as a registered pharmacist.

(2)Notwithstanding the provisions of subsection (1), a consultant pharmacist or a doctor of pharmacy licensed in this state may also be responsible for ordering and evaluating any laboratory or clinical testing for persons under the care of a licensed home health agency when, in the judgment of the consultant pharmacist or doctor of pharmacy, such activity is necessary for the proper performance of his or her responsibilities and only when authorized by a practitioner licensed under chapter 458, chapter 459, chapter 461, or chapter 466. In order for the consultant pharmacist or doctor of pharmacy to qualify and accept this authority, he or she must receive 3 hours of continuing education relating to laboratory and clinical testing as established by the board.

(3)The board shall promulgate rules necessary to implement and administer this section.

History.—s. 31, ch. 83-329; s. 1, ch. 85-65; ss. 9, 26, 27, ch. 86-256; s. 59, ch. 91-137; s. 6, ch. 91-156; s. 4, ch. 91-429; s. 1, ch. 93-231; s. 89, ch. 97-264.

465.0126 Nuclear pharmacist license; application, renewal, fees.—The department shall issue or renew a nuclear pharmacist license upon receipt of an initial or renewal application which conforms to the requirements for nuclear pharmacist initial licensure or biennial renewal as established by the board by rule and receipt of a fee established by the board by rule not to exceed \$250, which fee shall be in addition to the initial licensure or biennial renewal fee for pharmacists. The nuclear pharmacist shall be responsible for the compounding and the dispensing of nuclear pharmaceuticals, for maintaining all drug records required by law, for establishing drug handling procedures for the safe handling and storage of radiopharmaceuticals and medicinal drugs, for providing the security of the prescription department, and

for complying with such other rules as relate to the practice of the profession of pharmacy. The nuclear pharmacist must have completed such additional training and must demonstrate such additional qualifications in the practice of nuclear pharmacy as is required by the board by rule in addition to licensure as a registered pharmacist. The board shall adopt rules necessary to implement and administer this section. The requirements of this section do not apply to hospitals licensed under chapter 395 or the nuclear medicine facilities of such hospitals.
History.—s. 2, ch. 88-172; s. 59, ch. 91-137; s. 6, ch. 91-156; s. 4, ch. 91-429.

465.013 Registration of pharmacy interns.—The department shall register as pharmacy interns persons certified by the board as being enrolled in an intern program at an accredited school or college of pharmacy or who are graduates of accredited schools or colleges of pharmacy and are not yet licensed in the state. The board may refuse to certify to the department or may revoke the registration of any intern for good cause, including grounds enumerated in this chapter for revocation of pharmacists' licenses.
History.—ss. 1, 7, ch. 79-226; ss. 2, 3, ch. 81-318; ss. 26, 27, ch. 86-256; s. 59, ch. 91-137; s. 6, ch. 91-156; s. 4, ch. 91-429.

465.014 Pharmacy technician.—

(1)A person other than a licensed pharmacist or pharmacy intern may not engage in the practice of the profession of pharmacy, except that a licensed pharmacist may delegate to pharmacy technicians who are registered pursuant to this section those duties, tasks, and functions that do not fall within the purview of s. 465.003(13). All such delegated acts shall be performed under the direct supervision of a licensed pharmacist who shall be responsible for all such acts performed by persons under his or her supervision. A pharmacy registered technician, under the supervision of a pharmacist, may initiate or receive communications with a practitioner or his or her agent, on behalf of a patient, regarding refill authorization requests. A licensed pharmacist may not supervise more than one registered pharmacy technician unless otherwise permitted by the guidelines adopted by the board. The board shall establish guidelines to be followed by licensees or permittees in determining the circumstances under which a licensed pharmacist may supervise more than one but not more than three pharmacy technicians.

(2)Any person who wishes to work as a pharmacy technician in this state must register by filing an application with the board on a form adopted by rule of the board. The board shall register each applicant who has remitted a registration fee set by the board, not to exceed \$50 biennially; has completed the application form and remitted a nonrefundable application fee set by the board, not to exceed \$50; is at least 17 years of age; and has completed a pharmacy technician training program approved by the Board of Pharmacy. Notwithstanding any requirements in this subsection, any registered pharmacy technician registered pursuant to this section before January 1, 2011, who has worked as a pharmacy technician for a minimum of 1,500 hours under the supervision of a licensed pharmacist or received certification as a pharmacy technician by certification program accredited by the National Commission for Certifying Agencies is exempt from the requirement to complete an initial training program for purposes of registration as required by this subsection.

(3)A person whose license to practice pharmacy has been denied, suspended, or restricted for disciplinary purposes is not eligible to register as a pharmacy technician.

(4)Notwithstanding the requirements of this section or any other provision of law, a pharmacy technician student who is enrolled in a pharmacy technician training

program that is approved by the board may be placed in a pharmacy for the purpose of obtaining practical training. A pharmacy technician student shall wear identification that indicates his or her student status when performing the functions of a pharmacy technician, and registration under this section is not required.

(5) Notwithstanding the requirements of this section or any other provision of law, a person who is licensed by the state as a pharmacy intern may be employed as a registered pharmacy technician without paying a registration fee or filing an application with the board to register as a pharmacy technician.

(6) As a condition of registration renewal, a registered pharmacy technician shall complete 20 hours biennially of continuing education courses approved by the board or the Accreditation Council for Pharmacy Education, of which 4 hours must be via live presentation and 2 hours must be related to the prevention of medication errors and pharmacy law.

(7) The board shall adopt rules that require each registration issued by the board under this section to be displayed in such a manner as to make it available to the public and to facilitate inspection by the department. The board may adopt other rules as necessary to administer this section.

(8) If the board finds that an applicant for registration as a pharmacy technician or that a registered pharmacy technician has committed an act that constitutes grounds for discipline as set forth in s. 456.072(1) or has committed an act that constitutes grounds for denial of a license or disciplinary action as set forth in this chapter, including an act that constitutes a substantial violation of s. 456.072(1) or a violation of this chapter which occurred before the applicant or registrant was registered as a pharmacy technician, the board may enter an order imposing any of the penalties specified in s. 456.072(2) against the applicant or registrant.

History.—ss. 1, 7, ch. 79-226; ss. 2, 3, ch. 81-318; ss. 10, 26, 27, ch. 86-256; s. 59, ch. 91-137; s. 6, ch. 91-156; s. 4, ch. 91-429; s. 242, ch. 97-103; s. 192, ch. 97-264; s. 120, ch. 99-397; ss. 2, 3, 4, ch. 2008-216.

465.015 Violations and penalties.—

(1) It is unlawful for any person to own, operate, maintain, open, establish, conduct, or have charge of, either alone or with another person or persons, a pharmacy:

(a) Which is not registered under the provisions of this chapter.

(b) In which a person not licensed as a pharmacist in this state or not registered as an intern in this state or in which an intern who is not acting under the direct and immediate personal supervision of a licensed pharmacist fills, compounds, or dispenses any prescription or dispenses medicinal drugs.

(2) It is unlawful for any person:

(a) To make a false or fraudulent statement, either for herself or himself or for another person, in any application, affidavit, or statement presented to the board or in any proceeding before the board.

(b) To fill, compound, or dispense prescriptions or to dispense medicinal drugs if such person does not hold an active license as a pharmacist in this state, is not registered as an intern in this state, or is an intern not acting under the direct and immediate personal supervision of a licensed pharmacist.

(c) To sell or dispense drugs as defined in s. 465.003(8) without first being furnished with a prescription.

(d) To sell samples or complimentary packages of drug products.

(3) It is unlawful for any pharmacist to knowingly fail to report to the sheriff or other chief law enforcement agency of the county where the pharmacy is located within 24 hours after learning of any instance in which a person obtained or

attempted to obtain a controlled substance, as defined in s. 893.02, or at the close of business on the next business day, whichever is later, that the pharmacist knew or believed was obtained or attempted to be obtained through fraudulent methods or representations from the pharmacy at which the pharmacist practiced pharmacy. Any pharmacist who knowingly fails to make such a report within 24 hours after learning of the fraud or attempted fraud or at the close of business on the next business day, whichever is later, commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. A sufficient report of the fraudulent obtaining of controlled substances under this subsection must contain, at a minimum, a copy of the prescription used or presented and a narrative, including all information available to the pharmacist concerning the transaction, such as the name and telephone number of the prescribing physician; the name, description, and any personal identification information pertaining to the person who presented the prescription; and all other material information, such as photographic or video surveillance of the transaction.

(4)(a) It is unlawful for any person other than a pharmacist licensed under this chapter to use the title "pharmacist" or "druggist" or otherwise lead the public to believe that she or he is engaged in the practice of pharmacy.

(b) It is unlawful for any person other than an owner of a pharmacy registered under this chapter to display any sign or to take any other action that would lead the public to believe that such person is engaged in the business of compounding, dispensing, or retailing any medicinal drugs. This paragraph shall not preclude a person not licensed as a pharmacist from owning a pharmacy.

(c) It is unlawful for a person, firm, or corporation that is not licensed or registered under this chapter to:

1. Use in a trade name, sign, letter, or advertisement any term, including "drug," "pharmacy," "prescription drugs," "Rx," or "apothecary," which implies that the person, firm, or corporation is licensed or registered to practice pharmacy in this state.

2. Hold himself or herself out to others as a person, firm, or corporation licensed or registered to practice pharmacy in this state.

(d) It is unlawful for a person who is not registered as a pharmacy technician under this chapter or who is not otherwise exempt from the requirement to register as a pharmacy technician, to perform the functions of a registered pharmacy technician, or hold himself or herself out to others as a person who is registered to perform the functions of a registered pharmacy technician in this state.

(5) Any person who violates any provision of subsection (1) or subsection (4) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. Any person who violates any provision of subsection (2) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. In any warrant, information, or indictment, it shall not be necessary to negative any exceptions, and the burden of any exception shall be upon the defendant.

History.—ss. 1, 7, ch. 79-226; ss. 2, 3, ch. 81-318; ss. 11, 26, 27, ch. 86-256; s. 59, ch. 91-137; s. 6, ch. 91-156; s. 91, ch. 91-224; s. 4, ch. 91-429; s. 243, ch. 97-103; s. 121, ch. 99-397; s. 55, ch. 2000-318; s. 2, ch. 2004-25; s. 5, ch. 2008-216; s. 10, ch. 2011-141.

465.0155 Standards of practice.—Consistent with the provisions of this act, the board shall adopt by rule standards of practice relating to the practice of pharmacy which shall be binding on every state agency and shall be applied by such agencies

when enforcing or implementing any authority granted by any applicable statute, rule, or regulation, whether federal or state.

History.—ss. 12, 27, ch. 86-256; s. 59, ch. 91-137; s. 6, ch. 91-156; s. 4, ch. 91-429.

465.0156 Registration of nonresident pharmacies.—

(1) Any pharmacy which is located outside this state and which ships, mails, or delivers, in any manner, a dispensed medicinal drug into this state shall be considered a nonresident pharmacy, shall be registered with the board, shall provide pharmacy services at a high level of protection and competence, and shall disclose to the board the following specific information:

(a) That it maintains at all times a valid, unexpired license, permit, or registration to operate the pharmacy in compliance with the laws of the state in which the dispensing facility is located and from which the medicinal drugs shall be dispensed;

(b) The location, names, and titles of all principal corporate officers and the pharmacist who serves as the prescription department manager for dispensing medicinal drugs to residents of this state. This disclosure shall be made within 30 days after any change of location, corporate officer, or pharmacist serving as the prescription department manager for dispensing medicinal drugs to residents of this state;

(c) That it complies with all lawful directions and requests for information from the regulatory or licensing agency of all states in which it is licensed as well as with all requests for information made by the board pursuant to this section. It shall respond directly to all communications from the board concerning emergency circumstances arising from errors in the dispensing of medicinal drugs to the residents of this state;

(d) That it maintains its records of medicinal drugs dispensed to patients in this state so that the records are readily retrievable from the other business records of the pharmacy and from the records of other medicinal drugs dispensed; and

(e) That during its regular hours of operation but not less than 6 days per week, for a minimum of 40 hours per week, a toll-free telephone service shall be provided to facilitate communication between patients in this state and a pharmacist at the pharmacy who has access to the patient's records. This toll-free number must be disclosed on the label affixed to each container of dispensed medicinal drugs.

(2) Applications for nonresident pharmacy registration under this section shall be made on a form furnished by the board. The board may require such information as the board deems reasonably necessary to carry out the purposes of this section. The board may grant an exemption from the registration requirements of this section to any nonresident pharmacy which confines its dispensing activity to isolated transactions. The board may define by rule the term isolated transactions.

(3) The registration fee and the biennial renewal fee shall be the fee specified in s. 465.022.

(4) The board may deny, revoke, or suspend registration of, or fine or reprimand, a nonresident pharmacy for failure to comply with s. 465.025 or with any requirement of this section in accordance with the provisions of this chapter.

(5) In addition to the prohibitions of subsection (4) the board may deny, revoke, or suspend registration of, or fine or reprimand, a nonresident pharmacy in accordance with the provisions of this chapter for conduct which causes serious bodily injury or serious psychological injury to a resident of this state if the board has referred the matter to the regulatory or licensing agency in the state in which the pharmacy is located and the regulatory or licensing agency fails to investigate within 180 days of the referral.

(6) It is unlawful for any nonresident pharmacy which is not registered pursuant to this section to advertise its services in this state, or for any person who is a resident of this state to advertise the pharmacy services of a nonresident pharmacy which has not registered with the board, with the knowledge that the advertisement will or is likely to induce members of the public in this state to use the pharmacy to fill prescriptions.

(7) This section does not apply to Internet pharmacies required to be permitted under s. 465.0197.

(8) Notwithstanding s. 465.003(10), for purposes of this section, the registered pharmacy and the pharmacist designated by the registered pharmacy as the prescription department manager or the equivalent must be licensed in the state of location in order to dispense into this state.

History.—ss. 13, 27, ch. 86-256; s. 3, ch. 89-218; s. 59, ch. 91-137; s. 6, ch. 91-156; s. 4, ch. 91-429; s. 31, ch. 95-144; s. 90, ch. 97-264; s. 2, ch. 2004-387.

465.016 Disciplinary actions.—

(1) The following acts constitute grounds for denial of a license or disciplinary action, as specified in s. 456.072(2):

(a) Obtaining a license by misrepresentation or fraud or through an error of the department or the board.

(b) Procuring or attempting to procure a license for any other person by making or causing to be made any false representation.

(c) Permitting any person not licensed as a pharmacist in this state or not registered as an intern in this state, or permitting a registered intern who is not acting under the direct and immediate personal supervision of a licensed pharmacist, to fill, compound, or dispense any prescriptions in a pharmacy owned and operated by such pharmacist or in a pharmacy where such pharmacist is employed or on duty.

(d) Being unfit or incompetent to practice pharmacy by reason of:

1. Habitual intoxication.

2. The misuse or abuse of any medicinal drug appearing in any schedule set forth in chapter 893.

3. Any abnormal physical or mental condition which threatens the safety of persons to whom she or he might sell or dispense prescriptions, drugs, or medical supplies or for whom she or he might manufacture, prepare, or package, or supervise the manufacturing, preparation, or packaging of, prescriptions, drugs, or medical supplies.

(e) Violating chapter 499; 21 U.S.C. ss. 301-392, known as the Federal Food, Drug, and Cosmetic Act; 21 U.S.C. ss. 821 et seq., known as the Comprehensive Drug Abuse Prevention and Control Act; or chapter 893.

(f) Having been convicted or found guilty, regardless of adjudication, in a court of this state or other jurisdiction, of a crime which directly relates to the ability to practice pharmacy or to the practice of pharmacy. A plea of nolo contendere constitutes a conviction for purposes of this provision.

(g) Using in the compounding of a prescription, or furnishing upon prescription, an ingredient or article different in any manner from the ingredient or article prescribed, except as authorized in s. 465.019(6) or s. 465.025.

(h) Having been disciplined by a regulatory agency in another state for any offense that would constitute a violation of this chapter.

(i) Compounding, dispensing, or distributing a legend drug, including any controlled substance, other than in the course of the professional practice of pharmacy. For purposes of this paragraph, it shall be legally presumed that the compounding, dispensing, or distributing of legend drugs in excessive or inappropriate quantities is

not in the best interests of the patient and is not in the course of the professional practice of pharmacy.

(j) Making or filing a report or record which the licensee knows to be false, intentionally or negligently failing to file a report or record required by federal or state law, willfully impeding or obstructing such filing, or inducing another person to do so. Such reports or records include only those which the licensee is required to make or file in her or his capacity as a licensed pharmacist.

(k) Failing to make prescription fee or price information readily available by failing to provide such information upon request and upon the presentation of a prescription for pricing or dispensing. Nothing in this section shall be construed to prohibit the quotation of price information on a prescription drug to a potential consumer by telephone.

(l) Placing in the stock of any pharmacy any part of any prescription compounded or dispensed which is returned by a patient; however, in a hospital, nursing home, correctional facility, or extended care facility in which unit-dose medication is dispensed to inpatients, each dose being individually sealed and the individual unit dose or unit-dose system labeled with the name of the drug, dosage strength, manufacturer's control number, and expiration date, if any, the unused unit dose of medication may be returned to the pharmacy for redispensing. Each pharmacist shall maintain appropriate records for any unused or returned medicinal drugs.

(m) Being unable to practice pharmacy with reasonable skill and safety by reason of illness, use of drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. A pharmacist affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that she or he can resume the competent practice of pharmacy with reasonable skill and safety to her or his customers.

(n) Violating a rule of the board or department or violating an order of the board or department previously entered in a disciplinary hearing.

(o) Failing to report to the department any licensee under chapter 458 or under chapter 459 who the pharmacist knows has violated the grounds for disciplinary action set out in the law under which that person is licensed and who provides health care services in a facility licensed under chapter 395, or a health maintenance organization certificated under part I of chapter 641, in which the pharmacist also provides services.

(p) Failing to notify the Board of Pharmacy in writing within 20 days of the commencement or cessation of the practice of the profession of pharmacy in Florida when such commencement or cessation of the practice of the profession of pharmacy in Florida was a result of a pending or completed disciplinary action or investigation in another jurisdiction.

(q) Using or releasing a patient's records except as authorized by this chapter and chapter 456.

(r) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(s) Dispensing any medicinal drug based upon a communication that purports to be a prescription as defined by s. 465.003(14) or s. 893.02 when the pharmacist knows or has reason to believe that the purported prescription is not based upon a valid practitioner-patient relationship.

(t) Committing an error or omission during the performance of a specific function of prescription drug processing, which includes, for purposes of this paragraph:

1. Receiving, interpreting, or clarifying a prescription.
2. Entering prescription data into the pharmacy's record.
3. Verifying or validating a prescription.
4. Performing pharmaceutical calculations.

5. Performing prospective drug review as defined by the board.
6. Obtaining refill and substitution authorizations.
7. Interpreting or acting on clinical data.
8. Performing therapeutic interventions.
9. Providing drug information concerning a patient's prescription.
10. Providing patient counseling.

(2) The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).

(3) The board shall not reinstate the license of a pharmacist, or cause a license to be issued to a person it has deemed unqualified, until such time as it is satisfied that she or he has complied with all the terms and conditions set forth in the final order and that such person is capable of safely engaging in the practice of pharmacy.

(4) The board shall by rule establish guidelines for the disposition of disciplinary cases involving specific types of violations. Such guidelines may include minimum and maximum fines, periods of supervision or probation, or conditions of probation or reissuance of a license.

History.—ss. 1, 7, ch. 79-226; ss. 13, 15, 24, 25, 30, 34, 62, ch. 80-406; s. 324, ch. 81-259; ss. 2, 3, ch. 81-318; s. 3, ch. 83-101; s. 37, ch. 83-216; ss. 32, 119, ch. 83-329; s. 1, ch. 84-364; ss. 26, 27, ch. 86-256; s. 41, ch. 88-1; s. 20, ch. 88-277; s. 2, ch. 89-77; s. 59, ch. 91-137; s. 6, ch. 91-156; s. 4, ch. 91-429; s. 45, ch. 92-149; s. 32, ch. 95-144; s. 244, ch. 97-103; s. 91, ch. 97-264; s. 119, ch. 99-397; s. 126, ch. 2000-160; s. 33, ch. 2001-277; s. 3, ch. 2004-387; s. 10, ch. 2005-240; s. 5, ch. 2008-184; s. 11, ch. 2011-141.

465.0161 Distribution of medicinal drugs without a permit.—An Internet pharmacy that distributes a medicinal drug to any person in this state without being permitted as a pharmacy under this chapter commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

History.—s. 4, ch. 2004-387.

465.017 Authority to inspect; disposal.—

(1) Duly authorized agents and employees of the department shall have the power to inspect in a lawful manner at all reasonable hours any pharmacy, hospital, clinic, wholesale establishment, manufacturer, physician's office, or any other place in the state in which drugs and medical supplies are manufactured, packed, packaged, made, stored, sold, offered for sale, exposed for sale, or kept for sale for the purpose of:

(a) Determining if any of the provisions of this chapter or any rule promulgated under its authority is being violated;

(b) Securing samples or specimens of any drug or medical supply after paying or offering to pay for such sample or specimen; or

(c) Securing such other evidence as may be needed for prosecution under this chapter.

(2)(a) Except as permitted by this chapter, and chapters 406, 409, 456, 499, and 893, records maintained in a pharmacy relating to the filling of prescriptions and the dispensing of medicinal drugs shall not be furnished to any person other than to the patient for whom the drugs were dispensed, or her or his legal representative, or to the department pursuant to existing law, or, in the event that the patient is incapacitated or unable to request said records, her or his spouse except upon the written authorization of such patient. Such records may be furnished in any civil or

criminal proceeding, upon the issuance of a subpoena from a court of competent jurisdiction and proper notice to the patient or her or his legal representative by the party seeking such records.

(b)The board shall adopt rules to establish practice guidelines for pharmacies to dispose of records maintained in a pharmacy relating to the filling of prescriptions and the dispensing of medicinal drugs. Such rules shall be consistent with the duty to preserve the confidentiality of such records in accordance with applicable state and federal law.

History.—ss. 1, 7, ch. 79-226; ss. 2, 3, ch. 81-318; ss. 1, 2, ch. 85-151; ss. 26, 27, ch. 86-256; s. 59, ch. 91-137; s. 6, ch. 91-156; s. 4, ch. 91-429; s. 125, ch. 94-218; s. 245, ch. 97-103; s. 127, ch. 2000-160; s. 1, ch. 2003-166.

465.018 Community pharmacies; permits.—

(1)Any person desiring a permit to operate a community pharmacy shall apply to the department.

(2)If the board office certifies that the application complies with the laws of the state and the rules of the board governing pharmacies, the department shall issue the permit. No permit shall be issued unless a licensed pharmacist is designated as the prescription department manager.

(3)The board may suspend or revoke the permit of, or may refuse to issue a permit to:

(a)Any person who has been disciplined or who has abandoned a permit or allowed a permit to become void after written notice that disciplinary proceedings had been or would be brought against the permit;

(b)Any person who is an officer, director, or person interested directly or indirectly in a person or business entity that has had a permit disciplined or abandoned or become void after written notice that disciplinary proceedings had been or would be brought against the permit; or

(c)Any person who is or has been an officer of a business entity, or who was interested directly or indirectly in a business entity, the permit of which has been disciplined or abandoned or become null and void after written notice that disciplinary proceedings had been or would be brought against the permit.

(4)In addition to any other remedies provided by law, the board may deny the application or suspend or revoke the license, registration, or certificate of any entity regulated or licensed by it if the applicant, licensee, registrant, or licenseholder, or, in the case of a corporation, partnership, or other business entity, if any officer, director, agent, or managing employee of that business entity or any affiliated person, partner, or shareholder having an ownership interest equal to 5 percent or greater in that business entity, has failed to pay all outstanding fines, liens, or overpayments assessed by final order of the department, unless a repayment plan is approved by the department, or has failed to comply with any repayment plan.

(5)In reviewing any application requesting a change of ownership or a change of licensee or registrant, the transferor shall, before board approval of the change, repay or make arrangements to repay any amounts owed to the department. If the transferor fails to repay or make arrangements to repay the amounts owed to the department, the license or registration may not be issued to the transferee until repayment or until arrangements for repayment are made.

(6)Passing an onsite inspection is a prerequisite to the issuance of an initial permit or a permit for a change of location. The department must make the inspection within 90 days before issuance of the permit.

(7)Community pharmacies that dispense controlled substances must maintain a record of all controlled substance dispensing consistent with the requirements of s.

893.07 and must make the record available to the department and law enforcement agencies upon request.

History.—ss. 1, 7, ch. 79-226; ss. 2, 3, ch. 81-318; ss. 26, 27, ch. 86-256; s. 3, ch. 88-172; s. 59, ch. 91-137; s. 6, ch. 91-156; s. 4, ch. 91-429; s. 12, ch. 2011-141.

465.0181 Community pharmacy permit required to dispense Schedule II or Schedule III controlled substances.—In order to dispense controlled substances listed in Schedule II or Schedule III, as provided in s. 893.03, on or after July 1, 2012, a community pharmacy permittee must be permitted pursuant to this chapter, as amended by this act, and any rules adopted thereunder.
History.—s. 13, ch. 2011-141.

465.019 Institutional pharmacies; permits.—

(1) Any institution desiring to operate an institutional pharmacy shall apply to the department. If the board certifies that the application complies with the laws of the state and the rules of the board governing pharmacies, the department shall issue the permit.

(2) The following classes of institutional pharmacies are established:

(a) "Class I institutional pharmacies" are those institutional pharmacies in which all medicinal drugs are administered from individual prescription containers to the individual patient and in which medicinal drugs are not dispensed on the premises, except that nursing homes licensed under part II of chapter 400 may purchase medical oxygen for administration to residents. No medicinal drugs may be dispensed in a Class I institutional pharmacy.

(b) "Class II institutional pharmacies" are those institutional pharmacies which employ the services of a registered pharmacist or pharmacists who, in practicing institutional pharmacy, shall provide dispensing and consulting services on the premises to patients of that institution, for use on the premises of that institution. However, an institutional pharmacy located in an area or county included in an emergency order or proclamation of a state of emergency declared by the Governor may provide dispensing and consulting services to individuals who are not patients of the institution. However, a single dose of a medicinal drug may be obtained and administered to a patient on a valid physician's drug order under the supervision of a physician or charge nurse, consistent with good institutional practice procedures. The obtaining and administering of such single dose of a medicinal drug shall be pursuant to drug-handling procedures established by a consultant pharmacist. Medicinal drugs may be dispensed in a Class II institutional pharmacy, but only in accordance with the provisions of this section.

(c) "Modified Class II institutional pharmacies" are those institutional pharmacies in short-term, primary care treatment centers that meet all the requirements for a Class II permit, except space and equipment requirements.

(3) Medicinal drugs shall be stocked, stored, compounded, dispensed, or administered in any health care institution only when that institution has secured an institutional pharmacy permit from the department.

(4) Medicinal drugs shall be dispensed in an institutional pharmacy to outpatients only when that institution has secured a community pharmacy permit from the department. However, an individual licensed to prescribe medicinal drugs in this state may dispense up to a 24-hour supply of a medicinal drug to any patient of an emergency department of a hospital that operates a Class II institutional pharmacy, provided that the physician treating the patient in such hospital's emergency department determines that the medicinal drug is warranted and that community pharmacy services are not readily accessible, geographically or otherwise, to the

patient. Such dispensing from the emergency department must be in accordance with the procedures of the hospital. For any such patient for whom a medicinal drug is warranted for a period to exceed 24 hours, an individual licensed to prescribe such drug must dispense a 24-hour supply of such drug to the patient and must provide the patient with a prescription for such drug for use after the initial 24-hour period. The board may adopt rules necessary to carry out the provisions of this subsection.

(5) All institutional pharmacies shall be under the professional supervision of a consultant pharmacist, and the compounding and dispensing of medicinal drugs shall be done only by a licensed pharmacist. Every institutional pharmacy that employs or otherwise uses registered pharmacy technicians shall have a written policy and procedures manual specifying those duties, tasks, and functions that a registered pharmacy technician is allowed to perform.

(6) In a Class II institutional pharmacy, an institutional formulary system may be adopted with approval of the medical staff for the purpose of identifying those medicinal drugs and proprietary preparations that may be dispensed by the pharmacists employed in such institution. A facility with a Class II institutional permit which is operating under the formulary system shall establish policies and procedures for the development of the system in accordance with the joint standards of the American Hospital Association and American Society of Hospital Pharmacists for the utilization of a hospital formulary system, which formulary shall be approved by the medical staff.

History.—ss. 1, 7, ch. 79-226; ss. 2, 3, ch. 81-318; s. 2, ch. 83-101; ss. 26, 27, ch. 86-256; s. 59, ch. 91-137; s. 6, ch. 91-156; s. 4, ch. 91-429; s. 29, ch. 93-211; s. 244, ch. 98-166; s. 36, ch. 99-397; s. 79, ch. 2001-277; s. 6, ch. 2008-216.

465.0193 Nuclear pharmacy permits.—Any person desiring a permit to operate a nuclear pharmacy shall apply to the department. If the board certifies that the application complies with applicable law, the department shall issue the permit. No permit shall be issued unless a duly licensed and qualified nuclear pharmacist is designated as being responsible for activities described in s. 465.0126. The permittee shall notify the department within 10 days of any change of the licensed pharmacist responsible for the compounding and dispensing of nuclear pharmaceuticals.

History.—ss. 33, 118, ch. 83-329; ss. 15, 26, 27, ch. 86-256; s. 4, ch. 88-172; s. 59, ch. 91-137; s. 6, ch. 91-156; s. 4, ch. 91-429.

465.0196 Special pharmacy permits.—Any person desiring a permit to operate a special pharmacy shall apply to the department for a special pharmacy permit. If the board certifies that the application complies with the applicable laws and rules of the board governing the practice of the profession of pharmacy, the department shall issue the permit. A permit may not be issued unless a licensed pharmacist is designated to undertake the professional supervision of the compounding and dispensing of all drugs dispensed by the pharmacy. The licensed pharmacist shall be responsible for maintaining all drug records and for providing for the security of the area in the facility in which the compounding, storing, and dispensing of medicinal drugs occurs. The permittee shall notify the department within 10 days after any change of the licensed pharmacist responsible for such duties. Each permittee that employs or otherwise uses registered pharmacy technicians shall have a written policy and procedures manual specifying those duties, tasks, and functions that a registered pharmacy technician is allowed to perform.

History.—ss. 34, 118, ch. 83-329; ss. 26, 27, ch. 86-256; s. 59, ch. 91-137; s. 6, ch. 91-156; s. 4, ch. 91-429; s. 92, ch. 97-264; s. 122, ch. 99-397; s. 80, ch. 2001-277; s. 5, ch. 2004-387; s. 7, ch. 2008-216.

465.0197 Internet pharmacy permits.—

(1) Any person desiring a permit to operate an Internet pharmacy shall apply to the department for an Internet pharmacy permit. If the board certifies that the application complies with the applicable laws and rules of the board governing the practice of the profession of pharmacy, the department shall issue the permit. A permit may not be issued unless a licensed pharmacist is designated as the prescription department manager for dispensing medicinal drugs to persons in this state. The licensed pharmacist shall be responsible for maintaining all drug records and for providing for the security of the area in the facility in which the compounding, storing, and dispensing of medicinal drugs to persons in this state occurs. The permittee shall notify the department within 30 days after any change of the licensed pharmacist responsible for such duties. A permittee that employs or otherwise uses registered pharmacy technicians shall have a written policy and procedures manual specifying those duties, tasks, and functions that a registered pharmacy technician is allowed to perform.

(2) An Internet pharmacy must obtain a permit under this section to sell medicinal drugs to persons in this state.

(3) An Internet pharmacy shall provide pharmacy services at a high level of protection and competence and shall disclose to the board the following specific information:

(a) That it maintains at all times a valid, unexpired license, permit, or registration to operate the pharmacy in compliance with the laws of the state in which the dispensing facility is located and from which the medicinal drugs shall be dispensed.

(b) The location, names, and titles of all principal corporate officers and the pharmacist who serves as the prescription department manager for dispensing medicinal drugs to persons in this state. This disclosure shall be made within 30 days after any change of location, principal corporate officer, or pharmacist serving as the prescription department manager for dispensing medicinal drugs to persons in this state.

(c) That it complies with all lawful directions and requests for information from the regulatory or licensing agency of all states in which it is licensed as well as with all requests for information made by the board pursuant to this section. It shall respond directly to all communications from the board concerning emergency circumstances arising from errors in the dispensing of medicinal drugs to persons in this state.

(d) That it maintains its records of medicinal drugs dispensed to patients in this state so that the records are readily retrievable from the other business records of the pharmacy and from the records of other medicinal drugs dispensed.

(e) That during its regular hours of operation but not less than 6 days per week, for a minimum of 40 hours per week, a toll-free telephone service shall be provided to facilitate communication between patients in this state and a pharmacist at the pharmacy who has access to the patient's records. This toll-free number must be disclosed on the label affixed to each container of dispensed medicinal drugs.

(4) Notwithstanding s. 465.003(10), for purposes of this section, the Internet pharmacy and the pharmacist designated by the Internet pharmacy as the prescription department manager or the equivalent must be licensed in the state of location in order to dispense into this state.

History.—s. 6, ch. 2004-387; s. 8, ch. 2008-216.

465.022 Pharmacies; general requirements; fees.—

(1)The board shall adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this chapter. Such rules shall include, but shall not be limited to, rules relating to:

- (a)General drug safety measures.
- (b)Minimum standards for the physical facilities of pharmacies.
- (c)Safe storage of floor-stock drugs.
- (d)Functions of a pharmacist in an institutional pharmacy, consistent with the size and scope of the pharmacy.
- (e)Procedures for the safe storage and handling of radioactive drugs.
- (f)Procedures for the distribution and disposition of medicinal drugs distributed pursuant to s. 499.028.
- (g)Procedures for transfer of prescription files and medicinal drugs upon the change of ownership or closing of a pharmacy.
- (h)Minimum equipment which a pharmacy shall at all times possess to fill prescriptions properly.
- (i)Procedures for the dispensing of controlled substances to minimize dispensing based on fraudulent representations or invalid practitioner-patient relationships.

(2)A pharmacy permit may be issued only to a natural person who is at least 18 years of age, to a partnership comprised of at least one natural person and all of whose partners are at least 18 years of age, to a governmental agency, or to a business entity that is properly registered with the Secretary of State, if required by law, and has been issued a federal employer tax identification number. Permits issued to business entities may be issued only to entities whose affiliated persons, members, partners, officers, directors, and agents, including persons required to be fingerprinted under subsection (3), are not less than 18 years of age.

(3)Any person or business entity, before engaging in the operation of a pharmacy, shall file with the board a sworn application on forms provided by the department. For purposes of this section, any person required to provide fingerprints under this subsection is an affiliated person within the meaning of s. 465.023(1).

(a)An application for a pharmacy permit must include a set of fingerprints from each person having an ownership interest of 5 percent or greater and from any person who, directly or indirectly, manages, oversees, or controls the operation of the applicant, including officers and members of the board of directors of an applicant that is a corporation. The applicant must provide payment in the application for the cost of state and national criminal history records checks.

1.For corporations having more than \$100 million of business taxable assets in this state, in lieu of these fingerprint requirements, the department shall require the prescription department manager or consultant pharmacist of record who will be directly involved in the management and operation of the pharmacy to submit a set of fingerprints.

2.A representative of a corporation described in subparagraph 1. satisfies the requirement to submit a set of his or her fingerprints if the fingerprints are on file with the department or the Agency for Health Care Administration, meet the fingerprint specifications for submission by the Department of Law Enforcement, and are available to the department.

(b)The department shall annually submit the fingerprints provided by the applicant to the Department of Law Enforcement for a state criminal history records check. The Department of Law Enforcement shall annually forward the fingerprints to the Federal Bureau of Investigation for a national criminal history records check. The department shall report the results of annual criminal history records checks to wholesale distributors permitted under chapter 499 for the purposes of s. 499.0121(15).

(c) In addition to those documents required by the department or board, each applicant having any financial or ownership interest greater than 5 percent in the subject of the application must submit a signed affidavit disclosing any financial or ownership interest greater than 5 percent in any pharmacy permitted in the past 5 years, which pharmacy has closed voluntarily or involuntarily, has filed a voluntary relinquishment of its permit, has had its permit suspended or revoked, or has had an injunction issued against it by a regulatory agency. The affidavit must disclose the reason such entity was closed, whether voluntary or involuntary.

(4) An application for a pharmacy permit must include the applicant's written policies and procedures for preventing controlled substance dispensing based on fraudulent representations or invalid practitioner-patient relationships. The board must review the policies and procedures and may deny a permit if the policies and procedures are insufficient to reasonably prevent such dispensing. The department may phase in the submission and review of policies and procedures over one 18-month period beginning July 1, 2011.

(5) The department or board shall deny an application for a pharmacy permit if the applicant or an affiliated person, partner, officer, director, or prescription department manager or consultant pharmacist of record of the applicant:

(a) Has obtained a permit by misrepresentation or fraud.

(b) Has attempted to procure, or has procured, a permit for any other person by making, or causing to be made, any false representation.

(c) Has been convicted of, or entered a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the practice of, or the ability to practice, the profession of pharmacy.

(d) Has been convicted of, or entered a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to health care fraud.

(e) Has been convicted of, or entered a plea of guilty or nolo contendere to, regardless of adjudication, a felony under chapter 409, chapter 817, or chapter 893, or a similar felony offense committed in another state or jurisdiction, since July 1, 2009.

(f) Has been convicted of, or entered a plea of guilty or nolo contendere to, regardless of adjudication, a felony under 21 U.S.C. ss. 801-970 or 42 U.S.C. ss. 1395-1396 since July 1, 2009.

(g) Has been terminated for cause from the Florida Medicaid program pursuant to s. 409.913, unless the applicant has been in good standing with the Florida Medicaid program for the most recent 5-year period.

(h) Has been terminated for cause, pursuant to the appeals procedures established by the state, from any other state Medicaid program, unless the applicant has been in good standing with a state Medicaid program for the most recent 5-year period and the termination occurred at least 20 years before the date of the application.

(i) Is currently listed on the United States Department of Health and Human Services Office of Inspector General's List of Excluded Individuals and Entities.

(j) Has dispensed any medicinal drug based upon a communication that purports to be a prescription as defined by s. 465.003(14) or s. 893.02 when the pharmacist knows or has reason to believe that the purported prescription is not based upon a valid practitioner-patient relationship that includes a documented patient evaluation, including history and a physical examination adequate to establish the diagnosis for which any drug is prescribed and any other requirement established by board rule under chapter 458, chapter 459, chapter 461, chapter 463, chapter 464, or chapter 466.

For felonies in which the defendant entered a plea of guilty or nolo contendere in an agreement with the court to enter a pretrial intervention or drug diversion program, the department shall deny the application if upon final resolution of the case the licensee has failed to successfully complete the program.

(6)The department or board may deny an application for a pharmacy permit if the applicant or an affiliated person, partner, officer, director, or prescription department manager or consultant pharmacist of record of the applicant has violated or failed to comply with any provision of this chapter; chapter 499, the Florida Drug and Cosmetic Act; chapter 893; 21 U.S.C. ss. 301-392, the Federal Food, Drug, and Cosmetic Act; 21 U.S.C. ss. 821 et seq., the Comprehensive Drug Abuse Prevention and Control Act; or any rules or regulations promulgated thereunder unless the violation or noncompliance is technical.

(7)After the application has been filed with the board and the permit fee provided in this section has been received, the board shall cause the application to be fully investigated, both as to the qualifications of the applicant and the prescription department manager or consultant pharmacist designated to be in charge and as to the premises and location described in the application.

(8)The Board of Pharmacy shall have the authority to determine whether a bona fide transfer of ownership is present and that the sale of a pharmacy is not being accomplished for the purpose of avoiding an administrative prosecution.

(9)Upon the completion of the investigation of an application, the board shall approve or deny the application. If approved, the permit shall be issued by the department.

(10)A permittee must notify the department, on a form approved by the board, within 10 days after any change in prescription department manager or consultant pharmacist of record.

(11)A permittee must notify the department of the identity of the prescription department manager within 10 days after employment. The prescription department manager must comply with the following requirements:

(a)The prescription department manager of a permittee must obtain and maintain all drug records required by any state or federal law to be obtained by a pharmacy, including, but not limited to, records required by or under this chapter, chapter 499, or chapter 893. The prescription department manager must ensure the permittee's compliance with all rules adopted under those chapters as they relate to the practice of the profession of pharmacy and the sale of prescription drugs.

(b)The prescription department manager must ensure the security of the prescription department. The prescription department manager must notify the board of any theft or significant loss of any controlled substances within 1 business day after discovery of the theft or loss.

(c)A registered pharmacist may not serve as the prescription department manager in more than one location unless approved by the board.

(12)The board shall adopt rules that require the keeping of such records of prescription drugs as are necessary for the protection of public health, safety, and welfare.

(a)All required records documenting prescription drug distributions shall be readily available or immediately retrievable during an inspection by the department.

(b)The records must be maintained for 4 years after the creation or receipt of the record, whichever is later.

(13)Permits issued by the department are not transferable.

(14)The board shall set the fees for the following:

(a)Initial permit fee not to exceed \$250.

(b)Biennial permit renewal not to exceed \$250.

(c) Delinquent fee not to exceed \$100.

(d) Change of location fee not to exceed \$100.

History.—ss. 1, 7, ch. 79-226; ss. 2, 3, ch. 81-318; s. 36, ch. 82-225; ss. 16, 26, 27, ch. 86-256; s. 6, ch. 88-172; s. 14, ch. 88-205; s. 59, ch. 91-137; s. 6, ch. 91-156; s. 4, ch. 91-429; s. 127, ch. 98-200; s. 27, ch. 2009-223; s. 14, ch. 2011-141.

465.023 Pharmacy permittee; disciplinary action.—

(1) The department or the board may revoke or suspend the permit of any pharmacy permittee, and may fine, place on probation, or otherwise discipline any pharmacy permittee if the permittee, or any affiliated person, partner, officer, director, or agent of the permittee, including a person fingerprinted under s. 465.022(3), has:

(a) Obtained a permit by misrepresentation or fraud or through an error of the department or the board;

(b) Attempted to procure, or has procured, a permit for any other person by making, or causing to be made, any false representation;

(c) Violated any of the requirements of this chapter or any of the rules of the Board of Pharmacy; of chapter 499, known as the "Florida Drug and Cosmetic Act"; of 21 U.S.C. ss. 301-392, known as the "Federal Food, Drug, and Cosmetic Act"; of 21 U.S.C. ss. 821 et seq., known as the Comprehensive Drug Abuse Prevention and Control Act; or of chapter 893;

(d) Been convicted or found guilty, regardless of adjudication, of a felony or any other crime involving moral turpitude in any of the courts of this state, of any other state, or of the United States;

(e) Been convicted or disciplined by a regulatory agency of the Federal Government or a regulatory agency of another state for any offense that would constitute a violation of this chapter;

(f) Been convicted of, or entered a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the practice of, or the ability to practice, the profession of pharmacy;

(g) Been convicted of, or entered a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to health care fraud; or

(h) Dispensed any medicinal drug based upon a communication that purports to be a prescription as defined by s. 465.003(14) or s. 893.02 when the pharmacist knows or has reason to believe that the purported prescription is not based upon a valid practitioner-patient relationship that includes a documented patient evaluation, including history and a physical examination adequate to establish the diagnosis for which any drug is prescribed and any other requirement established by board rule under chapter 458, chapter 459, chapter 461, chapter 463, chapter 464, or chapter 466.

(2) If a pharmacy permit is revoked or suspended, the owner, manager, or proprietor shall cease to operate the establishment as a pharmacy as of the effective date of such suspension or revocation. In the event of such revocation or suspension, the owner, manager, or proprietor shall remove from the premises all signs and symbols identifying the premises as a pharmacy. The period of such suspension shall be prescribed by the Board of Pharmacy, but in no case shall it exceed 1 year. In the event that the permit is revoked, the person owning or operating the establishment shall not be entitled to make application for a permit to operate a pharmacy for a period of 1 year from the date of such revocation. Upon the effective date of such revocation, the permittee shall advise the Board of Pharmacy of the disposition of the medicinal drugs located on the premises. Such

disposition shall be subject to continuing supervision and approval by the Board of Pharmacy.

History.—ss. 1, 7, ch. 79-226; ss. 2, 3, ch. 81-318; s. 38, ch. 83-216; ss. 35, 119, ch. 83-329; ss. 26, 27, ch. 86-256; s. 59, ch. 91-137; s. 6, ch. 91-156; s. 4, ch. 91-429; s. 33, ch. 95-144; s. 7, ch. 2004-387; s. 6, ch. 2008-184; s. 28, ch. 2009-223.

465.0235 Automated pharmacy systems used by long-term care facilities, hospices, or state correctional institutions.—

(1)A pharmacy may provide pharmacy services to a long-term care facility or hospice licensed under chapter 400 or chapter 429 or a state correctional institution operated under chapter 944 through the use of an automated pharmacy system that need not be located at the same location as the pharmacy.

(2)Medicinal drugs stored in bulk or unit of use in an automated pharmacy system servicing a long-term care facility, hospice, or correctional institution are part of the inventory of the pharmacy providing pharmacy services to that facility, hospice, or institution, and drugs delivered by the automated pharmacy system are considered to have been dispensed by that pharmacy.

(3)The operation of an automated pharmacy system must be under the supervision of a Florida-licensed pharmacist. To qualify as a supervisor for an automated pharmacy system, the pharmacist need not be physically present at the site of the automated pharmacy system and may supervise the system electronically. The Florida-licensed pharmacist shall be required to develop and implement policies and procedures designed to verify that the medicinal drugs delivered by the automated dispensing system are accurate and valid and that the machine is properly restocked.

(4)The Legislature does not intend this section to limit the current practice of pharmacy in this state. This section is intended to allow automated pharmacy systems to enhance the ability of a pharmacist to provide pharmacy services in locations that do not employ a full-time pharmacist. This section does not limit or replace the use of a consultant pharmacist.

(5)The board shall adopt rules governing the use of an automated pharmacy system by January 1, 2005, which must specify:

(a)Recordkeeping requirements;
(b)Security requirements; and
(c)Labeling requirements that permit the use of unit-dose medications if the facility, hospice, or institution maintains medication-administration records that include directions for use of the medication and the automated pharmacy system identifies:

- 1.The dispensing pharmacy;
- 2.The prescription number;
- 3.The name of the patient; and
- 4.The name of the prescribing practitioner.

History.—s. 3, ch. 2004-25; s. 92, ch. 2006-197.

465.024Promoting sale of certain drugs prohibited.—

(1)It is declared that the unrestricted use of certain controlled substances, causing abnormal reactions that may interfere with the user's physical reflexes and judgments, may create hazardous circumstances which may cause accidents to the user and to others, thereby affecting the public health, safety, and welfare. It is further declared to be in the public interest to limit the means of promoting the sale and use of these drugs. All provisions of this section shall be liberally construed to carry out these objectives and purposes.

(2) No pharmacist, owner, or employee of a retail drug establishment shall use any communication media to promote or advertise the use or sale of any controlled substance appearing in any schedule in chapter 893.

(3) This section shall not prohibit the advertising of any medicinal drugs, other than those controlled substances specified in chapter 893, or any patent or proprietary preparation, provided the advertising is not false, misleading, or deceptive.

History.—ss. 1, 7, ch. 79-226; ss. 2, 3, ch. 81-318; ss. 26, 27, ch. 86-256; s. 59, ch. 91-137; s. 6, ch. 91-156; s. 4, ch. 91-429.

465.0244 Information disclosure.—Every pharmacy shall make available on its Internet website a link to the performance outcome and financial data that is published by the Agency for Health Care Administration pursuant to s. 408.05(3)(k) and shall place in the area where customers receive filled prescriptions notice that such information is available electronically and the address of its Internet website. History.—s. 39, ch. 2004-297; s. 14, ch. 2006-261.

465.025 Substitution of drugs.—

(1) As used in this section:

(a) "Brand name" means the registered trademark name given to a drug product by its manufacturer, labeler, or distributor.

(b) "Generically equivalent drug product" means a drug product with the same active ingredient, finished dosage form, and strength.

(c) "Prescriber" means any practitioner licensed to prescribe medicinal drugs.

(2) A pharmacist who receives a prescription for a brand name drug shall, unless requested otherwise by the purchaser, substitute a less expensive, generically equivalent drug product that is:

(a) Distributed by a business entity doing business, and subject to suit and service of legal process, in the United States; and

(b) Listed in the formulary of generic and brand name drug products as provided in subsection (5) for the brand name drug prescribed,

unless the prescriber writes the words "MEDICALLY NECESSARY," in her or his own handwriting, on the face of a written prescription; unless, in the case of an oral prescription, the prescriber expressly indicates to the pharmacist that the brand name drug prescribed is medically necessary; or unless, in the case of a prescription that is electronically generated and transmitted, the prescriber makes an overt act when transmitting the prescription to indicate that the brand name drug prescribed is medically necessary. When done in conjunction with the electronic transmission of the prescription, the prescriber's overt act indicates to the pharmacist that the brand name drug prescribed is medically necessary.

(3)(a) Any pharmacist who substitutes any drug as provided in subsection (2) shall notify the person presenting the prescription of such substitution, together with the existence and amount of the retail price difference between the brand name drug and the drug substituted for it, and shall inform the person presenting the prescription that such person may refuse the substitution as provided in subsection (2).

(b) Any pharmacist substituting a less expensive drug product shall pass on to the consumer the full amount of the savings realized by such substitution.

(4) Each pharmacist shall maintain a record of any substitution of a generically equivalent drug product for a prescribed brand name drug as provided in this section.

(5) Each community pharmacy shall establish a formulary of generic and brand name drug products which, if selected as the drug product of choice, would not pose a threat to the health and safety of patients receiving prescription medication. In compiling the list of generic and brand name drug products for inclusion in the formulary, the pharmacist shall rely on drug product research, testing, information, and formularies compiled by other pharmacies, by states, by the United States Department of Health, Education, and Welfare, by the United States Department of Health and Human Services, or by any other source which the pharmacist deems reliable. Each community pharmacy shall make such formulary available to the public, the Board of Pharmacy, or any physician requesting same. This formulary shall be revised following each addition, deletion, or modification of said formulary.

(6) The Board of Pharmacy and the Board of Medicine shall establish by rule a formulary of generic drug type and brand name drug products which are determined by the boards to demonstrate clinically significant biological or therapeutic inequivalence and which, if substituted, would pose a threat to the health and safety of patients receiving prescription medication.

(a) The formulary may be added to or deleted from as the Board of Pharmacy and the Board of Medicine deem appropriate. Any person who requests any inclusion, addition, or deletion of a generic drug type or brand name drug product to the formulary shall have the burden of proof to show cause why such inclusion, addition, or deletion should be made.

(b) Upon adoption of the formulary required by this subsection, and upon each addition, deletion, or modification to the formulary, the Board of Pharmacy shall mail a copy to each manager of the prescription department of each community pharmacy licensed by the state, each nonresident pharmacy registered in the state, and each board regulating practitioners licensed by the laws of the state to prescribe drugs shall incorporate such formulary into its rules. No pharmacist shall substitute a generically equivalent drug product for a prescribed brand name drug product if the brand name drug product or the generic drug type drug product is included in the said formulary.

(7) Every community pharmacy shall display in a prominent place that is in clear and unobstructed public view, at or near the place where prescriptions are dispensed, a sign in block letters not less than 1 inch in height which shall read: "CONSULT YOUR PHARMACIST CONCERNING THE AVAILABILITY OF A LESS EXPENSIVE GENERICALLY EQUIVALENT DRUG AND THE REQUIREMENTS OF FLORIDA LAW."

(8) The standard of care to be applied to the acts of any pharmacist performing professional services in compliance with this section when a substitution is made by said pharmacist shall be that which would apply to the performance of professional services in the dispensing of a prescription order prescribing a drug by generic name. In no event when a pharmacist substitutes a drug shall the prescriber be liable in any action for loss, damage, injury, or death to any person occasioned by or arising from the use or nonuse of the substituted drug, unless the original drug was incorrectly prescribed.

History.—ss. 1, 7, ch. 79-226; s. 325, ch. 81-259; ss. 2, 3, ch. 81-318; ss. 26, 27, ch. 86-256; s. 4, ch. 89-218; s. 59, ch. 91-137; s. 6, ch. 91-156; s. 20, ch. 91-220; s. 4, ch. 91-429; s. 246, ch. 97-103; s. 4, ch. 2006-271.

465.0251 Generic drugs; removal from formulary under specified circumstances.—

(1) The Board of Pharmacy and the Board of Medicine shall remove any generic named drug product from the formulary established by s. 465.025(6), if every commercially marketed equivalent of that drug product is "A" rated as

therapeutically equivalent to a reference listed drug or is a reference listed drug as referred to in "Approved Drug Products with Therapeutic Equivalence Evaluations" (Orange Book) published by the United States Food and Drug Administration.

(2) Nothing in this act shall alter or amend s. 465.025 as to existing law providing for the authority of physicians to prohibit generic drug substitution by writing "medically necessary" on the prescription.

History.—ss. 1, 2, ch. 2001-146.

465.0255 Expiration date of medicinal drugs; display; related use and storage instructions.—

(1) The manufacturer, repackager, or other distributor of any medicinal drug shall display the expiration date of each drug in a readable fashion on the container and on its packaging. The term "readable" means conspicuous and bold.

(2) Each pharmacist for a community pharmacy dispensing medicinal drugs and each practitioner dispensing medicinal drugs on an outpatient basis shall display on the outside of the container of each medicinal drug dispensed, or in other written form delivered to the purchaser:

(a) The expiration date when provided by the manufacturer, repackager, or other distributor of the drug; or

(b) An earlier beyond-use date for expiration, which may be up to 1 year after the date of dispensing.

The dispensing pharmacist or practitioner must provide information concerning the expiration date to the purchaser upon request and must provide appropriate instructions regarding the proper use and storage of the drug.

(3) This section does not impose liability on the dispensing pharmacist or practitioner for damages related to, or caused by, a medicinal drug that loses its effectiveness prior to the expiration date displayed by the dispensing pharmacist or practitioner.

(4) The provisions of this section are intended to notify the patient receiving a medicinal drug of the information required by this section, and the dispensing pharmacist or practitioner shall not be liable for the patient's failure to heed such notice or to follow the instructions for storage.

History.—ss. 1, 2, ch. 93-44; s. 8, ch. 2004-387.

465.026 Filling of certain prescriptions.—Nothing contained in this chapter shall be construed to prohibit a pharmacist licensed in this state from filling or refilling a valid prescription which is on file in a pharmacy located in this state or in another state and has been transferred from one pharmacy to another by any means, including any electronic means, under the following conditions:

(1) Prior to dispensing any transferred prescription, the dispensing pharmacist must, either verbally or by any electronic means, do all of the following:

(a) Advise the patient that the prescription on file at the other pharmacy must be canceled before it may be filled or refilled.

(b) Determine that the prescription is valid and on file at the other pharmacy and that the prescription may be filled or refilled, as requested, in accordance with the prescriber's intent expressed on the prescription.

(c) Notify the pharmacist or pharmacy where the prescription is on file that the prescription must be canceled.

(d) Record in writing, or by any electronic means, the prescription order, the name of the pharmacy at which the prescription was on file, the prescription number, the

name of the drug and the original amount dispensed, the date of original dispensing, and the number of remaining authorized refills.

(e) Obtain the consent of the prescriber to the refilling of the prescription when the prescription, in the dispensing pharmacist's professional judgment, so requires. Any interference with the professional judgment of the dispensing pharmacist by any pharmacist or pharmacy permittee, or its agents or employees, shall be grounds for discipline.

(2) Upon receipt of a prescription transfer request, if the pharmacist is satisfied in her or his professional judgment that the request is valid, or if the request has been validated by any electronic means, the pharmacist or pharmacy must do all of the following:

(a) Transfer the information required by paragraph (1)(d) accurately and completely.

(b) Record on the prescription, or by any electronic means, the requesting pharmacy and pharmacist and the date of request.

(c) Cancel the prescription on file by electronic means or by recording the word "void" on the prescription record. No further prescription information shall be given or medication dispensed pursuant to the original prescription.

(3) If a transferred prescription is not dispensed within a reasonable time, the pharmacist shall, by any means, so notify the transferring pharmacy. Such notice shall serve to revalidate the canceled prescription. The pharmacist who has served such notice shall then cancel the prescription in the same manner as set forth in paragraph (2)(c).

(4) In the case of a prescription to be transferred from or to a pharmacy located in another state, it shall be the responsibility of the pharmacist or pharmacy located in the State of Florida to verify, whether by electronic means or otherwise, that the person or entity involved in the transfer is a licensed pharmacist or pharmacy in the other state.

(5) Electronic transfers of prescriptions are permitted regardless of whether the transferor or transferee pharmacy is open for business.

(6) The transfer of a prescription for medicinal drugs listed in Schedules III, IV, and V appearing in chapter 893 for the purpose of refill dispensing is permissible, subject to the requirements of this section and federal law. Compliance with federal law shall be deemed compliance with the requirements of this section.

History.—ss. 1, 7, ch. 79-226; ss. 2, 3, ch. 81-318; s. 1, ch. 85-71; ss. 17, 26, 27, ch. 86-256; s. 1, ch. 90-2; s. 59, ch. 91-137; s. 6, ch. 91-156; s. 4, ch. 91-429; s. 247, ch. 97-103; s. 93, ch. 97-264; s. 4, ch. 2004-25; s. 9, ch. 2004-387; s. 1, ch. 2006-243.

465.0265 Centralized prescription filling.—

(1) A pharmacy licensed under this chapter may perform centralized prescription filling for another pharmacy, provided that the pharmacies have the same owner or have a written contract specifying the services to be provided by each pharmacy, the responsibilities of each pharmacy, and the manner in which the pharmacies will comply with federal and state laws, rules, and regulations.

(2) Each pharmacy performing or contracting for the performance of centralized prescription filling pursuant to this section must maintain a policy and procedures manual, which shall be made available to the board or its agent upon request. The policy and procedures manual shall include the following information:

(a) A description of how each pharmacy will comply with federal and state laws, rules, and regulations.

(b)The procedure for maintaining appropriate records to identify the pharmacist responsible for dispensing the prescription and counseling the patient.

(c)The procedure for tracking the prescription during each stage of the filling and dispensing process.

(d)The procedure for identifying on the prescription label all pharmacies involved in filling and dispensing the prescription.

(e)The policy and procedure for providing adequate security to protect the confidentiality and integrity of patient information.

(f)The procedure to be used by the pharmacy in implementing and operating a quality assurance program designed to objectively and systematically monitor, evaluate, and improve the quality and appropriateness of patient care.

(3)The filling, delivery, and return of a prescription by one pharmacy for another pursuant to this section shall not be construed as the filling of a transferred prescription as set forth in s. 465.026 or as a wholesale distribution as set forth in s. 499.003(54).

(4)The board shall adopt rules pursuant to ss. 120.536(1) and 120.54 necessary to implement this section.

History.—s. 2, ch. 2002-182; s. 40, ch. 2008-207; s. 38, ch. 2010-161.

465.0266 Common database.—Nothing contained in this chapter shall be construed to prohibit the dispensing by a pharmacist licensed in this state or another state of a prescription contained in a common database, and such dispensing shall not constitute a transfer as defined in s. 465.026(1)-(6), provided that the following conditions are met:

(1)All pharmacies involved in the transactions pursuant to which the prescription is dispensed are under common ownership and utilize a common database.

(2)All pharmacies involved in the transactions pursuant to which the prescription is dispensed and all pharmacists engaging in dispensing functions are properly licensed, permitted, or registered in this state or another state.

(3)The common database maintains a record of all pharmacists involved in the process of dispensing a prescription.

(4)The owner of the common database maintains a policy and procedures manual that governs its participating pharmacies, pharmacists, and pharmacy employees and that is available to the board or its agent upon request. The policy and procedures manual shall include the following information:

(a)A best practices model detailing how each pharmacy and each pharmacist accessing the common database will comply with applicable federal and state laws, rules, and regulations.

(b)The procedure for maintaining appropriate records for regulatory oversight for tracking a prescription during each stage of the filling and dispensing process, identifying the pharmacists involved in filling and dispensing the prescription and counseling the patient, and responding to any requests for information made by the board under s. 465.0156.

(c)The policy and procedure for providing adequate security to protect the confidentiality and integrity of patient information.

(d)A quality assurance program designed to objectively and systematically monitor, evaluate, and improve the quality and appropriateness of patient care through the use of the common database.

Any pharmacist dispensing a prescription has at all times the right and obligation to exercise his or her independent professional judgment. Notwithstanding other provisions in this section, no pharmacist licensed in this state participating in the dispensing of a prescription pursuant to

this section shall be responsible for the acts and omissions of another person participating in the dispensing process provided such person is not under the direct supervision and control of the pharmacist licensed in this state.

History.—s. 2, ch. 2006-243.

465.027 Exceptions.—This chapter shall not be construed to prohibit the sale of home remedies or preparations commonly known as patents or proprietary preparations, when such are sold only in original or unbroken packages, nor shall this chapter be construed to prevent businesses from engaging in the sale of sundries or patents or proprietary preparations.

History.—ss. 1, 7, ch. 79-226; ss. 2, 3, ch. 81-318; ss. 18, 26, 27, ch. 86-256; s. 59, ch. 91-137; s. 6, ch. 91-156; s. 4, ch. 91-429.

465.0275 Emergency prescription refill.—In the event a pharmacist receives a request for a prescription refill and the pharmacist is unable to readily obtain refill authorization from the prescriber, the pharmacist may dispense a one-time emergency refill of up to a 72-hour supply of the prescribed medication, with the exception of those areas or counties included in an emergency order or proclamation of a state of emergency declared by the Governor, in which the executive order may authorize the pharmacist to dispense up to a 30-day supply, providing that:

(1)The prescription is not for a medicinal drug listed in Schedule II appearing in chapter 893.

(2)The medication is essential to the maintenance of life or to the continuation of therapy in a chronic condition.

(3)In the pharmacist's professional judgment, the interruption of therapy might reasonably produce undesirable health consequences or may cause physical or mental discomfort.

(4)The dispensing pharmacist creates a written order containing all of the prescription information required by this chapter and chapters 499 and 893 and signs that order.

(5)The dispensing pharmacist notifies the prescriber of the emergency dispensing within a reasonable time after such dispensing.

History.—ss. 19, 27, ch. 86-256; s. 3, ch. 89-77; s. 59, ch. 91-137; s. 6, ch. 91-156; s. 4, ch. 91-429; s. 30, ch. 93-211.

465.0276 Dispensing practitioner.—

(1)(a)A person may not dispense medicinal drugs unless licensed as a pharmacist or otherwise authorized under this chapter to do so, except that a practitioner authorized by law to prescribe drugs may dispense such drugs to her or his patients in the regular course of her or his practice in compliance with this section.

(b)A practitioner registered under this section may not dispense a controlled substance listed in Schedule II or Schedule III as provided in s. 893.03. This paragraph does not apply to:

1.The dispensing of complimentary packages of medicinal drugs which are labeled as a drug sample or complimentary drug as defined in s. 499.028 to the practitioner's own patients in the regular course of her or his practice without the payment of a fee or remuneration of any kind, whether direct or indirect, as provided in subsection (5).

2.The dispensing of controlled substances in the health care system of the Department of Corrections.

3. The dispensing of a controlled substance listed in Schedule II or Schedule III in connection with the performance of a surgical procedure. The amount dispensed pursuant to the subparagraph may not exceed a 14-day supply. This exception does not allow for the dispensing of a controlled substance listed in Schedule II or Schedule III more than 14 days after the performance of the surgical procedure. For purposes of this subparagraph, the term "surgical procedure" means any procedure in any setting which involves, or reasonably should involve:

a. Perioperative medication and sedation that allows the patient to tolerate unpleasant procedures while maintaining adequate cardiorespiratory function and the ability to respond purposefully to verbal or tactile stimulation and makes intra- and postoperative monitoring necessary; or

b. The use of general anesthesia or major conduction anesthesia and preoperative sedation.

4. The dispensing of a controlled substance listed in Schedule II or Schedule III pursuant to an approved clinical trial. For purposes of this subparagraph, the term "approved clinical trial" means a clinical research study or clinical investigation that, in whole or in part, is state or federally funded or is conducted under an investigational new drug application that is reviewed by the United States Food and Drug Administration.

5. The dispensing of methadone in a facility licensed under s. 397.427 where medication-assisted treatment for opiate addiction is provided.

6. The dispensing of a controlled substance listed in Schedule II or Schedule III to a patient of a facility licensed under part IV of chapter 400.

(2) A practitioner who dispenses medicinal drugs for human consumption for fee or remuneration of any kind, whether direct or indirect, must:

(a) Register with her or his professional licensing board as a dispensing practitioner and pay a fee not to exceed \$100 at the time of such registration and upon each renewal of her or his license. Each appropriate board shall establish such fee by rule.

(b) Comply with and be subject to all laws and rules applicable to pharmacists and pharmacies, including, but not limited to, this chapter and chapters 499 and 893 and all federal laws and federal regulations.

(c) Before dispensing any drug, give the patient a written prescription and orally or in writing advise the patient that the prescription may be filled in the practitioner's office or at any pharmacy.

(3) The department shall inspect any facility where a practitioner dispenses medicinal drugs pursuant to subsection (2) in the same manner and with the same frequency as it inspects pharmacies for the purpose of determining whether the practitioner is in compliance with all statutes and rules applicable to her or his dispensing practice.

(4) The registration of any practitioner who has been found by her or his respective board to have dispensed medicinal drugs in violation of this chapter shall be subject to suspension or revocation.

(5) A practitioner who confines her or his activities to the dispensing of complimentary packages of medicinal drugs to the practitioner's own patients in the regular course of her or his practice, without the payment of fee or remuneration of any kind, whether direct or indirect, and who herself or himself dispenses such drugs is not required to register pursuant to this section. The practitioner must dispense such drugs in the manufacturer's labeled package with the practitioner's name, patient's name, and date dispensed, or, if such drugs are not dispensed in the manufacturer's labeled package, they must be dispensed in a container which bears the following information:

(a) Practitioner's name;

(b) Patient's name;

- (c) Date dispensed;
- (d) Name and strength of drug; and
- (e) Directions for use.

History.—ss. 20, 27, ch. 86-256; s. 1, ch. 88-159; s. 59, ch. 91-137; s. 6, ch. 91-156; s. 4, ch. 91-429; s. 95, ch. 92-149; s. 248, ch. 97-103; s. 11, ch. 2010-211; s. 15, ch. 2011-141.

465.035 Dispensing of medicinal drugs pursuant to facsimile of prescription.—

(1) Notwithstanding any other provision of this chapter, it is lawful for a pharmacy to dispense medicinal drugs, including controlled substances authorized under subsection (2), based on reception of an electronic facsimile of the original prescription if all of the following conditions are met:

(a) In the course of the transaction the pharmacy complies with laws and administrative rules relating to pharmacies and pharmacists.

(b) Except in the case of the transmission of a prescription by a person authorized by law to prescribe medicinal drugs:

1. The facsimile system making the transmission provides the pharmacy receiving the transmission with audio communication via telephonic, electronic, or similar means with the person presenting the prescription.

2. At the time of the delivery of the medicinal drugs, the pharmacy has in its possession the original prescription for the medicinal drug involved.

3. The recipient of the prescription shall sign a log and shall indicate the name and address of both the recipient and the patient for whom the medicinal drug was prescribed.

(2) Controlled substances listed in Schedule II as defined in s. 893.03(2) may be dispensed as provided in this section to the extent allowed by 21 C.F.R. s. 1306.11. History.—s. 5, ch. 90-341; s. 59, ch. 91-137; s. 6, ch. 91-156; s. 8, ch. 91-201; s. 4, ch. 91-429; s. 94, ch. 97-264; s. 5, ch. 99-186.

465.185 Rebates prohibited; penalties.—

(1) It is unlawful for any person to pay or receive any commission, bonus, kickback, or rebate or engage in any split-fee arrangement in any form whatsoever with any physician, surgeon, organization, agency, or person, either directly or indirectly, for patients referred to a pharmacy registered under this chapter.

(2) The department shall adopt rules which assess administrative penalties for acts prohibited by subsection (1). In the case of an entity licensed by the department, such penalties may include any disciplinary action available to the department under the appropriate licensing laws. In the case of an entity not licensed by the department, such penalties may include:

(a) A fine not to exceed \$1,000.

(b) If applicable, a recommendation by the department to the appropriate regulatory agency that disciplinary action be taken.

History.—s. 2, ch. 79-106; s. 326, ch. 81-259; s. 2, ch. 81-318; ss. 26, 27, ch. 86-256; s. 59, ch. 91-137; s. 6, ch. 91-156; s. 4, ch. 91-429; s. 125, ch. 92-149.

465.186 Pharmacist's order for medicinal drugs; dispensing procedure; development of formulary.—

(1) There is hereby created a committee composed of two members of the Board of Medicine licensed under chapter 458 chosen by said board, one member of the Board of Osteopathic Medicine licensed under chapter 459 chosen by said board, three members of the Board of Pharmacy licensed under this chapter and chosen by said board, and one additional person with a background in health care or pharmacology

chosen by the committee. The committee shall establish a formulary of medicinal drug products and dispensing procedures which shall be used by a pharmacist when ordering and dispensing such drug products to the public. Dispensing procedures may include matters related to reception of patient, description of his or her condition, patient interview, patient physician referral, product selection, and dispensing and use limitations. In developing the formulary of medicinal drug products, the committee may include products falling within the following categories:

(a) Any medicinal drug of single or multiple active ingredients in any strengths when such active ingredients have been approved individually or in combination for over-the-counter sale by the United States Food and Drug Administration.

(b) Any medicinal drug recommended by the United States Food and Drug Administration Advisory Panel for transfer to over-the-counter status pending approval by the United States Food and Drug Administration.

(c) Any medicinal drug containing any antihistamine or decongestant as a single active ingredient or in combination.

(d) Any medicinal drug containing fluoride in any strength.

(e) Any medicinal drug containing lindane in any strength.

(f) Any over-the-counter proprietary drug under federal law that has been approved for reimbursement by the Florida Medicaid Program.

(g) Any topical anti-infectives excluding eye and ear topical anti-infectives.

However, any drug which is sold as an over-the-counter proprietary drug under federal law shall not be included in the formulary or otherwise affected by this section.

(2) The Board of Pharmacy, the Board of Medicine, and the Board of Osteopathic Medicine shall adopt by rule a formulary of medicinal drugs and dispensing procedures as established by the committee. A pharmacist may order and dispense a product from the formulary pursuant to the established dispensing procedure, as adopted by the boards, for each drug in conjunction with its inclusion in the formulary. Any drug product ordered by a pharmacist shall be selected and dispensed only by the pharmacist so ordering, and said order shall not be refilled, nor shall another medicinal drug be ordered for the same condition unless such act is consistent with dispensing procedures established by the committee. Appropriate referral to another health care provider is indicated under such circumstances. On each occasion of such dispensing, the pharmacist shall create and maintain a prescription record in the form required by law.

(3) Affixed to the container containing a medicinal drug dispensed pursuant to this section shall be a label bearing the following information:

(a) The name of the pharmacist ordering the medication.

(b) The name and address of the pharmacy from which the medication was dispensed.

(c) The date of dispensing.

(d) The order number or other identification adequate to readily identify the order.

(e) The name of the patient for whom the medicinal drug was ordered.

(f) The directions for use of the medicinal drug ordered.

(g) A clear, concise statement that the order may not be refilled.

(4) Any pharmacist performing the services authorized by this section shall be eligible for reimbursement by third party prescription programs when so provided by contract or when otherwise provided by such program.

(5) Any person ordering or dispensing medicinal drugs in violation of this section shall be guilty of a misdemeanor of the first degree, and such violation shall be punishable as provided in s. 775.082 or s. 775.083.

History.—ss. 2, 3, ch. 85-35; ss. 26, 27, ch. 86-256; s. 56, ch. 87-225; s. 59, ch. 91-137; s. 21, ch. 91-140; s. 6, ch. 91-156; s. 21, ch. 91-220; s. 92, ch. 91-224; s. 4, ch. 91-429; s. 96, ch. 92-149; s. 249, ch. 97-103; s. 95, ch. 97-264.

465.187 Sale of medicinal drugs.—The sale of medicinal drugs dispensed upon the order of a practitioner pursuant to this chapter shall be entitled to the exemption from sales tax provided for in s. 212.08.

History.—ss. 21, 27, ch. 86-256; s. 59, ch. 91-137; s. 6, ch. 91-156; s. 4, ch. 91-429.

465.188 Medicaid audits of pharmacies.—

(1) Notwithstanding any other law, when an audit of the Medicaid-related records of a pharmacy licensed under chapter 465 is conducted, such audit must be conducted as provided in this section.

(a) The agency conducting the audit must give the pharmacist at least 1 week's prior notice of the initial audit for each audit cycle.

(b) An audit must be conducted by a pharmacist licensed in this state.

(c) Any clerical or recordkeeping error, such as a typographical error, scrivener's error, or computer error regarding a document or record required under the Medicaid program does not constitute a willful violation and is not subject to criminal penalties without proof of intent to commit fraud.

(d) A pharmacist may use the physician's record or other order for drugs or medicinal supplies written or transmitted by any means of communication for purposes of validating the pharmacy record with respect to orders or refills of a legend or narcotic drug.

(e) A finding of an overpayment or underpayment must be based on the actual overpayment or underpayment and may not be a projection based on the number of patients served having a similar diagnosis or on the number of similar orders or refills for similar drugs.

(f) Each pharmacy shall be audited under the same standards and parameters.

(g) A pharmacist must be allowed at least 10 days in which to produce documentation to address any discrepancy found during an audit.

(h) The period covered by an audit may not exceed 1 calendar year.

(i) An audit may not be scheduled during the first 5 days of any month due to the high volume of prescriptions filled during that time.

(j) The audit report must be delivered to the pharmacist within 90 days after conclusion of the audit. A final audit report shall be delivered to the pharmacist within 6 months after receipt of the preliminary audit report or final appeal, as provided for in subsection (2), whichever is later.

(k) The audit criteria set forth in this section applies only to audits of claims submitted for payment subsequent to July 11, 2003. Notwithstanding any other provision in this section, the agency conducting the audit shall not use the accounting practice of extrapolation in calculating penalties for Medicaid audits.

(2) The Agency for Health Care Administration shall establish a process under which a pharmacist may obtain a preliminary review of an audit report and may appeal an unfavorable audit report without the necessity of obtaining legal counsel. The preliminary review and appeal may be conducted by an ad hoc peer review panel, appointed by the agency, which consists of pharmacists who maintain an active practice. If, following the preliminary review, the agency or review panel finds that an unfavorable audit report is unsubstantiated, the agency shall dismiss the audit report without the necessity of any further proceedings.

(3) This section does not apply to investigative audits conducted by the Medicaid Fraud Control Unit of the Department of Legal Affairs.

(4) This section does not apply to any investigative audit conducted by the Agency for Health Care Administration when the agency has reliable evidence that the claim that is the subject of the audit involves fraud, willful misrepresentation, or abuse under the Medicaid program.

History.—s. 1, ch. 2003-277; s. 11, ch. 2004-344.

465.189 Administration of vaccines and epinephrine autoinjection.—

(1) In accordance with guidelines of the Centers for Disease Control and Prevention for each recommended immunization or vaccine, a pharmacist may administer the following vaccines to an adult within the framework of an established protocol under a supervising physician licensed under chapter 458 or chapter 459:

(a) Influenza vaccine.

(b) Pneumococcal vaccine.

(2) In accordance with guidelines of the Centers for Disease Control and Prevention, a pharmacist may administer the shingles vaccine within the framework of an established protocol and pursuant to a written or electronic prescription issued to the patient by a physician licensed under chapter 458 or chapter 459.

(3) In order to address any unforeseen allergic reaction, a pharmacist may administer epinephrine using an autoinjector delivery system within the framework of an established protocol under a supervising physician licensed under chapter 458 or chapter 459.

(4) A pharmacist may not enter into a protocol unless he or she maintains at least \$200,000 of professional liability insurance and has completed training in administering vaccines authorized under this section.

(5) A pharmacist administering vaccines under this section shall maintain and make available patient records using the same standards for confidentiality and maintenance of such records as those that are imposed on health care practitioners under s. 456.057. These records shall be maintained for a minimum of 5 years.

(6) The decision by a supervising physician licensed under chapter 458 or chapter 459 to enter into a protocol under this section is a professional decision on the part of the practitioner, and a person may not interfere with a physician's decision as to entering into such a protocol. A pharmacist may not enter into a protocol that is to be performed while acting as an employee without the written approval of the owner of the pharmacy. Pharmacists shall forward vaccination records to the department for inclusion in the state registry of immunization information.

(7) Any pharmacist seeking to administer vaccines to adults under this section must be certified to administer such vaccines pursuant to a certification program approved by the Board of Pharmacy in consultation with the Board of Medicine and the Board of Osteopathic Medicine. The certification program shall, at a minimum, require that the pharmacist attend at least 20 hours of continuing education classes approved by the board. The program shall have a curriculum of instruction concerning the safe and effective administration of such vaccines, including, but not limited to, potential allergic reactions to such vaccines.

(8) The written protocol between the pharmacist and supervising physician under this section must include particular terms and conditions imposed by the supervising physician upon the pharmacist relating to the administration of vaccines by the pharmacist pursuant to this section. The written protocol shall include, at a minimum, specific categories and conditions among patients for whom the supervising physician authorizes the pharmacist to administer such vaccines. The terms, scope, and conditions set forth in the written protocol between the pharmacist

and the supervising physician must be appropriate to the pharmacist's training and certification for administering such vaccines. Pharmacists who have been delegated the authority to administer vaccines under this section by the supervising physician under the protocol shall provide evidence of current certification by the Board of Pharmacy to the supervising physician. A supervising physician shall review the administration of such vaccines by the pharmacist pursuant to the written protocol between them, and this review shall take place as outlined in the written protocol. The process and schedule for the review shall be outlined in the written protocol between the pharmacist and the supervising physician.

(9)The pharmacist shall submit to the Board of Pharmacy a copy of his or her protocol or written agreement to administer vaccines under this section.
History.—s. 3, ch. 2007-152; s. 1, ch. 2012-60.

465.1901 Practice of orthotics and pedorthics.—The provisions of chapter 468 relating to orthotics or pedorthics do not apply to any licensed pharmacist or to any person acting under the supervision of a licensed pharmacist. The practice of orthotics or pedorthics by a pharmacist or any of the pharmacist's employees acting under the supervision of a pharmacist shall be construed to be within the meaning of the term "practice of the profession of pharmacy" as set forth in s. 465.003(13), and shall be subject to regulation in the same manner as any other pharmacy practice. The Board of Pharmacy shall develop rules regarding the practice of orthotics and pedorthics by a pharmacist. Any pharmacist or person under the supervision of a pharmacist engaged in the practice of orthotics or pedorthics is not precluded from continuing that practice pending adoption of these rules.
History.—s. 3, ch. 2009-202.

CHAPTER 893

DRUG ABUSE PREVENTION AND CONTROL

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893.01 Short title.—This chapter shall be cited and known as the “Florida Comprehensive Drug Abuse Prevention and Control Act.”

History.—s. 1, ch. 73-331.

893.02 Definitions.—The following words and phrases as used in this chapter shall have the following meanings, unless the context otherwise requires:

(1) “Administer” means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a person or animal.

(2) “Analog” or “chemical analog” means a structural derivative of a parent compound that is a controlled substance.

(3) “Cannabis” means all parts of any plant of the genus *Cannabis*, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin.

(4) “Controlled substance” means any substance named or described in Schedules I-V of s.

893.03. Laws controlling the manufacture, distribution, preparation, dispensing, or administration of such substances are drug abuse laws.

(5) “Cultivating” means the preparation of any soil or hydroponic medium for the planting of a controlled substance or the tending and care or harvesting of a controlled substance.

(6) “Deliver” or “delivery” means the actual, constructive, or attempted transfer from one person to another of a controlled substance, whether or not there is an agency relationship.

(7) “Dispense” means the transfer of possession of one or more doses of a medicinal drug by a pharmacist or other licensed practitioner to the ultimate consumer thereof or to one who represents that it is his or her intention not to consume or use the same but to transfer the same to the ultimate consumer or user for consumption by the ultimate consumer or user.

(8) “Distribute” means to deliver, other than by administering or dispensing, a controlled substance.

(9)“Distributor” means a person who distributes.

(10)“Department” means the Department of Health.

(11)“Homologue” means a chemical compound in a series in which each compound differs by one or more alkyl functional groups on an alkyl side chain.

(12)“Hospital” means an institution for the care and treatment of the sick and injured, licensed pursuant to the provisions of chapter 395 or owned or operated by the state or Federal Government.

(13)“Laboratory” means a laboratory approved by the Drug Enforcement Administration as proper to be entrusted with the custody of controlled substances for scientific, medical, or instructional purposes or to aid law enforcement officers and prosecuting attorneys in the enforcement of this chapter.

(14)“Listed chemical” means any precursor chemical or essential chemical named or described in s. 893.033.

(15)(a)“Manufacture” means the production, preparation, propagation, compounding, cultivating, growing, conversion, or processing of a controlled substance, either directly or indirectly, by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging of the substance or labeling or relabeling of its container, except that this term does not include the preparation, compounding, packaging, or labeling of a controlled substance by:

1.A practitioner or pharmacist as an incident to his or her administering or delivering of a controlled substance in the course of his or her professional practice.

2.A practitioner, or by his or her authorized agent under the practitioner’s supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis, and not for sale.

(b)“Manufacturer” means and includes every person who prepares, derives, produces, compounds, or repackages any drug as defined by the Florida Drug and Cosmetic Act. However, this definition does not apply to manufacturers of patent or proprietary preparations as defined in the Florida Pharmacy Act. Pharmacies, and pharmacists employed thereby, are specifically excluded from this definition.

(16)“Mixture” means any physical combination of two or more substances.

(17)“Patient” means an individual to whom a controlled substance is lawfully dispensed or administered pursuant to the provisions of this chapter.

(18)“Pharmacist” means a person who is licensed pursuant to chapter 465 to practice the profession of pharmacy in this state.

(19)“Possession” includes temporary possession for the purpose of verification or testing, irrespective of dominion or control.

(20)“Potential for abuse” means that a substance has properties of a central nervous system

stimulant or depressant or an hallucinogen that create a substantial likelihood of its being:

- (a)Used in amounts that create a hazard to the user's health or the safety of the community;
- (b)Diverted from legal channels and distributed through illegal channels; or
- (c)Taken on the user's own initiative rather than on the basis of professional medical advice.

Proof of potential for abuse can be based upon a showing that these activities are already taking place, or upon a showing that the nature and properties of the substance make it reasonable to assume that there is a substantial likelihood that such activities will take place, in other than isolated or occasional instances.

(21)“Practitioner” means a physician licensed pursuant to chapter 458, a dentist licensed pursuant to chapter 466, a veterinarian licensed pursuant to chapter 474, an osteopathic physician licensed pursuant to chapter 459, a naturopath licensed pursuant to chapter 462, or a podiatric physician licensed pursuant to chapter 461, provided such practitioner holds a valid federal controlled substance registry number.

(22)“Prescription” means and includes an order for drugs or medicinal supplies written, signed, or transmitted by word of mouth, telephone, telegram, or other means of communication by a duly licensed practitioner licensed by the laws of the state to prescribe such drugs or medicinal supplies, issued in good faith and in the course of professional practice, intended to be filled, compounded, or dispensed by another person licensed by the laws of the state to do so, and meeting the requirements of s. 893.04. The term also includes an order for drugs or medicinal supplies so transmitted or written by a physician, dentist, veterinarian, or other practitioner licensed to practice in a state other than Florida, but only if the pharmacist called upon to fill such an order determines, in the exercise of his or her professional judgment, that the order was issued pursuant to a valid patient-physician relationship, that it is authentic, and that the drugs or medicinal supplies so ordered are considered necessary for the continuation of treatment of a chronic or recurrent illness. However, if the physician writing the prescription is not known to the pharmacist, the pharmacist shall obtain proof to a reasonable certainty of the validity of said prescription. A prescription order for a controlled substance shall not be issued on the same prescription blank with another prescription order for a controlled substance which is named or described in a different schedule, nor shall any prescription order for a controlled substance be issued on the same prescription blank as a prescription order for a medicinal drug, as defined in s. 465.003(8), which does not fall within the definition of a controlled substance as defined in this act.

(23)“Wholesaler” means any person who acts as a jobber, wholesale merchant, or broker, or an agent thereof, who sells or distributes for resale any drug as defined by the Florida Drug and Cosmetic Act. However, this definition does not apply to persons who sell only patent or proprietary preparations as defined in the Florida Pharmacy Act. Pharmacies, and pharmacists

employed thereby, are specifically excluded from this definition.

History.—s. 2, ch. 73-331; s. 1, ch. 75-18; s. 470, ch. 77-147; s. 1, ch. 77-174; s. 184, ch. 79-164; s. 1, ch. 79-325; s. 37, ch. 82-225; s. 169, ch. 83-216; s. 1, ch. 85-242; s. 1, ch. 91-279; s. 1, ch. 92-19; s. 1434, ch. 97-102; s. 104, ch. 97-264; s. 234, ch. 98-166; s. 300, ch. 99-8; s. 10, ch. 99-186; s. 1, ch. 2000-320; s. 3, ch. 2001-55; s. 10, ch. 2002-78; s. 13, ch. 2005-128; s. 1, ch. 2008-184; s. 18, ch. 2010-117; s. 1, ch. 2011-73.

893.03 Standards and schedules.—The substances enumerated in this section are controlled by this chapter. The controlled substances listed or to be listed in Schedules I, II, III, IV, and V are included by whatever official, common, usual, chemical, or trade name designated. The provisions of this section shall not be construed to include within any of the schedules contained in this section any excluded drugs listed within the purview of 21 C.F.R. s. 1308.22, styled “Excluded Substances”; 21 C.F.R. s. 1308.24, styled “Exempt Chemical Preparations”; 21 C.F.R. s. 1308.32, styled “Exempted Prescription Products”; or 21 C.F.R. s. 1308.34, styled “Exempt Anabolic Steroid Products.”

(1) **SCHEDULE I.**—A substance in Schedule I has a high potential for abuse and has no currently accepted medical use in treatment in the United States and in its use under medical supervision does not meet accepted safety standards. The following substances are controlled in Schedule I:

(a) Unless specifically excepted or unless listed in another schedule, any of the following substances, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation:

1. Acetyl-alpha-methylfentanyl.
2. Acetylmethadol.
3. Allylprodine.
4. Alphacetylmethadol (except levo-alphacetylmethadol, also known as levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM).
5. Alphamethadol.
6. Alpha-methylfentanyl (N-[1-(alpha-methyl-betaphenyl) ethyl-4-piperidyl] propionanilide; 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine).
7. Alpha-methylthiofentanyl.
8. Alphameprodine.
9. Benzethidine.
10. Benzylfentanyl.
11. Betacetylmethadol.
12. Beta-hydroxyfentanyl.
13. Beta-hydroxy-3-methylfentanyl.
14. Betameprodine.

15. Betamethadol.
16. Betaprodine.
17. Clonitazene.
18. Dextromoramide.
19. Diampromide.
20. Diethylthiambutene.
21. Difenoxin.
22. Dimenoxadol.
23. Dimepheptanol.
24. Dimethylthiambutene.
25. Dioxaphetyl butyrate.
26. Dipipanone.
27. Ethylmethylthiambutene.
28. Etonitazene.
29. Etoxidine.
30. Flunitrazepam.
31. Furethidine.
32. Hydroxypethidine.
33. Ketobemidone.
34. Levomoramide.
35. Levophenacilmorphan.
36. 1-Methyl-4-Phenyl-4-Propionoxypiperidine (MPPP).
37. 3-Methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide).
38. 3-Methylthiofentanyl.
39. 3, 4-Methylenedioxymethamphetamine (MDMA).
40. Morpheridine.
41. Noracymethadol.
42. Norlevorphanol.
43. Normethadone.
44. Norpipanone.
45. Para-Fluorofentanyl.
46. Phenadoxone.
47. Phenampromide.
48. Phenomorphan.

49. Phenoperidine.
50. 1-(2-Phenylethyl)-4-Phenyl-4-Acetyloxypiperidine (PEPAP).
51. Piritramide.
52. Proheptazine.
53. Properidine.
54. Propiram.
55. Racemoramide.
56. Thenylfentanyl.
57. Thiofentanyl.
58. Tilidine.
59. Trimeperidine.

(b) Unless specifically excepted or unless listed in another schedule, any of the following substances, their salts, isomers, and salts of isomers, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

1. Acetorphine.
2. Acetyldihydrocodeine.
3. Benzylmorphine.
4. Codeine methylbromide.
5. Codeine-N-Oxide.
6. Cyprenorphine.
7. Desomorphine.
8. Dihydromorphine.
9. Drotebanol.
10. Etorphine (except hydrochloride salt).
11. Heroin.
12. Hydromorphanol.
13. Methyldesorphine.
14. Methyldihydromorphine.
15. Monoacetylmorphine.
16. Morphine methylbromide.
17. Morphine methylsulfonate.
18. Morphine-N-Oxide.
19. Myrophine.
20. Nicocodine.
21. Nicomorphine.
22. Normorphine.

23. Pholcodine.

24. Thebacon.

(c) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of the following hallucinogenic substances or that contains any of their salts, isomers, and salts of isomers, if the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

1. Alpha-ethyltryptamine.

2. 2-Amino-4-methyl-5-phenyl-2-oxazoline (4-methylaminorex).

3. 2-Amino-5-phenyl-2-oxazoline (Aminorex).

4. 4-Bromo-2,5-dimethoxyamphetamine.

5. 4-Bromo-2,5-dimethoxyphenethylamine.

6. Bufotenine.

7. Cannabis.

8. Cathinone.

9. Diethyltryptamine.

10. 2,5-Dimethoxyamphetamine.

11. 2,5-Dimethoxy-4-ethylamphetamine (DOET).

12. Dimethyltryptamine.

13. N-Ethyl-1-phenylcyclohexylamine (PCE) (Ethylamine analog of phencyclidine).

14. N-Ethyl-3-piperidyl benzilate.

15. N-ethylamphetamine.

16. Fenethylamine.

17. N-Hydroxy-3,4-methylenedioxyamphetamine.

18. Ibogaine.

19. Lysergic acid diethylamide (LSD).

20. Mescaline.

21. Methcathinone.

22. 5-Methoxy-3,4-methylenedioxyamphetamine.

23. 4-methoxyamphetamine.

24. 4-methoxymethamphetamine.

25. 4-Methyl-2,5-dimethoxyamphetamine.

26. 3,4-Methylenedioxy-N-ethylamphetamine.

27. 3,4-Methylenedioxyamphetamine.

28. N-Methyl-3-piperidyl benzilate.

29. N,N-dimethylamphetamine.

30. Parahexyl.

31. Peyote.

32. N-(1-Phenylcyclohexyl)-pyrrolidine (PCPY) (Pyrrolidine analog of phencyclidine).

33. Psilocybin.

34. Psilocyn.

35. *Salvia divinorum*, except for any drug product approved by the United States Food and Drug Administration which contains *Salvia divinorum* or its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, if the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation.

36. Salvinorin A, except for any drug product approved by the United States Food and Drug Administration which contains Salvinorin A or its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, if the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation.

37. Tetrahydrocannabinols.

38. 1-[1-(2-Thienyl)-cyclohexyl]-piperidine (TCP) (Thiophene analog of phencyclidine).

39. 3,4,5-Trimethoxyamphetamine.

40. 3,4-Methylenedioxymethcathinone.

41. 3,4-Methylenedioxypyrovalerone (MDPV).

42. Methylmethcathinone.

43. Methoxymethcathinone.

44. Fluoromethcathinone.

45. Methylethcathinone.

46. 2-[(1R,3S)-3-hydroxycyclohexyl]-5-(2-methyloctan-2-yl)phenol, also known as CP 47,497 and its dimethyloctyl (C8) homologue.

47. (6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo [c]chromen-1-ol, also known as HU-210.

48. 1-Pentyl-3-(1-naphthoyl)indole, also known as JWH-018.

49. 1-Butyl-3-(1-naphthoyl)indole, also known as JWH-073.

50. 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl) indole, also known as JWH-200.

51. BZP (Benzylpiperazine).

52. Fluorophenylpiperazine.

53. Methylphenylpiperazine.

54. Chlorophenylpiperazine.

55. Methoxyphenylpiperazine.

56. DBZP (1,4-dibenzylpiperazine).

57. TFMPP (3-Trifluoromethylphenylpiperazine).

58. MBDB (Methylbenzodioxolylbutanamine).

59. 5-Hydroxy-alpha-methyltryptamine.
60. 5-Hydroxy-N-methyltryptamine.
61. 5-Methoxy-N-methyl-N-isopropyltryptamine.
62. 5-Methoxy-alpha-methyltryptamine.
63. Methyltryptamine.
64. 5-Methoxy-N,N-dimethyltryptamine.
65. 5-Methyl-N,N-dimethyltryptamine.
66. Tyramine (4-Hydroxyphenethylamine).
67. 5-Methoxy-N,N-Diisopropyltryptamine.
68. DiPT (N,N-Diisopropyltryptamine).
69. DPT (N,N-Dipropyltryptamine).
70. 4-Hydroxy-N,N-diisopropyltryptamine.
71. N,N-Diallyl-5-Methoxytryptamine.
72. DOI (4-Iodo-2,5-dimethoxyamphetamine).
73. DOC (4-Chloro-2,5-dimethoxyamphetamine).
74. 2C-E (4-Ethyl-2,5-dimethoxyphenethylamine).
75. 2C-T-4 (2,5-Dimethoxy-4-isopropylthiophenethylamine).
76. 2C-C (4-Chloro-2,5-dimethoxyphenethylamine).
77. 2C-T (2,5-Dimethoxy-4-methylthiophenethylamine).
78. 2C-T-2 (2,5-Dimethoxy-4-ethylthiophenethylamine).
79. 2C-T-7 (2,5-Dimethoxy-4-(n)-propylthiophenethylamine).
80. 2C-I (4-Iodo-2,5-dimethoxyphenethylamine).
81. Butylone (beta-keto-N-methylbenzodioxolylpropylamine).
82. Ethcathinone.
83. Ethylone (3,4-methylenedioxy-N-ethylcathinone).
84. Naphyrone (naphthylpyrovalerone).
85. N-N-Dimethyl-3,4-methylenedioxycathinone.
86. N-N-Diethyl-3,4-methylenedioxycathinone.
87. 3,4-methylenedioxy-propiofenone.
88. 2-Bromo-3,4-Methylenedioxypropiofenone.
89. 3,4-methylenedioxy-propiofenone-2-oxime.
90. N-Acetyl-3,4-methylenedioxycathinone.
91. N-Acetyl-N-Methyl-3,4-Methylenedioxycathinone.
92. N-Acetyl-N-Ethyl-3,4-Methylenedioxycathinone.
93. Bromomethcathinone.
94. Buphedrone (alpha-methylamino-butyrophenone).

95. Eutylone (beta-Keto-Ethylbenzodioxolylbutanamine).
96. Dimethylcathinone.
97. Dimethylmethcathinone.
98. Pentylone (beta-Keto-Methylbenzodioxolylpentanamine).
99. (MDPPP) 3,4-Methylenedioxy-alpha-pyrrolidinopropiophenone.
100. (MDPBP) 3,4-Methylenedioxy-alpha-pyrrolidinobutiophenone.
101. Methoxy-alpha-pyrrolidinopropiophenone (MOPPP).
102. Methyl-alpha-pyrrolidinohexiophenone (MPHP).
103. Benocyclidine (BCP) or benzothiophenylcyclohexylpiperidine (BTCP).
104. Fluoromethylaminobutyrophenone (F-MABP).
105. Methoxypyrrolidinobutyrophenone (MeO-PBP).
106. Ethyl-pyrrolidinobutyrophenone (Et-PBP).
107. 3-Methyl-4-Methoxymethcathinone (3-Me-4-MeO-MCAT).
108. Methylethylaminobutyrophenone (Me-EABP).
109. Methylamino-butyrophenone (MABP).
110. Pyrrolidinopropiophenone (PPP).
111. Pyrrolidinobutiophenone (PBP).
112. Pyrrolidinovalerophenone (PVP).
113. Methyl-alpha-pyrrolidinopropiophenone (MPPP).
114. JWH-007 (1-pentyl-2-methyl-3-(1-naphthoyl)indole).
115. JWH-015 (2-Methyl-1-propyl-1H-indol-3-yl)-1-naphthalenylmethanone).
116. JWH-019 (Naphthalen-1-yl-(1-hexylindol-3-yl)methanone).
117. JWH-020 (1-heptyl-3-(1-naphthoyl)indole).
118. JWH-072 (Naphthalen-1-yl-(1-propyl-1H-indol-3-yl)methanone).
119. JWH-081 (4-methoxynaphthalen-1-yl-(1-pentylindol-3-yl)methanone).
120. JWH-122 (1-Pentyl-3-(4-methyl-1-naphthoyl)indole).
121. JWH-133 ((6aR,10aR)-3-(1,1-Dimethylbutyl)-6a,7,10,10a-tetrahydro-6,6,9-trimethyl-6H-dibenzo[b,d]pyran)).
122. JWH-175 (3-(naphthalen-1-ylmethyl)-1-pentyl-1H-indole).
123. JWH-201 (1-pentyl-3-(4-methoxyphenylacetyl)indole).
124. JWH-203 (2-(2-chlorophenyl)-1-(1-pentylindol-3-yl)ethanone).
125. JWH-210 (4-ethylnaphthalen-1-yl-(1-pentylindol-3-yl)methanone).
126. JWH-250 (2-(2-methoxyphenyl)-1-(1-pentylindol-3-yl)ethanone).
127. JWH-251 (2-(2-methylphenyl)-1-(1-pentyl-1H-indol-3-yl)ethanone).
128. JWH-302 (1-pentyl-3-(3-methoxyphenylacetyl)indole).
129. JWH-398 (1-pentyl-3-(4-chloro-1-naphthoyl)indole).

130.HU-211 ((6aS,10aS)-9-(Hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol).

131.HU-308 ([[(1R,2R,5R)-2-[2,6-dimethoxy-4-(2-methyloctan-2-yl)phenyl]-7,7-dimethyl-4-bicyclo[3.1.1]hept-3-enyl] methanol).

132.HU-331 (3-hydroxy-2-[(1R,6R)-3-methyl-6-(1-methylethenyl)-2-cyclohexen-1-yl]-5-pentyl-2,5-cyclohexadiene-1,4-dione).

133.CB-13 (Naphthalen-1-yl-(4-pentyloxynaphthalen-1-yl)methanone).

134.CB-25 (N-cyclopropyl-11-(3-hydroxy-5-pentylphenoxy)-undecanamide).

135.CB-52 (N-cyclopropyl-11-(2-hexyl-5-hydroxyphenoxy)-undecanamide).

136.CP 55,940 (2-[(1R,2R,5R)-5-hydroxy-2-(3-hydroxypropyl)cyclohexyl]-5-(2-methyloctan-2-yl)phenol).

137.AM-694 (1-[(5-fluoropentyl)-1H-indol-3-yl]-(2-iodophenyl)methanone).

138.AM-2201 (1-[(5-fluoropentyl)-1H-indol-3-yl]-(naphthalen-1-yl)methanone).

139.RCS-4 ((4-methoxyphenyl) (1-pentyl-1H-indol-3-yl)methanone).

140.RCS-8 (1-(1-(2-cyclohexylethyl)-1H-indol-3-yl)-2-(2-methoxyphenylethyl)methanone).

141.WIN55,212-2 ((R)-(+)-[2,3-Dihydro-5-methyl-3-(4-morpholinylmethyl)pyrrolo[1,2,3-de]-1,4-benzoxazin-6-yl]-1-naphthalenylmethanone).

142.WIN55,212-3 ([[(3S)-2,3-Dihydro-5-methyl-3-(4-morpholinylmethyl)pyrrolo[1,2,3-de]-1,4-benzoxazin-6-yl]-1-naphthalenylmethanone).

(d)Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, including any of its salts, isomers, optical isomers, salts of their isomers, and salts of these optical isomers whenever the existence of such isomers and salts is possible within the specific chemical designation:

1.1,4-Butanediol.

2.Gamma-butyrolactone (GBL).

3.Gamma-hydroxybutyric acid (GHB).

4.Methaqualone.

5.Mecloqualone.

(2)SCHEDULE II.—A substance in Schedule II has a high potential for abuse and has a currently accepted but severely restricted medical use in treatment in the United States, and abuse of the substance may lead to severe psychological or physical dependence. The following substances are controlled in Schedule II:

(a)Unless specifically excepted or unless listed in another schedule, any of the following substances, whether produced directly or indirectly by extraction from substances of vegetable origin or independently by means of chemical synthesis:

1. Opium and any salt, compound, derivative, or preparation of opium, except nalmeferone or isoquinoline alkaloids of opium, including, but not limited to the following:

- a. Raw opium.
- b. Opium extracts.
- c. Opium fluid extracts.
- d. Powdered opium.
- e. Granulated opium.
- f. Tincture of opium.
- g. Codeine.
- h. Ethylmorphine.
- i. Etorphine hydrochloride.
- j. Hydrocodone.
- k. Hydromorphone.

l. Levo-alpha-acetylmethadol (also known as levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM).

- m. Metopon (methyldihydromorphinone).
- n. Morphine.
- o. Oxycodone.
- p. Oxymorphone.
- q. Thebaine.

2. Any salt, compound, derivative, or preparation of a substance which is chemically equivalent to or identical with any of the substances referred to in subparagraph 1., except that these substances shall not include the isoquinoline alkaloids of opium.

3. Any part of the plant of the species *Papaver somniferum*, L.

4. Cocaine or ecgonine, including any of their stereoisomers, and any salt, compound, derivative, or preparation of cocaine or ecgonine.

(b) Unless specifically excepted or unless listed in another schedule, any of the following substances, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation:

- 1. Alfentanil.
- 2. Alphaprodine.
- 3. Anileridine.
- 4. Bezitramide.
- 5. Bulk propoxyphene (nondosage forms).
- 6. Carfentanil.

7. Dihydrocodeine.
8. Diphenoxylate.
9. Fentanyl.
10. Isomethadone.
11. Levomethorphan.
12. Levorphanol.
13. Metazocine.
14. Methadone.
15. Methadone-Intermediate, 4-cyano-2-dimethylamino-4,4-diphenylbutane.
16. Moramide-Intermediate, 2-methyl-3-morpholino-1,1-diphenylpropane-carboxylic acid.
17. Nabilone.
18. Pethidine (meperidine).
19. Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine.
20. Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate.
21. Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid.
22. Phenazocine.
23. Phencyclidine.
24. 1-Phenylcyclohexylamine.
25. Piminodine.
26. 1-Piperidinocyclohexanecarbonitrile.
27. Racemethorphan.
28. Racemorphan.
29. Sufentanil.

(c) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, including their salts, isomers, optical isomers, salts of their isomers, and salts of their optical isomers:

1. Amobarbital.
2. Amphetamine.
3. Glutethimide.
4. Methamphetamine.
5. Methylphenidate.
6. Pentobarbital.

7. Phenmetrazine.

8. Phenylacetone.

9. Secobarbital.

(3) SCHEDULE III.—A substance in Schedule III has a potential for abuse less than the substances contained in Schedules I and II and has a currently accepted medical use in treatment in the United States, and abuse of the substance may lead to moderate or low physical dependence or high psychological dependence or, in the case of anabolic steroids, may lead to physical damage. The following substances are controlled in Schedule III:

(a) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant or stimulant effect on the nervous system:

1. Any substance which contains any quantity of a derivative of barbituric acid, including thiobarbituric acid, or any salt of a derivative of barbituric acid or thiobarbituric acid, including, but not limited to, butabarbital and butalbital.

2. Benzphetamine.

3. Chlorhexadol.

4. Chlorphentermine.

5. Clortermine.

6. Lysergic acid.

7. Lysergic acid amide.

8. Methyprylon.

9. Phendimetrazine.

10. Sulfondiethylmethane.

11. Sulfonethylmethane.

12. Sulfonmethane.

13. Tiletamine and zolazepam or any salt thereof.

(b) Nalorphine.

(c) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing limited quantities of any of the following controlled substances or any salts thereof:

1. Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium.

2. Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with recognized therapeutic amounts of one or more active ingredients which are not controlled substances.

3. Not more than 300 milligrams of hydrocodone per 100 milliliters or not more than 15

milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium.

4. Not more than 300 milligrams of hydrocodone per 100 milliliters or not more than 15 milligrams per dosage unit, with recognized therapeutic amounts of one or more active ingredients that are not controlled substances.

5. Not more than 1.8 grams of dihydrocodeine per 100 milliliters or not more than 90 milligrams per dosage unit, with recognized therapeutic amounts of one or more active ingredients which are not controlled substances.

6. Not more than 300 milligrams of ethylmorphine per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

7. Not more than 50 milligrams of morphine per 100 milliliters or per 100 grams, with recognized therapeutic amounts of one or more active ingredients which are not controlled substances.

For purposes of charging a person with a violation of s. 893.135 involving any controlled substance described in subparagraph 3. or subparagraph 4., the controlled substance is a Schedule III controlled substance pursuant to this paragraph but the weight of the controlled substance per milliliters or per dosage unit is not relevant to the charging of a violation of s. 893.135. The weight of the controlled substance shall be determined pursuant to s. 893.135(6).

(d) Anabolic steroids.

1. The term "anabolic steroid" means any drug or hormonal substance, chemically and pharmacologically related to testosterone, other than estrogens, progestins, and corticosteroids, that promotes muscle growth and includes:

- a. Androsterone.
- b. Androsterone acetate.
- c. Boldenone.
- d. Boldenone acetate.
- e. Boldenone benzoate.
- f. Boldenone undecylenate.
- g. Chlorotestosterone (4-chlorotestosterone).
- h. Clostebol.
- i. Dehydrochlormethyltestosterone.
- j. Dihydrotestosterone (4-dihydrotestosterone).
- k. Drostanolone.
- l. Ethylestrenol.
- m. Fluoxymesterone.
- n. Formebolone (formebolone).

- o. Mesterolone.
- p. Methandienone.
- q. Methandranone.
- r. Methandriol.
- s. Methandrostenolone.
- t. Methenolone.
- u. Methyltestosterone.
- v. Mibolerone.
- w. Nandrolone.
- x. Norethandrolone.
- y. Nortestosterone.
- z. Nortestosterone decanoate.
- aa. Nortestosterone phenylpropionate.
- bb. Nortestosterone propionate.
- cc. Oxandrolone.
- dd. Oxymesterone.
- ee. Oxymetholone.
- ff. Stanolone.
- gg. Stanozolol.
- hh. Testolactone.
- ii. Testosterone.
- jj. Testosterone acetate.
- kk. Testosterone benzoate.
- ll. Testosterone cypionate.
- mm. Testosterone decanoate.
- nn. Testosterone enanthate.
- oo. Testosterone isocaproate.
- pp. Testosterone oleate.
- qq. Testosterone phenylpropionate.
- rr. Testosterone propionate.
- ss. Testosterone undecanoate.
- tt. Trenbolone.
- uu. Trenbolone acetate.

vv. Any salt, ester, or isomer of a drug or substance described or listed in this subparagraph if that salt, ester, or isomer promotes muscle growth.

2. The term does not include an anabolic steroid that is expressly intended for administration

through implants to cattle or other nonhuman species and that has been approved by the United States Secretary of Health and Human Services for such administration. However, any person who prescribes, dispenses, or distributes such a steroid for human use is considered to have prescribed, dispensed, or distributed an anabolic steroid within the meaning of this paragraph.

(e) Ketamine, including any isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation.

(f) Dronabinol (synthetic THC) in sesame oil and encapsulated in a soft gelatin capsule in a drug product approved by the United States Food and Drug Administration.

(g) Any drug product containing gamma-hydroxybutyric acid, including its salts, isomers, and salts of isomers, for which an application is approved under s. 505 of the Federal Food, Drug, and Cosmetic Act.

(4) SCHEDULE IV.—A substance in Schedule IV has a low potential for abuse relative to the substances in Schedule III and has a currently accepted medical use in treatment in the United States, and abuse of the substance may lead to limited physical or psychological dependence relative to the substances in Schedule III. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation, are controlled in Schedule IV:

- (a) Alprazolam.
- (b) Barbitol.
- (c) Bromazepam.
- (d) Camazepam.
- (e) Cathine.
- (f) Chloral betaine.
- (g) Chloral hydrate.
- (h) Chlordiazepoxide.
- (i) Clobazam.
- (j) Clonazepam.
- (k) Clorazepate.
- (l) Clotiazepam.
- (m) Cloxazolam.
- (n) Delorazepam.
- (o) Propoxyphene (dosage forms).
- (p) Diazepam.

(q)Diethylpropion.
(r)Estazolam.
(s)Ethchlorvynol.
(t)Ethinamate.
(u)Ethyl loflazepate.
(v)Fencamfamin.
¹ (w)Fenfluramine.
(x)Fenproporex.
(y)Fludiazepam.
(z)Flurazepam.
(aa)Halazepam.
(bb)Haloxazolam.
(cc)Ketazolam.
(dd)Loprazolam.
(ee)Lorazepam.
(ff)Lormetazepam.
(gg)Mazindol.
(hh)Mebutamate.
(ii)Medazepam.
(jj)Mefenorex.
(kk)Meprobamate.
(ll)Methohexital.
(mm)Methylphenobarbital.
(nn)Midazolam.
(oo)Nimetazepam.
(pp)Nitrazepam.
(qq)Nordiazepam.
(rr)Oxazepam.
(ss)Oxazolam.
(tt)Paraldehyde.
(uu)Pemoline.
(vv)Pentazocine.
(ww)Phenobarbital.
(xx)Phentermine.
(yy)Pinazepam.
(zz)Pipradrol.

(aaa)Prazepam.

(bbb)Propylhexedrine, excluding any patent or proprietary preparation containing propylhexedrine, unless otherwise provided by federal law.

(ccc)Quazepam.

(ddd)Tetrazepam.

(eee)SPA[(-)-1 dimethylamino-1, 2 diphenylethane].

(fff)Temazepam.

(ggg)Triazolam.

(hhh)Not more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.

(iii)Butorphanol tartrate.

(jjj)Carisoprodol.

(5)SCHEDULE V.—A substance, compound, mixture, or preparation of a substance in Schedule V has a low potential for abuse relative to the substances in Schedule IV and has a currently accepted medical use in treatment in the United States, and abuse of such compound, mixture, or preparation may lead to limited physical or psychological dependence relative to the substances in Schedule IV.

(a)Substances controlled in Schedule V include any compound, mixture, or preparation containing any of the following limited quantities of controlled substances, which shall include one or more active medicinal ingredients which are not controlled substances in sufficient proportion to confer upon the compound, mixture, or preparation valuable medicinal qualities other than those possessed by the controlled substance alone:

1. Not more than 200 milligrams of codeine per 100 milliliters or per 100 grams.

2. Not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams.

3. Not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams.

4. Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit.

5. Not more than 100 milligrams of opium per 100 milliliters or per 100 grams.

(b)Narcotic drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any of the following narcotic drugs and their salts: Buprenorphine.

(c)Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers: Pyrovalerone.

History.—s. 3, ch. 73-331; s. 247, ch. 77-104; s. 1, ch. 77-174; ss. 1, 2, ch. 78-195; s. 2, ch. 79-325; s. 1, ch. 80-353; s. 1, ch. 82-16; s. 1, ch. 84-89; s. 2, ch. 85-242; s. 1, ch. 86-147; s. 2, ch. 87-243; s. 1, ch. 87-299; s. 1, ch. 88-59; s. 3, ch. 89-281; s. 54, ch. 92-69; s. 1, ch. 93-92; s. 4, ch. 95-415; s. 1, ch. 96-360; ss. 1, 5, ch. 97-1; s. 96, ch. 97-264; s. 1, ch. 99-186; s. 2, ch. 2000-320; s. 1, ch. 2001-55; s. 5, ch. 2001-57; s. 1, ch. 2002-78; s. 2, ch. 2003-10; s. 1, ch. 2008-88; s. 2, ch. 2011-73; s. 1, ch. 2011-90; s. 1, ch. 2012-23.

¹**Note.**—Section 1, ch. 97-1, added paragraph (4)(w) listing fenfluramine. Section 5, ch. 97-1, repealed paragraph (4)(w) effective upon the removal of fenfluramine from the schedules of controlled substances in 21 C.F.R. s. 1308. The Drug Enforcement Administration of the United States Department of Justice filed a proposed final rule removing fenfluramine from the schedules, *see* 62 F.R. 24620, May 6, 1997.

893.0301 Death resulting from apparent drug overdose; reporting requirements.—If a person dies of an apparent drug overdose:

(1) A law enforcement agency shall prepare a report identifying each prescribed controlled substance listed in Schedule II, Schedule III, or Schedule IV of s. 893.03 which is found on or near the deceased or among the deceased's possessions. The report must identify the person who prescribed the controlled substance, if known or ascertainable. Thereafter, the law enforcement agency shall submit a copy of the report to the medical examiner.

(2) A medical examiner who is preparing a report pursuant to s. 406.11 shall include in the report information identifying each prescribed controlled substance listed in Schedule II, Schedule III, or Schedule IV of s. 893.03 that was found in, on, or near the deceased or among the deceased's possessions.

History.—s. 6, ch. 2007-156.

893.031 Industrial exceptions to controlled substance scheduling.—

(1) For the purpose of this section, the following meanings of terms shall apply:

(a) "Manufacture" means any process or operation necessary for manufacturing a product.

(b) "Distribution" means any process or operation necessary for distributing a product, including, but not limited to, wholesaling, delivery or transport, and storage.

(c) "Manufacturer of 1,4-Butanediol" means a person who is involved in the manufacture of 1,4-Butanediol for use in the manufacture of an industrial product and who provides that manufactured 1,4-Butanediol to a distributor of 1,4-Butanediol or a manufacturer of an industrial product.

(d) "Distributor of 1,4-Butanediol" means a person who is involved in the distribution of 1,4-Butanediol.

(e) "Manufacturer of gamma-butyrolactone (GBL)" means a person who:

1. Is involved in the manufacture of gamma-butyrolactone (GBL) for use in the manufacture of an industrial product and who provides that manufactured gamma-butyrolactone (GBL) to a

distributor of gamma-butyrolactone (GBL) or a manufacturer of an industrial product; and

2. Is in compliance with any requirements to register with the United States Drug Enforcement Administration as a List I Chemical registrant.

(f) "Distributor of gamma-butyrolactone (GBL)" means a person who:

1. Is involved in the distribution of gamma-butyrolactone (GBL); and

2. Is in compliance with any requirements to register with the United States Drug Enforcement Administration as a List I Chemical registrant.

(g) "Manufacturer of an industrial product" means a person who is involved in the manufacture of an industrial product in which that person acquires:

1. 1,4-Butanediol from a manufacturer of 1,4-Butanediol or a distributor of 1,4-Butanediol and who possesses that substance for use in the manufacture of an industrial product; or

2. Gamma-butyrolactone (GBL) from a manufacturer of gamma-butyrolactone (GBL) or a distributor of gamma-butyrolactone (GBL) and who possesses that substance for use in the manufacture of an industrial product.

(h) "Distributor of an industrial product" means a person who is involved in the distribution of an industrial product.

(i) "Industrial product" means a nondrug, noncontrolled finished product that is not for human consumption.

(j) "Finished product" means a product:

1. That does not contain either 1,4-Butanediol or gamma-butyrolactone (GBL); or

2. From which neither 1,4-Butanediol nor gamma-butyrolactone (GBL) can be readily extracted or readily synthesized and which is not sold for human consumption.

(2) 1,4-Butanediol is excepted from scheduling pursuant to s. 893.03(1)(d)1. when that substance is in the possession of:

(a) A manufacturer of 1,4-Butanediol or a distributor of 1,4-Butanediol;

(b) A manufacturer of an industrial product or a distributor of an industrial product; or

(c) A person possessing a finished product.

(3) Gamma-butyrolactone (GBL) is excepted from scheduling pursuant to s. 893.03(1)(d)2. when that substance is in the possession of:

(a) A manufacturer of gamma-butyrolactone (GBL) or a distributor of gamma-butyrolactone (GBL);

(b) A manufacturer of an industrial product or a distributor of an industrial product; or

(c) A person possessing a finished product.

(4) This section does not apply to:

(a) A manufacturer of 1,4-Butanediol or a distributor of 1,4-Butanediol who sells, delivers, or otherwise distributes that substance to a person who is not a distributor of 1,4-Butanediol or a

manufacturer of an industrial product;

(b)A manufacturer of gamma-butyrolactone (GBL) or a distributor of gamma-butyrolactone (GBL) who sells, delivers, or otherwise distributes that substance to a person who is not a distributor of gamma-butyrolactone (GBL) or a manufacturer of an industrial product;

(c)A person who possesses 1,4-Butanediol but who is not a manufacturer of 1,4-Butanediol, a distributor of 1,4-Butanediol, a manufacturer of an industrial product, a distributor of an industrial product, or a person possessing a finished product as described in paragraph (2)(c) or paragraph (3)(c);

(d)A person who possesses gamma-butyrolactone (GBL) but who is not a manufacturer of gamma-butyrolactone (GBL), a distributor of gamma-butyrolactone (GBL), a manufacturer of an industrial product, a distributor of an industrial product, or a person possessing a finished product as described in paragraph (2)(c) or paragraph (3)(c);

(e)A person who extracts or synthesizes either 1,4-Butanediol or gamma-butyrolactone (GBL) from a finished product as described in subparagraph(1)(j)2. or a person who extracts or synthesizes 1,4-Butanediol or gamma-butyrolactone (GBL) from any product or material, unless such extraction or synthesis is authorized by law; or

(f)A person whose possession of either 1,4-Butanediol or gamma-butyrolactone (GBL) is not in compliance with the requirements of this section or whose possession of either of those substances is not specifically authorized by law.

History.—s. 1, ch. 2003-10.

893.033Listed chemicals.—The chemicals listed in this section are included by whatever official, common, usual, chemical, or trade name designated.

(1)PRECURSOR CHEMICALS.—The term “listed precursor chemical” means a chemical that may be used in manufacturing a controlled substance in violation of this chapter and is critical to the creation of the controlled substance, and such term includes any salt, optical isomer, or salt of an optical isomer, whenever the existence of such salt, optical isomer, or salt of optical isomer is possible within the specific chemical designation. The following are “listed precursor chemicals”:

- (a)Anthranilic acid.
- (b)Benzaldehyde.
- (c)Benzyl cyanide.
- (d)Chloroephedrine.
- (e)Chloropseudoephedrine.
- (f)Ephedrine.
- (g)Ergonovine.
- (h)Ergotamine.
- (i)Hydriodic acid.

- (j) Ethylamine.
- (k) Isosafrole.
- (l) Methylamine.
- (m) 3, 4-Methylenedioxyphenyl-2-propanone.
- (n) N-acetylanthranilic acid.
- (o) N-ethylephedrine.
- (p) N-ethylpseudoephedrine.
- (q) N-methylephedrine.
- (r) N-methylpseudoephedrine.
- (s) Nitroethane.
- (t) Norpseudoephedrine.
- (u) Phenylacetic acid.
- (v) Phenylpropanolamine.
- (w) Piperidine.
- (x) Piperonal.
- (y) Propionic anhydride.
- (z) Pseudoephedrine.
- (aa) Safrole.

(2) ESSENTIAL CHEMICALS.—The term “listed essential chemical” means a chemical that may be used as a solvent, reagent, or catalyst in manufacturing a controlled substance in violation of this chapter. The following are “listed essential chemicals”:

- (a) Acetic anhydride.
- (b) Acetone.
- (c) Anhydrous ammonia.
- (d) Benzyl chloride.
- (e) 2-Butanone.
- (f) Ethyl ether.
- (g) Hydrochloric gas.
- (h) Hydriodic acid.
- (i) Iodine.
- (j) Potassium permanganate.
- (k) Toluene.

History.—s. 2, ch. 91-279; s. 6, ch. 2001-57; s. 2, ch. 2003-15; s. 1, ch. 2005-128.

893.035 Control of new substances; findings of fact; delegation of authority to Attorney General to control substances by rule.—

- (1)(a) New substances are being created which are not controlled under the provisions of this

chapter but which have a potential for abuse similar to or greater than that for substances controlled under this chapter. These new substances are sometimes called “designer drugs” because they can be designed to produce a desired pharmacological effect and to evade the controlling statutory provisions. Designer drugs are being manufactured, distributed, possessed, and used as substitutes for controlled substances.

(b)The hazards attributable to the traffic in and use of these designer drugs are increased because their unregulated manufacture produces variations in purity and concentration.

(c)Many such new substances are untested, and it cannot be immediately determined whether they have useful medical or chemical purposes.

(d)The uncontrolled importation, manufacture, distribution, possession, or use of these designer drugs has a substantial and detrimental impact on the health and safety of the people of Florida.

(e)These designer drugs can be created more rapidly than they can be identified and controlled by action of the Legislature. There is a need for a speedy and expert administrative determination of their proper classification under this chapter. It is therefore necessary to delegate to an administrative agency restricted authority to identify and classify new substances that have a potential for abuse, so that they can be controlled in the same manner as other substances currently controlled under this chapter.

(2)The Attorney General shall apply the provisions of this section to any substance not currently controlled under the provisions of s. 893.03. The Attorney General may by rule:

(a)Add a substance to a schedule established by s. 893.03, or transfer a substance between schedules, if he or she finds that it has a potential for abuse and he or she makes with respect to it the other findings appropriate for classification in the particular schedule under s. 893.03 in which it is to be placed.

(b)Remove a substance previously added to a schedule if he or she finds the substance does not meet the requirements for inclusion in that schedule.

Rules adopted under this section shall be made pursuant to the rulemaking procedures prescribed by chapter 120.

(3)(a)The term “potential for abuse” in this section means that a substance has properties as a central nervous system stimulant or depressant or a hallucinogen that create a substantial likelihood of its being:

- 1.Used in amounts that create a hazard to the user’s health or the safety of the community;
- 2.Diverted from legal channels and distributed through illegal channels; or
- 3.Taken on the user’s own initiative rather than on the basis of professional medical advice.

Proof of potential for abuse can be based upon a showing that these activities are already taking place, or upon a showing that the nature and properties of the substance make it reasonable to

assume that there is a substantial likelihood that such activities will take place, in other than isolated or occasional instances.

(b)The terms “immediate precursor” and “narcotic drug” shall be given the same meanings as provided by s. 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970, 21 U.S.C. s. 802, as amended and in effect on April 1, 1985.

(4)In making any findings under this section, the Attorney General shall consider the following factors with respect to each substance proposed to be controlled or removed from control:

(a)Its actual or relative potential for abuse.

(b)Scientific evidence of its pharmacological effect, if known.

(c)The state of current scientific knowledge regarding the drug or other substance.

(d)Its history and current pattern of abuse.

(e)The scope, duration, and significance of abuse.

(f)What, if any, risk there is to the public health.

(g)Its psychic or physiological dependence liability.

(h)Whether the substance is an immediate precursor of a substance already controlled under this chapter.

The findings and conclusions of the United States Attorney General or his or her delegee, as set forth in the Federal Register, with respect to any substance pursuant to s. 201 of the Comprehensive Drug Abuse Prevention and Control Act of 1970, 21 U.S.C. s. 811, as amended and in effect on April 1, 1985, shall be admissible as evidence in any rulemaking proceeding under this section, including an emergency rulemaking proceeding under subsection (7).

(5)Before initiating proceedings under subsection (2), the Attorney General shall request from the Department of Health and the Department of Law Enforcement a medical and scientific evaluation of the substance under consideration and a recommendation as to the appropriate classification, if any, of such substance as a controlled substance. In responding to this request, the Department of Health and the Department of Law Enforcement shall consider the factors listed in subsection (4). The Department of Health and the Department of Law Enforcement shall respond to this request promptly and in writing; however, their response is not subject to chapter 120. If both the Department of Health and the Department of Law Enforcement recommend that a substance not be controlled, the Attorney General shall not control that substance. If the Attorney General determines, based on the evaluations and recommendations of the Department of Health and the Department of Law Enforcement and all other available evidence, that there is substantial evidence of potential for abuse, he or she shall initiate proceedings under paragraph (2)(a) with respect to that substance.

(6)(a)The Attorney General shall by rule exempt any nonnarcotic substance controlled by rule under this section from the application of this section if such substance may, under the Federal

Food, Drug, and Cosmetic Act, be lawfully sold over the counter without a prescription.

(b)The Attorney General may by rule exempt any compound, mixture, or preparation containing a substance controlled by rule under this section from the application of this section if he or she finds that such compound, mixture, or preparation meets the requirements of either of the following subcategories:

1.A mixture or preparation containing a nonnarcotic substance controlled by rule, which mixture or preparation is approved for prescription use and which contains one or more other active ingredients which are not listed in any schedule and which are included therein in such combinations, quantity, proportion, or concentration as to vitiate the potential for abuse.

2.A compound, mixture, or preparation which contains any substance controlled by rule, which is not for administration to a human being or animal, and which is packaged in such form or concentration, or with adulterants or denaturants, so that as packaged it does not present any significant potential for abuse.

(7)(a)If the Attorney General finds that the scheduling of a substance in Schedule I of s. 893.03 on a temporary basis is necessary to avoid an imminent hazard to the public safety, he or she may by rule and without regard to the requirements of subsection (5) relating to the Department of Health and the Department of Law Enforcement schedule such substance in Schedule I if the substance is not listed in any other schedule of s. 893.03. The Attorney General shall be required to consider, with respect to his or her finding of imminent hazard to the public safety, only those factors set forth in paragraphs (3)(a) and (4)(d), (e), and (f), including actual abuse, diversion from legitimate channels, and clandestine importation, manufacture, or distribution.

(b)The Attorney General may use emergency rulemaking provisions under s. 120.54(4) in scheduling substances under this subsection. Notwithstanding the provisions of s. 120.54(4)(c), any rule adopted under this subsection shall not expire except as provided in subsection (9).

(8)(a)Upon the effective date of a rule adopted pursuant to this section adding or transferring a substance to a schedule under s. 893.03, such substance shall be deemed included in that schedule, and all provisions of this chapter applicable to substances in that schedule shall be deemed applicable to such substance.

(b)A rule adopted pursuant to this section shall continue in effect until it is repealed; until it is declared invalid in proceedings under s. 120.56 or in proceedings before a court of competent jurisdiction; or until it expires under the provisions of subsection (9).

(9)The Attorney General shall report to the Legislature by March 1 of each year concerning the rules adopted under this section during the previous year. Each rule so reported shall expire on the following June 30 unless the Legislature adopts the provisions thereof as an amendment to this chapter.

(10)The repeal, expiration, or determination of invalidity of any rule shall not operate to

create any claim or cause of action against any law enforcement officer or other enforcing authority for actions taken in good faith in reliance on the validity of the rule.

(11) In construing this section, due consideration and great weight should be given to interpretations of the United States Attorney General and the federal courts relating to s. 201 of the Comprehensive Drug Abuse Prevention and Control Act of 1970, 21 U.S.C. s. 811, as amended and in effect on April 1, 1985. All substantive rules adopted under this part shall not be inconsistent with the rules of the United States Attorney General and the decisions of the federal courts interpreting the provisions of s. 201 of the Comprehensive Drug Abuse Prevention and Control Act of 1970, 21 U.S.C. s. 811, as amended and in effect on April 1, 1985.

(12) The adoption of a rule transferring a substance from one schedule to another or removing a substance from a schedule pursuant to this section shall not affect prosecution or punishment for any crime previously committed with respect to that substance.

History.—s. 3, ch. 85-242; s. 72, ch. 87-226; s. 255, ch. 94-218; s. 318, ch. 96-410; s. 1826, ch. 97-102; s. 16, ch. 99-186.

893.0355 Control of scheduled substances; delegation of authority to Attorney General to reschedule substance, or delete substance, by rule.—

(1) The Legislature has determined that, from time to time, additional testings, approvals, or scientific evidence may indicate that controlled substances listed in Schedules I, II, III, IV, and V hereof have a greater potential for beneficial medical use in treatment in the United States than was evident when such substances were initially scheduled. It is the intent of the Legislature to quickly provide a method for an immediate change to the scheduling and control of such substances to allow for the beneficial medical use thereof so that more flexibility will be available than is possible through rescheduling legislatively.

(2) The Attorney General is hereby delegated the authority to adopt rules rescheduling specified substances to a less controlled schedule, or deleting specified substances from a schedule, upon a finding that reduced control of such substances is in the public interest. In determining whether reduced control of a substance is in the public interest, the Attorney General shall consider the following:

(a) Whether the substance has been rescheduled or deleted from any schedule by rule adopted by the United States Attorney General pursuant to s. 201 of the Comprehensive Drug Abuse Prevention and Control Act of 1970, 21 U.S.C. s. 811.

(b) The substance's actual or relative potential for abuse.

(c) Scientific evidence of the substance's pharmacological effect, if known.

(d) The state of current scientific knowledge regarding the substance.

(e) The substance's history and current pattern of abuse.

(f) The scope, duration, and significance of abuse.

(g)What, if any, risk there is to the public health.

(h)The substance's psychic or physiological dependence liability.

(3)In making the public interest determination, the Attorney General shall give great weight to the scheduling rules adopted by the United States Attorney General subsequent to such substances being listed in Schedules I, II, III, IV, and V hereof, to achieve the original legislative purpose of the Florida Comprehensive Drug Abuse Prevention and Control Act of maintaining uniformity between the laws of Florida and the laws of the United States with respect to controlled substances.

(4)Rulemaking under this section shall be in accordance with the procedural requirements of chapter 120, including the emergency rule provisions found in s. 120.54. The Attorney General may initiate proceedings for adoption, amendment, or repeal of any rule on his or her own motion or upon the petition of any interested party.

(5)Upon the effective date of a rule adopted pursuant to this section, the rule's rescheduling or deletion of a substance shall be effective for all purposes under this chapter.

(6)Rules adopted pursuant to this section shall be reviewed each year by the Legislature. Each rule shall remain in effect until the effective date of legislation that provides for a different scheduling of a substance than that set forth in such rule.

(7)The adoption of a rule rescheduling a substance or deleting a substance from control pursuant to this section shall not affect prosecution or punishment for any crime previously committed with respect to that substance.

(8)The provisions of this section apply only to substances controlled expressly by statute and not to substances controlled by rules adopted under the authority granted in the provisions of s. 893.035.

History.—s. 4, ch. 85-242; s. 1435, ch. 97-102.

893.0356Control of new substances; findings of fact; "controlled substance analog" defined.—

(1)(a)New substances are being created which are not controlled under the provisions of this chapter but which have a potential for abuse similar to or greater than that for substances controlled under this chapter. These new substances are called "controlled substance analogs," and can be designed to produce a desired pharmacological effect and to evade the controlling statutory provisions. Controlled substance analogs are being manufactured, distributed, possessed, and used as substitutes for controlled substances.

(b)The hazards attributable to the traffic in and use of controlled substance analogs are increased because their unregulated manufacture produces variations in purity and concentration.

(c)Many such new substances are untested, and it cannot be immediately determined whether they have useful medical or chemical purposes.

(d)The uncontrolled importation, manufacture, distribution, possession, or use of controlled

substance analogs has a substantial and detrimental impact on the health and safety of the people of Florida.

(e) Controlled substance analogs can be created more rapidly than they can be identified and controlled by action of the Legislature. There is a need for a speedy determination of their proper classification under this chapter. It is therefore necessary to identify and classify new substances that have a potential for abuse, so that they can be controlled in the same manner as other substances currently controlled under this chapter.

(2)(a) As used in this section, “controlled substance analog” means a substance which, due to its chemical structure and potential for abuse, meets the following criteria:

1. Is substantially similar to that of a controlled substance listed in Schedule I or Schedule II of s. 893.03; and

2. Has a stimulant, depressant, or hallucinogenic effect on the central nervous system or is represented or intended to have a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to or greater than that of a controlled substance listed in Schedule I or Schedule II of s. 893.03.

(b) “Controlled substance analog” does not include:

1. A controlled substance;

2. Any substance for which there is an approved new drug application;

3. Any compound, mixture, or preparation which contains any controlled substance which is not for administration to a human being or animal, and which is packaged in such form or concentration, or with adulterants or denaturants, so that as packaged it does not present any significant potential for abuse; or

4. Any substance to which an investigational exemption applies under s. 505 of the Food, Drug, and Cosmetic Act, 21 U.S.C. 355, but only to the extent that conduct with respect to the substance is pursuant to such exemption.

(3) The term “potential for abuse” in this section means that a substance has properties as a central nervous system stimulant or depressant or a hallucinogen that create a substantial likelihood of its being:

(a) Used in amounts that create a hazard to the user’s health or the safety of the community;

(b) Diverted from legal channels and distributed through illegal channels; or

(c) Taken on the user’s own initiative rather than on the basis of professional medical advice.

Proof of potential for abuse can be based upon a showing that these activities are already taking place, or upon a showing that the nature and properties of the substance make it reasonable to assume that there is a substantial likelihood that such activities will take place, in other than isolated or occasional instances.

(4) The following factors shall be relevant to a finding that a substance is a controlled

substance analog within the purview of this section:

- (a) Its actual or relative potential for abuse.
- (b) Scientific evidence of its pharmacological effect, if known.
- (c) The state of current scientific knowledge regarding the substance.
- (d) Its history and current pattern of abuse.
- (e) The scope, duration, and significance of abuse.
- (f) What, if any, risk there is to the public health.
- (g) Its psychic or physiological dependence liability.
- (h) Its diversion from legitimate channels, and clandestine importation, manufacture, or

distribution.

(i) Whether the substance is an immediate precursor of a substance already controlled under this chapter.

(5) A controlled substance analog shall, for purposes of drug abuse prevention and control, be treated as a controlled substance in Schedule I of s. 893.03.

(6) In construing this section, due consideration and great weight should be given to interpretations of the United States Attorney General and the federal courts relating to s. 201 of the Comprehensive Drug Abuse Prevention and Control Act of 1970, 21 U.S.C. s. 811, as amended and in effect on April 1, 1985. New substances controlled under this section shall not be treated in a manner inconsistent with the rules of the United States Attorney General and the decisions of the federal courts interpreting the provisions of s. 201 of the Comprehensive Drug Abuse Prevention and Control Act of 1970, 21 U.S.C. s. 811, as amended and in effect on April 1, 1985.

(7) The treatment of a new substance as a controlled substance pursuant to this section shall not affect prosecution or punishment for any crime previously committed with respect to that substance.

History.—s. 3, ch. 87-243; s. 11, ch. 99-186; s. 20, ch. 2000-320.

893.04 Pharmacist and practitioner.—

(1) A pharmacist, in good faith and in the course of professional practice only, may dispense controlled substances upon a written or oral prescription of a practitioner, under the following conditions:

(a) Oral prescriptions must be promptly reduced to writing by the pharmacist or recorded electronically if permitted by federal law.

(b) The written prescription must be dated and signed by the prescribing practitioner on the day when issued.

(c) There shall appear on the face of the prescription or written record thereof for the controlled substance the following information:

1. The full name and address of the person for whom, or the owner of the animal for which,

the controlled substance is dispensed.

2. The full name and address of the prescribing practitioner and the practitioner's federal controlled substance registry number shall be printed thereon.

3. If the prescription is for an animal, the species of animal for which the controlled substance is prescribed.

4. The name of the controlled substance prescribed and the strength, quantity, and directions for use thereof.

5. The number of the prescription, as recorded in the prescription files of the pharmacy in which it is filled.

6. The initials of the pharmacist filling the prescription and the date filled.

(d) The prescription shall be retained on file by the proprietor of the pharmacy in which it is filled for a period of 2 years.

(e) Affixed to the original container in which a controlled substance is delivered upon a prescription or authorized refill thereof, as hereinafter provided, there shall be a label bearing the following information:

1. The name and address of the pharmacy from which such controlled substance was dispensed.

2. The date on which the prescription for such controlled substance was filled.

3. The number of such prescription, as recorded in the prescription files of the pharmacy in which it is filled.

4. The name of the prescribing practitioner.

5. The name of the patient for whom, or of the owner and species of the animal for which, the controlled substance is prescribed.

6. The directions for the use of the controlled substance prescribed in the prescription.

7. A clear, concise warning that it is a crime to transfer the controlled substance to any person other than the patient for whom prescribed.

(f) A prescription for a controlled substance listed in Schedule II may be dispensed only upon a written prescription of a practitioner, except that in an emergency situation, as defined by regulation of the Department of Health, such controlled substance may be dispensed upon oral prescription but is limited to a 72-hour supply. A prescription for a controlled substance listed in Schedule II may not be refilled.

(g) A prescription for a controlled substance listed in Schedule III, Schedule IV, or Schedule V may not be filled or refilled more than five times within a period of 6 months after the date on which the prescription was written unless the prescription is renewed by a practitioner.

(2)(a) A pharmacist may not dispense a controlled substance listed in Schedule II, Schedule III, or Schedule IV to any patient or patient's agent without first determining, in the exercise of her or

his professional judgment, that the order is valid. The pharmacist may dispense the controlled substance, in the exercise of her or his professional judgment, when the pharmacist or pharmacist's agent has obtained satisfactory patient information from the patient or the patient's agent.

(b) Any pharmacist who dispenses by mail a controlled substance listed in Schedule II, Schedule III, or Schedule IV is exempt from the requirement to obtain suitable identification for the prescription dispensed by mail if the pharmacist has obtained the patient's identification through the patient's prescription benefit plan.

(c) Any controlled substance listed in Schedule III or Schedule IV may be dispensed by a pharmacist upon an oral prescription if, before filling the prescription, the pharmacist reduces it to writing or records the prescription electronically if permitted by federal law. Such prescriptions must contain the date of the oral authorization.

(d) Each written prescription prescribed by a practitioner in this state for a controlled substance listed in Schedule II, Schedule III, or Schedule IV must include both a written and a numerical notation of the quantity of the controlled substance prescribed on the face of the prescription and a notation of the date, with the abbreviated month written out on the face of the prescription. A pharmacist may, upon verification by the prescriber, document any information required by this paragraph. If the prescriber is not available to verify a prescription, the pharmacist may dispense the controlled substance but may insist that the person to whom the controlled substance is dispensed provide valid photographic identification. If a prescription includes a numerical notation of the quantity of the controlled substance or date, but does not include the quantity or date written out in textual format, the pharmacist may dispense the controlled substance without verification by the prescriber of the quantity or date if the pharmacy previously dispensed another prescription for the person to whom the prescription was written.

(e) A pharmacist may not dispense more than a 30-day supply of a controlled substance listed in Schedule III upon an oral prescription issued in this state.

(f) A pharmacist may not knowingly fill a prescription that has been forged for a controlled substance listed in Schedule II, Schedule III, or Schedule IV.

(3) Notwithstanding subsection (1), a pharmacist may dispense a one-time emergency refill of up to a 72-hour supply of the prescribed medication for any medicinal drug other than a medicinal drug listed in Schedule II, in compliance with the provisions of s. 465.0275.

(4) The legal owner of any stock of controlled substances in a pharmacy, upon discontinuance of dealing in controlled substances, may sell said stock to a manufacturer, wholesaler, or pharmacy. Such controlled substances may be sold only upon an order form, when such an order form is required for sale by the drug abuse laws of the United States or this state, or regulations pursuant thereto.

History.—s. 4, ch. 73-331; s. 2, ch. 75-18; s. 12, ch. 79-12; s. 2, ch. 90-2; s. 1436, ch. 97-102; s. 301, ch. 99-8; s. 2, ch. 2007-156; s. 5, ch. 2009-202.

893.05 Practitioners and persons administering controlled substances in their absence.—

(1) A practitioner, in good faith and in the course of his or her professional practice only, may prescribe, administer, dispense, mix, or otherwise prepare a controlled substance, or the practitioner may cause the same to be administered by a licensed nurse or an intern practitioner under his or her direction and supervision only. A veterinarian may so prescribe, administer, dispense, mix, or prepare a controlled substance for use on animals only, and may cause it to be administered by an assistant or orderly under the veterinarian's direction and supervision only.

(2) When any controlled substance is dispensed by a practitioner, there shall be affixed to the original container in which the controlled substance is delivered a label on which appears:

(a) The date of delivery.

(b) The directions for use of such controlled substance.

(c) The name and address of such practitioner.

(d) The name of the patient and, if such controlled substance is prescribed for an animal, a statement describing the species of the animal.

(e) A clear, concise warning that it is a crime to transfer the controlled substance to any person other than the patient for whom prescribed.

(3) Any person who obtains from a practitioner or the practitioner's agent, or pursuant to prescription, any controlled substance for administration to a patient during the absence of such practitioner shall return to such practitioner any unused portion of such controlled substance when it is no longer required by the patient.

History.—s. 5, ch. 73-331; s. 1437, ch. 97-102.

893.055 Prescription drug monitoring program.—

(1) As used in this section, the term:

(a) "Patient advisory report" or "advisory report" means information provided by the department in writing, or as determined by the department, to a prescriber, dispenser, pharmacy, or patient concerning the dispensing of controlled substances. All advisory reports are for informational purposes only and impose no obligations of any nature or any legal duty on a prescriber, dispenser, pharmacy, or patient. The patient advisory report shall be provided in accordance with s. 893.13(7)(a)8. The advisory reports issued by the department are not subject to discovery or introduction into evidence in any civil or administrative action against a prescriber, dispenser, pharmacy, or patient arising out of matters that are the subject of the report; and a person who participates in preparing, reviewing, issuing, or any other activity related to an advisory report may not be permitted or required to testify in any such civil action as to any findings, recommendations, evaluations, opinions, or other actions taken in connection with

preparing, reviewing, or issuing such a report.

(b)“Controlled substance” means a controlled substance listed in Schedule II, Schedule III, or Schedule IV in s. 893.03.

(c)“Dispenser” means a pharmacy, dispensing pharmacist, or dispensing health care practitioner.

(d)“Health care practitioner” or “practitioner” means any practitioner who is subject to licensure or regulation by the department under chapter 458, chapter 459, chapter 461, chapter 462, chapter 464, chapter 465, or chapter 466.

(e)“Health care regulatory board” means any board for a practitioner or health care practitioner who is licensed or regulated by the department.

(f)“Pharmacy” means any pharmacy that is subject to licensure or regulation by the department under chapter 465 and that dispenses or delivers a controlled substance to an individual or address in this state.

(g)“Prescriber” means a prescribing physician, prescribing practitioner, or other prescribing health care practitioner.

(h)“Active investigation” means an investigation that is being conducted with a reasonable, good faith belief that it could lead to the filing of administrative, civil, or criminal proceedings, or that is ongoing and continuing and for which there is a reasonable, good faith anticipation of securing an arrest or prosecution in the foreseeable future.

(i)“Law enforcement agency” means the Department of Law Enforcement, a Florida sheriff’s department, a Florida police department, or a law enforcement agency of the Federal Government which enforces the laws of this state or the United States relating to controlled substances, and which its agents and officers are empowered by law to conduct criminal investigations and make arrests.

(j)“Program manager” means an employee of or a person contracted by the Department of Health who is designated to ensure the integrity of the prescription drug monitoring program in accordance with the requirements established in paragraphs (2)(a) and (b).

(2)(a)The department shall design and establish a comprehensive electronic database system that has controlled substance prescriptions provided to it and that provides prescription information to a patient’s health care practitioner and pharmacist who inform the department that they wish the patient advisory report provided to them. Otherwise, the patient advisory report will not be sent to the practitioner, pharmacy, or pharmacist. The system shall be designed to provide information regarding dispensed prescriptions of controlled substances and shall not infringe upon the legitimate prescribing or dispensing of a controlled substance by a prescriber or dispenser acting in good faith and in the course of professional practice. The system shall be consistent with standards of the American Society for Automation in Pharmacy (ASAP). The electronic system shall

also comply with the Health Insurance Portability and Accountability Act (HIPAA) as it pertains to protected health information (PHI), electronic protected health information (EPHI), and all other relevant state and federal privacy and security laws and regulations. The department shall establish policies and procedures as appropriate regarding the reporting, accessing the database, evaluation, management, development, implementation, operation, storage, and security of information within the system. The reporting of prescribed controlled substances shall include a dispensing transaction with a dispenser pursuant to chapter 465 or through a dispensing transaction to an individual or address in this state with a pharmacy that is not located in this state but that is otherwise subject to the jurisdiction of this state as to that dispensing transaction. The reporting of patient advisory reports refers only to reports to patients, pharmacies, and practitioners. Separate reports that contain patient prescription history information and that are not patient advisory reports are provided to persons and entities as authorized in paragraphs (7)(b) and (c) and s. 893.0551.

(b)The department, when the direct support organization receives at least \$20,000 in nonstate moneys or the state receives at least \$20,000 in federal grants for the prescription drug monitoring program, shall adopt rules as necessary concerning the reporting, accessing the database, evaluation, management, development, implementation, operation, security, and storage of information within the system, including rules for when patient advisory reports are provided to pharmacies and prescribers. The patient advisory report shall be provided in accordance with s. 893.13(7)(a)8. The department shall work with the professional health care licensure boards, such as the Board of Medicine, the Board of Osteopathic Medicine, and the Board of Pharmacy; other appropriate organizations, such as the Florida Pharmacy Association, the Florida Medical Association, the Florida Retail Federation, and the Florida Osteopathic Medical Association, including those relating to pain management; and the Attorney General, the Department of Law Enforcement, and the Agency for Health Care Administration to develop rules appropriate for the prescription drug monitoring program.

(c)All dispensers and prescribers subject to these reporting requirements shall be notified by the department of the implementation date for such reporting requirements.

(d)The program manager shall work with professional health care licensure boards and the stakeholders listed in paragraph (b) to develop rules appropriate for identifying indicators of controlled substance abuse.

(3)The pharmacy dispensing the controlled substance and each prescriber who directly dispenses a controlled substance shall submit to the electronic system, by a procedure and in a format established by the department and consistent with an ASAP-approved format, the following information for inclusion in the database:

(a)The name of the prescribing practitioner, the practitioner's federal Drug Enforcement

Administration registration number, the practitioner's National Provider Identification (NPI) or other appropriate identifier, and the date of the prescription.

(b)The date the prescription was filled and the method of payment, such as cash by an individual, insurance coverage through a third party, or Medicaid payment. This paragraph does not authorize the department to include individual credit card numbers or other account numbers in the database.

(c)The full name, address, and date of birth of the person for whom the prescription was written.

(d)The name, national drug code, quantity, and strength of the controlled substance dispensed.

(e)The full name, federal Drug Enforcement Administration registration number, and address of the pharmacy or other location from which the controlled substance was dispensed. If the controlled substance was dispensed by a practitioner other than a pharmacist, the practitioner's full name, federal Drug Enforcement Administration registration number, and address.

(f)The name of the pharmacy or practitioner, other than a pharmacist, dispensing the controlled substance and the practitioner's National Provider Identification (NPI).

(g)Other appropriate identifying information as determined by department rule.

(4)Each time a controlled substance is dispensed to an individual, the controlled substance shall be reported to the department through the system as soon thereafter as possible, but not more than 7 days after the date the controlled substance is dispensed unless an extension is approved by the department for cause as determined by rule. A dispenser must meet the reporting requirements of this section by providing the required information concerning each controlled substance that it dispensed in a department-approved, secure methodology and format. Such approved formats may include, but are not limited to, submission via the Internet, on a disc, or by use of regular mail.

(5)When the following acts of dispensing or administering occur, the following are exempt from reporting under this section for that specific act of dispensing or administration:

(a)A health care practitioner when administering a controlled substance directly to a patient if the amount of the controlled substance is adequate to treat the patient during that particular treatment session.

(b)A pharmacist or health care practitioner when administering a controlled substance to a patient or resident receiving care as a patient at a hospital, nursing home, ambulatory surgical center, hospice, or intermediate care facility for the developmentally disabled which is licensed in this state.

(c)A practitioner when administering or dispensing a controlled substance in the health care system of the Department of Corrections.

(d)A practitioner when administering a controlled substance in the emergency room of a licensed hospital.

(e)A health care practitioner when administering or dispensing a controlled substance to a person under the age of 16.

(f)A pharmacist or a dispensing practitioner when dispensing a one-time, 72-hour emergency resupply of a controlled substance to a patient.

(6)The department may establish when to suspend and when to resume reporting information during a state-declared or nationally declared disaster.

(7)(a)A practitioner or pharmacist who dispenses a controlled substance must submit the information required by this section in an electronic or other method in an ASAP format approved by rule of the department unless otherwise provided in this section. The cost to the dispenser in submitting the information required by this section may not be material or extraordinary. Costs not considered to be material or extraordinary include, but are not limited to, regular postage, electronic media, regular electronic mail, and facsimile charges.

(b)A pharmacy, prescriber, or dispenser shall have access to information in the prescription drug monitoring program's database which relates to a patient of that pharmacy, prescriber, or dispenser in a manner established by the department as needed for the purpose of reviewing the patient's controlled substance prescription history. Other access to the program's database shall be limited to the program's manager and to the designated program and support staff, who may act only at the direction of the program manager or, in the absence of the program manager, as authorized. Access by the program manager or such designated staff is for prescription drug program management only or for management of the program's database and its system in support of the requirements of this section and in furtherance of the prescription drug monitoring program. Confidential and exempt information in the database shall be released only as provided in paragraph (c) and s. 893.0551. The program manager, designated program and support staff who act at the direction of or in the absence of the program manager, and any individual who has similar access regarding the management of the database from the prescription drug monitoring program shall submit fingerprints to the department for background screening. The department shall follow the procedure established by the Department of Law Enforcement to request a statewide criminal history record check and to request that the Department of Law Enforcement forward the fingerprints to the Federal Bureau of Investigation for a national criminal history record check.

(c)The following entities shall not be allowed direct access to information in the prescription drug monitoring program database but may request from the program manager and, when authorized by the program manager, the program manager's program and support staff, information that is confidential and exempt under s. 893.0551. Prior to release, the request shall

be verified as authentic and authorized with the requesting organization by the program manager, the program manager's program and support staff, or as determined in rules by the department as being authentic and as having been authorized by the requesting entity:

1.The department or its relevant health care regulatory boards responsible for the licensure, regulation, or discipline of practitioners, pharmacists, or other persons who are authorized to prescribe, administer, or dispense controlled substances and who are involved in a specific controlled substance investigation involving a designated person for one or more prescribed controlled substances.

2.The Attorney General for Medicaid fraud cases involving prescribed controlled substances.

3.A law enforcement agency during active investigations regarding potential criminal activity, fraud, or theft regarding prescribed controlled substances.

4.A patient or the legal guardian or designated health care surrogate of an incapacitated patient as described in s. 893.0551 who, for the purpose of verifying the accuracy of the database information, submits a written and notarized request that includes the patient's full name, address, and date of birth, and includes the same information if the legal guardian or health care surrogate submits the request. The request shall be validated by the department to verify the identity of the patient and the legal guardian or health care surrogate, if the patient's legal guardian or health care surrogate is the requestor. Such verification is also required for any request to change a patient's prescription history or other information related to his or her information in the electronic database.

Information in the database for the electronic prescription drug monitoring system is not discoverable or admissible in any civil or administrative action, except in an investigation and disciplinary proceeding by the department or the appropriate regulatory board.

(d)The following entities shall not be allowed direct access to information in the prescription drug monitoring program database but may request from the program manager and, when authorized by the program manager, the program manager's program and support staff, information that contains no identifying information of any patient, physician, health care practitioner, prescriber, or dispenser and that is not confidential and exempt:

1.Department staff for the purpose of calculating performance measures pursuant to subsection (8).

2.The Program Implementation and Oversight Task Force for its reporting to the Governor, the President of the Senate, and the Speaker of the House of Representatives regarding the prescription drug monitoring program. This subparagraph expires July 1, 2012.

(e)All transmissions of data required by this section must comply with relevant state and federal privacy and security laws and regulations. However, any authorized agency or person under s. 893.0551 receiving such information as allowed by s. 893.0551 may maintain the information

received for up to 24 months before purging it from his or her records or maintain it for longer than 24 months if the information is pertinent to ongoing health care or an active law enforcement investigation or prosecution.

(f)The program manager, upon determining a pattern consistent with the rules established under paragraph (2)(d) and having cause to believe a violation of s. 893.13(7)(a)8., (8)(a), or (8)(b) has occurred, may provide relevant information to the applicable law enforcement agency.

(8)To assist in fulfilling program responsibilities, performance measures shall be reported annually to the Governor, the President of the Senate, and the Speaker of the House of Representatives by the department each December 1, beginning in 2011. Data that does not contain patient, physician, health care practitioner, prescriber, or dispenser identifying information may be requested during the year by department employees so that the department may undertake public health care and safety initiatives that take advantage of observed trends. Performance measures may include, but are not limited to, efforts to achieve the following outcomes:

(a)Reduction of the rate of inappropriate use of prescription drugs through department education and safety efforts.

(b)Reduction of the quantity of pharmaceutical controlled substances obtained by individuals attempting to engage in fraud and deceit.

(c)Increased coordination among partners participating in the prescription drug monitoring program.

(d)Involvement of stakeholders in achieving improved patient health care and safety and reduction of prescription drug abuse and prescription drug diversion.

(9)Any person who willfully and knowingly fails to report the dispensing of a controlled substance as required by this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(10)All costs incurred by the department in administering the prescription drug monitoring program shall be funded through federal grants or private funding applied for or received by the state. The department may not commit funds for the monitoring program without ensuring funding is available. The prescription drug monitoring program and the implementation thereof are contingent upon receipt of the nonstate funding. The department and state government shall cooperate with the direct-support organization established pursuant to subsection (11) in seeking federal grant funds, other nonstate grant funds, gifts, donations, or other private moneys for the department so long as the costs of doing so are not considered material. Nonmaterial costs for this purpose include, but are not limited to, the costs of mailing and personnel assigned to research or apply for a grant. Notwithstanding the exemptions to competitive-solicitation requirements under s. 287.057(3)(f), the department shall comply with the competitive-solicitation requirements under

s. 287.057 for the procurement of any goods or services required by this section. Funds provided, directly or indirectly, by prescription drug manufacturers may not be used to implement the program.

(11)The department may establish a direct-support organization that has a board consisting of at least five members to provide assistance, funding, and promotional support for the activities authorized for the prescription drug monitoring program.

(a)As used in this subsection, the term “direct-support organization” means an organization that is:

1.A Florida corporation not for profit incorporated under chapter 617, exempted from filing fees, and approved by the Department of State.

2.Organized and operated to conduct programs and activities; raise funds; request and receive grants, gifts, and bequests of money; acquire, receive, hold, and invest, in its own name, securities, funds, objects of value, or other property, either real or personal; and make expenditures or provide funding to or for the direct or indirect benefit of the department in the furtherance of the prescription drug monitoring program.

(b)The direct-support organization is not considered a lobbying firm within the meaning of s. 11.045.

(c)The State Surgeon General shall appoint a board of directors for the direct-support organization. Members of the board shall serve at the pleasure of the State Surgeon General. The State Surgeon General shall provide guidance to members of the board to ensure that moneys received by the direct-support organization are not received from inappropriate sources. Inappropriate sources include, but are not limited to, donors, grantors, persons, or organizations that may monetarily or substantively benefit from the purchase of goods or services by the department in furtherance of the prescription drug monitoring program.

(d)The direct-support organization shall operate under written contract with the department. The contract must, at a minimum, provide for:

1.Approval of the articles of incorporation and bylaws of the direct-support organization by the department.

2.Submission of an annual budget for the approval of the department.

3.Certification by the department that the direct-support organization is complying with the terms of the contract in a manner consistent with and in furtherance of the goals and purposes of the prescription drug monitoring program and in the best interests of the state. Such certification must be made annually and reported in the official minutes of a meeting of the direct-support organization.

4.The reversion, without penalty, to the state of all moneys and property held in trust by the direct-support organization for the benefit of the prescription drug monitoring program if the

direct-support organization ceases to exist or if the contract is terminated.

5. The fiscal year of the direct-support organization, which must begin July 1 of each year and end June 30 of the following year.

6. The disclosure of the material provisions of the contract to donors of gifts, contributions, or bequests, including such disclosure on all promotional and fundraising publications, and an explanation to such donors of the distinction between the department and the direct-support organization.

7. The direct-support organization's collecting, expending, and providing of funds to the department for the development, implementation, and operation of the prescription drug monitoring program as described in this section and s. 2, chapter 2009-198, Laws of Florida, as long as the task force is authorized. The direct-support organization may collect and expend funds to be used for the functions of the direct-support organization's board of directors, as necessary and approved by the department. In addition, the direct-support organization may collect and provide funding to the department in furtherance of the prescription drug monitoring program by:

a. Establishing and administering the prescription drug monitoring program's electronic database, including hardware and software.

b. Conducting studies on the efficiency and effectiveness of the program to include feasibility studies as described in subsection (13).

c. Providing funds for future enhancements of the program within the intent of this section.

d. Providing user training of the prescription drug monitoring program, including distribution of materials to promote public awareness and education and conducting workshops or other meetings, for health care practitioners, pharmacists, and others as appropriate.

e. Providing funds for travel expenses.

f. Providing funds for administrative costs, including personnel, audits, facilities, and equipment.

g. Fulfilling all other requirements necessary to implement and operate the program as outlined in this section.

(e) The activities of the direct-support organization must be consistent with the goals and mission of the department, as determined by the department, and in the best interests of the state. The direct-support organization must obtain a written approval from the department for any activities in support of the prescription drug monitoring program before undertaking those activities.

(f) The department may permit, without charge, appropriate use of administrative services, property, and facilities of the department by the direct-support organization, subject to this section. The use must be directly in keeping with the approved purposes of the direct-support organization and may not be made at times or places that would unreasonably interfere with

opportunities for the public to use such facilities for established purposes. Any moneys received from rentals of facilities and properties managed by the department may be held in a separate depository account in the name of the direct-support organization and subject to the provisions of the letter of agreement with the department. The letter of agreement must provide that any funds held in the separate depository account in the name of the direct-support organization must revert to the department if the direct-support organization is no longer approved by the department to operate in the best interests of the state.

(g)The department may adopt rules under s. 120.54 to govern the use of administrative services, property, or facilities of the department or office by the direct-support organization.

(h)The department may not permit the use of any administrative services, property, or facilities of the state by a direct-support organization if that organization does not provide equal membership and employment opportunities to all persons regardless of race, color, religion, gender, age, or national origin.

(i)The direct-support organization shall provide for an independent annual financial audit in accordance with s. 215.981. Copies of the audit shall be provided to the department and the Office of Policy and Budget in the Executive Office of the Governor.

(j)The direct-support organization may not exercise any power under s. 617.0302(12) or (16).

(12)A prescriber or dispenser may have access to the information under this section which relates to a patient of that prescriber or dispenser as needed for the purpose of reviewing the patient's controlled drug prescription history. A prescriber or dispenser acting in good faith is immune from any civil, criminal, or administrative liability that might otherwise be incurred or imposed for receiving or using information from the prescription drug monitoring program. This subsection does not create a private cause of action, and a person may not recover damages against a prescriber or dispenser authorized to access information under this subsection for accessing or failing to access such information.

(13)To the extent that funding is provided for such purpose through federal or private grants or gifts and other types of available moneys, the department shall study the feasibility of enhancing the prescription drug monitoring program for the purposes of public health initiatives and statistical reporting that respects the privacy of the patient, the prescriber, and the dispenser. Such a study shall be conducted in order to further improve the quality of health care services and safety by improving the prescribing and dispensing practices for prescription drugs, taking advantage of advances in technology, reducing duplicative prescriptions and the overprescribing of prescription drugs, and reducing drug abuse. The requirements of the National All Schedules Prescription Electronic Reporting (NASPER) Act are authorized in order to apply for federal NASPER funding. In addition, the direct-support organization shall provide funding for the department to conduct training for health care practitioners and other appropriate persons in using the monitoring

program to support the program enhancements.

(14) A pharmacist, pharmacy, or dispensing health care practitioner or his or her agent, before releasing a controlled substance to any person not known to such dispenser, shall require the person purchasing, receiving, or otherwise acquiring the controlled substance to present valid photographic identification or other verification of his or her identity to the dispenser. If the person does not have proper identification, the dispenser may verify the validity of the prescription and the identity of the patient with the prescriber or his or her authorized agent. Verification of health plan eligibility through a real-time inquiry or adjudication system will be considered to be proper identification. This subsection does not apply in an institutional setting or to a long-term care facility, including, but not limited to, an assisted living facility or a hospital to which patients are admitted. As used in this subsection, the term “proper identification” means an identification that is issued by a state or the Federal Government containing the person’s photograph, printed name, and signature or a document considered acceptable under 8 C.F.R. s. 274a.2(b)(1)(v)(A) and (B).

(15) The Agency for Health Care Administration shall continue the promotion of electronic prescribing by health care practitioners, health care facilities, and pharmacies under s. 408.0611.

(16) The department shall adopt rules pursuant to ss. 120.536(1) and 120.54 to administer the provisions of this section, which shall include as necessary the reporting, accessing, evaluation, management, development, implementation, operation, and storage of information within the monitoring program’s system.

History.—s. 1, ch. 2009-198; s. 41, ch. 2010-151; s. 12, ch. 2010-211; s. 50, ch. 2011-4; s. 23, ch. 2011-141; s. 86, ch. 2012-5.

893.0551 Public records exemption for the prescription drug monitoring program.—

(1) For purposes of this section, the term:

(a) “Active investigation” has the same meaning as provided in s. 893.055.

(b) “Dispenser” has the same meaning as provided in s. 893.055.

(c) “Health care practitioner” or “practitioner” has the same meaning as provided in s. 893.055.

(d) “Health care regulatory board” has the same meaning as provided in s. 893.055.

(e) “Law enforcement agency” has the same meaning as provided in s. 893.055.

(f) “Pharmacist” means any person licensed under chapter 465 to practice the profession of pharmacy.

(g) “Pharmacy” has the same meaning as provided in s. 893.055.

(h) “Prescriber” has the same meaning as provided in s. 893.055.

(2) The following information of a patient or patient’s agent, a health care practitioner, a dispenser, an employee of the practitioner who is acting on behalf of and at the direction of the

practitioner, a pharmacist, or a pharmacy that is contained in records held by the department under s. 893.055 is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution:

- (a)Name.
- (b)Address.
- (c)Telephone number.
- (d)Insurance plan number.
- (e)Government-issued identification number.
- (f)Provider number.
- (g)Drug Enforcement Administration number.
- (h)Any other unique identifying information or number.

(3)The department shall disclose such confidential and exempt information to the following entities after using a verification process to ensure the legitimacy of that person's or entity's request for the information:

(a)The Attorney General and his or her designee when working on Medicaid fraud cases involving prescription drugs or when the Attorney General has initiated a review of specific identifiers of Medicaid fraud regarding prescription drugs. The Attorney General or his or her designee may disclose the confidential and exempt information received from the department to a criminal justice agency as defined in s. 119.011 as part of an active investigation that is specific to a violation of prescription drug abuse or prescription drug diversion law as it relates to controlled substances. The Attorney General's Medicaid fraud investigators may not have direct access to the department's database.

(b)The department's relevant health care regulatory boards responsible for the licensure, regulation, or discipline of a practitioner, pharmacist, or other person who is authorized to prescribe, administer, or dispense controlled substances and who is involved in a specific controlled substances investigation for prescription drugs involving a designated person. The health care regulatory boards may request information from the department but may not have direct access to its database. The health care regulatory boards may provide such information to a law enforcement agency pursuant to ss. 456.066 and 456.073.

(c)A law enforcement agency that has initiated an active investigation involving a specific violation of law regarding prescription drug abuse or diversion of prescribed controlled substances. The law enforcement agency may disclose the confidential and exempt information received from the department to a criminal justice agency as defined in s. 119.011 as part of an active investigation that is specific to a violation of prescription drug abuse or prescription drug diversion law as it relates to controlled substances. A law enforcement agency may request information from the department but may not have direct access to its database.

(d) A health care practitioner who certifies that the information is necessary to provide medical treatment to a current patient in accordance with ss. 893.05 and 893.055.

(e) A pharmacist who certifies that the requested information will be used to dispense controlled substances to a current patient in accordance with ss. 893.04 and 893.055.

(f) A patient or the legal guardian or designated health care surrogate for an incapacitated patient, if applicable, making a request as provided in s. 893.055(7)(c)4.

(g) The patient's pharmacy, prescriber, or dispenser who certifies that the information is necessary to provide medical treatment to his or her current patient in accordance with s. 893.055.

(4) The department shall disclose such confidential and exempt information to the applicable law enforcement agency in accordance with s. 893.055(7)(f). The law enforcement agency may disclose the confidential and exempt information received from the department to a criminal justice agency as defined in s. 119.011 as part of an active investigation that is specific to a violation of s. 893.13(7)(a)8., s. 893.13(8)(a), or s. 893.13(8)(b).

(5) Any agency or person who obtains such confidential and exempt information pursuant to this section must maintain the confidential and exempt status of that information.

(6) Any person who willfully and knowingly violates this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(7) This section is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2014, unless reviewed and saved from repeal through reenactment by the Legislature.

History.—s. 1, ch. 2009-197; s. 13, ch. 2010-211; s. 51, ch. 2011-4.

893.06 Distribution of controlled substances; order forms; labeling and packaging requirements.—

(1) Controlled substances in Schedules I and II shall be distributed by a duly licensed manufacturer, distributor, or wholesaler to a duly licensed manufacturer, wholesaler, distributor, practitioner, pharmacy, as defined in chapter 465, hospital, or laboratory only pursuant to an order form. It shall be deemed a compliance with this subsection if the parties to the transaction have complied with federal law respecting the use of order forms.

(2) Possession or control of controlled substances obtained as authorized by this section shall be lawful if in the regular course of business, occupation, profession, employment, or duty.

(3) A person in charge of a hospital or laboratory or in the employ of this state or of any other state, or of any political subdivision thereof, and a master or other proper officer of a ship or aircraft, who obtains controlled substances under the provisions of this section or otherwise, shall not administer, dispense, or otherwise use such controlled substances within this state, except within the scope of her or his employment or official duty, and then only for scientific or medicinal purposes and subject to the provisions of this chapter.

(4) It shall be unlawful to distribute a controlled substance in a commercial container unless such container bears a label showing the name and address of the manufacturer, the quantity, kind, and form of controlled substance contained therein, and the identifying symbol for such substance, as required by federal law. No person except a pharmacist, for the purpose of dispensing a prescription, or a practitioner, for the purpose of dispensing a controlled substance to a patient, shall alter, deface, or remove any labels so affixed.

History.—s. 6, ch. 73-331; s. 1438, ch. 97-102.

893.065 Counterfeit-resistant prescription blanks for controlled substances listed in Schedule II, Schedule III, Schedule IV, or Schedule V.—The Department of Health shall develop and adopt by rule the form and content for a counterfeit-resistant prescription blank which must be used by practitioners for the purpose of prescribing a controlled substance listed in Schedule II, Schedule III, Schedule IV, or Schedule V pursuant to s. 456.42. The Department of Health may require the prescription blanks to be printed on distinctive, watermarked paper and to bear the preprinted name, address, and category of professional licensure of the practitioner and that practitioner's federal registry number for controlled substances. The prescription blanks may not be transferred.

History.—s. 4, ch. 2007-156; s. 24, ch. 2011-141.

893.07 Records.—

(1) Every person who engages in the manufacture, compounding, mixing, cultivating, growing, or by any other process producing or preparing, or in the dispensing, importation, or, as a wholesaler, distribution, of controlled substances shall:

(a) On January 1, 1974, or as soon thereafter as any person first engages in such activity, and every second year thereafter, make a complete and accurate record of all stocks of controlled substances on hand. The inventory may be prepared on the regular physical inventory date which is nearest to, and does not vary by more than 6 months from, the biennial date that would otherwise apply. As additional substances are designated for control under this chapter, they shall be inventoried as provided for in this subsection.

(b) On and after January 1, 1974, maintain, on a current basis, a complete and accurate record of each substance manufactured, received, sold, delivered, or otherwise disposed of by him or her, except that this subsection shall not require the maintenance of a perpetual inventory.

Compliance with the provisions of federal law pertaining to the keeping of records of controlled substances shall be deemed a compliance with the requirements of this subsection.

(2) The record of controlled substances received shall in every case show:

(a) The date of receipt.

(b) The name and address of the person from whom received.

(c) The kind and quantity of controlled substances received.

(3)The record of all controlled substances sold, administered, dispensed, or otherwise disposed of shall show:

(a)The date of selling, administering, or dispensing.

(b)The correct name and address of the person to whom or for whose use, or the owner and species of animal for which, sold, administered, or dispensed.

(c)The kind and quantity of controlled substances sold, administered, or dispensed.

(4)Every inventory or record required by this chapter, including prescription records, shall be maintained:

(a)Separately from all other records of the registrant, or

(b)Alternatively, in the case of Schedule III, IV, or V controlled substances, in such form that information required by this chapter is readily retrievable from the ordinary business records of the registrant.

In either case, the records described in this subsection shall be kept and made available for a period of at least 2 years for inspection and copying by law enforcement officers whose duty it is to enforce the laws of this state relating to controlled substances. Law enforcement officers are not required to obtain a subpoena, court order, or search warrant in order to obtain access to or copies of such records.

(5)Each person described in subsection (1) shall:

(a)Maintain a record which shall contain a detailed list of controlled substances lost, destroyed, or stolen, if any; the kind and quantity of such controlled substances; and the date of the discovering of such loss, destruction, or theft.

(b)In the event of the discovery of the theft or significant loss of controlled substances, report such theft or significant loss to the sheriff of that county within 24 hours after discovery. A person who fails to report a theft or significant loss of a substance listed in s. 893.03(3), (4), or (5) within 24 hours after discovery as required in this paragraph commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. A person who fails to report a theft or significant loss of a substance listed in s. 893.03(2) within 24 hours after discovery as required in this paragraph commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 7, ch. 73-331; s. 1439, ch. 97-102; s. 25, ch. 2011-141.

893.08Exceptions.—

(1)The following may be distributed at retail without a prescription, but only by a registered pharmacist:

(a)Any compound, mixture, or preparation described in Schedule V.

(b)Any compound, mixture, or preparation containing any depressant or stimulant substance described in s. 893.03(2)(a) or (c) except any amphetamine drug or sympathomimetic amine drug

or compound designated as a Schedule II controlled substance pursuant to this chapter; in s. 893.03(3)(a); or in Schedule IV, if:

1. The compound, mixture, or preparation contains one or more active medicinal ingredients not having depressant or stimulant effect on the central nervous system, and

2. Such ingredients are included therein in such combinations, quantity, proportion, or concentration as to vitiate the potential for abuse of the controlled substances which do have a depressant or stimulant effect on the central nervous system.

(2) No compound, mixture, or preparation may be dispensed under subsection (1) unless such substance may, under the Federal Food, Drug, and Cosmetic Act, be lawfully sold at retail without a prescription.

(3) The exemptions authorized by this section shall be subject to the following conditions:

(a) The compounds, mixtures, and preparations referred to in subsection (1) may be dispensed to persons under age 18 only on prescription. A bound volume must be maintained as a record of sale at retail of excepted compounds, mixtures, and preparations, and the pharmacist must require suitable identification from every unknown purchaser.

(b) Such compounds, mixtures, and preparations shall be sold by the pharmacist in good faith as a medicine and not for the purpose of evading the provisions of this chapter. The pharmacist may, in his or her discretion, withhold sale to any person whom the pharmacist reasonably believes is attempting to purchase excepted compounds, mixtures, or preparations for the purpose of abuse.

(c) The total quantity of controlled substance listed in Schedule V which may be sold to any one purchaser within a given 48-hour period shall not exceed 120 milligrams of codeine, 60 milligrams dihydrocodeine, 30 milligrams of ethyl morphine, or 240 milligrams of opium.

(d) Nothing in this section shall be construed to limit the kind and quantity of any controlled substance that may be prescribed, administered, or dispensed to any person, or for the use of any person or animal, when it is prescribed, administered, or dispensed in compliance with the general provisions of this chapter.

(4) The dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan) shall not be deemed to be included in any schedule by reason of enactment of this chapter.

History.—s. 8, ch. 73-331; s. 1, ch. 77-174; s. 6, ch. 80-354; s. 4, ch. 89-281; s. 2, ch. 93-92; s. 1440, ch. 97-102; s. 105, ch. 97-264; s. 12, ch. 99-186.

893.09 Enforcement.—

(1) The Department of Law Enforcement, all state agencies which regulate professions or institutions affected by the provisions of this chapter, and all peace officers of the state shall enforce all provisions of this chapter except those specifically delegated, and shall cooperate with

all agencies charged with the enforcement of the laws of the United States, this state, and all other states relating to controlled substances.

(2) Any agency authorized to enforce this chapter shall have the right to institute an action in its own name to enjoin the violation of any of the provisions of this chapter. Said action for an injunction shall be in addition to any other action, proceeding, or remedy authorized by law.

(3) All law enforcement officers whose duty it is to enforce this chapter shall have authority to administer oaths in connection with their official duties, and any person making a material false statement under oath before such law enforcement officers shall be deemed guilty of perjury and subject to the same punishment as prescribed for perjury.

(4) It shall be unlawful and punishable as provided in chapter 843 for any person to interfere with any such law enforcement officer in the performance of the officer's official duties. It shall also be unlawful for any person falsely to represent himself or herself to be authorized to enforce the drug abuse laws of this state, the United States, or any other state.

(5) No civil or criminal liability shall be imposed by virtue of this chapter upon any person whose duty it is to enforce the provisions of this chapter, by reason of his or her being lawfully engaged in the enforcement of any law or municipal ordinance relating to controlled substances.

History.—s. 9, ch. 73-331; s. 1, ch. 77-174; s. 30, ch. 79-8; s. 1441, ch. 97-102.

893.10 Burden of proof; photograph or video recording of evidence.—

(1) It is not necessary for the state to negative any exemption or exception set forth in this chapter in any indictment, information, or other pleading or in any trial, hearing, or other proceeding under this chapter, and the burden of going forward with the evidence with respect to any exemption or exception is upon the person claiming its benefit.

(2) In the prosecution of an offense involving the manufacture of a controlled substance, a photograph or video recording of the manufacturing equipment used in committing the offense, including, but not limited to, grow lights, growing trays, and chemical fertilizers, may be introduced as competent evidence of the existence and use of the equipment and is admissible in the prosecution of the offense to the same extent as if the property were introduced as evidence.

(3) After a law enforcement agency documents the manufacturing equipment by photography or video recording, the manufacturing equipment may be destroyed on site and left in disrepair. The law enforcement agency destroying the equipment is immune from civil liability for the destruction of the equipment. The destruction of the equipment must be recorded by the supervising law enforcement officer in the manner described in s. 893.12(1)(a), and records must be maintained for 24 months.

History.—s. 10, ch. 73-331; s. 1442, ch. 97-102; s. 3, ch. 2008-184; s. 19, ch. 2010-117.

893.101 Legislative findings and intent.—

(1) The Legislature finds that the cases of *Scott v. State*, Slip Opinion No. SC94701 (Fla. 2002)

and *Chicone v. State*, 684 So.2d 736 (Fla. 1996), holding that the state must prove that the defendant knew of the illicit nature of a controlled substance found in his or her actual or constructive possession, were contrary to legislative intent.

(2)The Legislature finds that knowledge of the illicit nature of a controlled substance is not an element of any offense under this chapter. Lack of knowledge of the illicit nature of a controlled substance is an affirmative defense to the offenses of this chapter.

(3)In those instances in which a defendant asserts the affirmative defense described in this section, the possession of a controlled substance, whether actual or constructive, shall give rise to a permissive presumption that the possessor knew of the illicit nature of the substance. It is the intent of the Legislature that, in those cases where such an affirmative defense is raised, the jury shall be instructed on the permissive presumption provided in this subsection.

History.—s. 1, ch. 2002-258.

893.105Testing and destruction of seized substances.—

(1)Any controlled substance or listed chemical seized as evidence may be sample tested and weighed by the seizing agency after the seizure. Any such sample and the analysis thereof shall be admissible into evidence in any civil or criminal action for the purpose of proving the nature, composition, and weight of the substance seized. In addition, the seizing agency may photograph or videotape, for use at trial, the controlled substance or listed chemical seized.

(2)Controlled substances or listed chemicals that are not retained for sample testing as provided in subsection (1) may be destroyed pursuant to a court order issued in accordance with s. 893.12.

History.—s. 1, ch. 82-88; s. 3, ch. 91-279.

893.11Suspension, revocation, and reinstatement of business and professional licenses.—

For the purposes of s. 120.60(6), any conviction in any court reported to the Comprehensive Case Information System of the Florida Association of Court Clerks and Comptrollers, Inc., for the sale of, or trafficking in, a controlled substance or for conspiracy to sell, or traffic in, a controlled substance constitutes an immediate serious danger to the public health, safety, or welfare, and is grounds for disciplinary action by the licensing state agency. A state agency shall initiate an immediate emergency suspension of an individual professional license issued by the agency, in compliance with the procedures for summary suspensions in s. 120.60(6), upon the agency's findings of the licensee's conviction in any court reported to the Comprehensive Case Information System of the Florida Association of Court Clerks and Comptrollers, Inc., for the sale of, or trafficking in, a controlled substance, or for conspiracy to sell, or traffic in, a controlled substance. Before renewing any professional license, a state agency that issues a professional license must use the Comprehensive Case Information System of the Florida Association of Court Clerks and Comptrollers, Inc., to obtain information relating to any conviction for the sale of, or trafficking in,

a controlled substance or for conspiracy to sell, or traffic in, a controlled substance. The clerk of court shall provide electronic access to each state agency at no cost and also provide certified copies of the judgment upon request to the agency. Upon a showing by any such convicted defendant whose professional license has been suspended or revoked pursuant to this section that his or her civil rights have been restored or upon a showing that the convicted defendant meets the following criteria, the agency head may reinstate or reactivate such license when:

(1)The person has complied with the conditions of paragraphs (a) and (b) which shall be monitored by the Department of Corrections while the person is under any supervisory sanction. If the person fails to comply with provisions of these paragraphs by either failing to maintain treatment or by testing positive for drug use, the department shall notify the licensing agency, which shall revoke the license. The person under supervision may:

(a)Seek evaluation and enrollment in, and once enrolled maintain enrollment in until completion, a drug treatment and rehabilitation program which is approved or regulated by the Department of Children and Family Services. The treatment and rehabilitation program shall be specified by:

- 1.The court, in the case of court-ordered supervisory sanctions;
- 2.The Parole Commission, in the case of parole, control release, or conditional release; or
- 3.The Department of Corrections, in the case of imprisonment or any other supervision required by law.

(b)Submit to periodic urine drug testing pursuant to procedures prescribed by the Department of Corrections. If the person is indigent, the costs shall be paid by the Department of Corrections; or

(2)The person has successfully completed an appropriate program under the Correctional Education Program.

(3)As used in this section, the term “professional license” includes any license, permit, or certificate that authorizes a person to practice his or her profession. However, the term does not include any of the taxes, fees, or permits regulated, controlled, or administered by the Department of Revenue in accordance with s. 213.05.

History.—s. 11, ch. 73-331; s. 1, ch. 77-117; s. 19, ch. 78-95; s. 3, ch. 90-266; s. 126, ch. 91-112; s. 14, ch. 95-325; s. 1443, ch. 97-102; s. 302, ch. 99-8; s. 18, ch. 2012-100.

893.12Contraband; seizure, forfeiture, sale.—

(1)All substances controlled by this chapter and all listed chemicals, which substances or chemicals are handled, delivered, possessed, or distributed contrary to any provisions of this chapter, and all such controlled substances or listed chemicals the lawful possession of which is not established or the title to which cannot be ascertained, are declared to be contraband, are subject to seizure and confiscation by any person whose duty it is to enforce the provisions of the chapter,

and shall be disposed of as follows:

(a) Except as in this section otherwise provided, the court having jurisdiction shall order such controlled substances or listed chemicals forfeited and destroyed. A record of the place where said controlled substances or listed chemicals were seized, of the kinds and quantities of controlled substances or listed chemicals destroyed, and of the time, place, and manner of destruction shall be kept, and a return under oath reporting said destruction shall be made to the court by the officer who destroys them.

(b) Upon written application by the Department of Health, the court by whom the forfeiture of such controlled substances or listed chemicals has been decreed may order the delivery of any of them to said department for distribution or destruction as hereinafter provided.

(c) Upon application by any hospital or laboratory within the state not operated for private gain, the department may, in its discretion, deliver any controlled substances or listed chemicals that have come into its custody by authority of this section to the applicant for medical use. The department may from time to time deliver excess stocks of such controlled substances or listed chemicals to the United States Drug Enforcement Administration or destroy same.

(d) The department shall keep a full and complete record of all controlled substances or listed chemicals received and of all controlled substances or listed chemicals disposed of, showing:

1. The exact kinds, quantities, and forms of such controlled substances or listed chemicals;
2. The persons from whom received and to whom delivered;
3. By whose authority received, delivered, and destroyed; and
4. The dates of the receipt, disposal, or destruction,

which record shall be open to inspection by all persons charged with the enforcement of federal and state drug abuse laws.

(2)(a) Any vessel, vehicle, aircraft, or drug paraphernalia as defined in s. 893.145 which has been or is being used in violation of any provision of this chapter or in, upon, or by means of which any violation of this chapter has taken or is taking place may be seized and forfeited as provided by the Florida Contraband Forfeiture Act.

(b) All real property, including any right, title, leasehold interest, and other interest in the whole of any lot or tract of land and any appurtenances or improvements, which real property is used, or intended to be used, in any manner or part, to commit or to facilitate the commission of, or which real property is acquired with proceeds obtained as a result of, a violation of any provision of this chapter related to a controlled substance described in s. 893.03(1) or (2) may be seized and forfeited as provided by the Florida Contraband Forfeiture Act except that no property shall be forfeited under this paragraph to the extent of an interest of an owner or lienholder by reason of any act or omission established by that owner or lienholder to have been committed or omitted without the knowledge or consent of that owner or lienholder.

(c) All moneys, negotiable instruments, securities, and other things of value furnished or intended to be furnished by any person in exchange for a controlled substance described in s. 893.03(1) or (2) or a listed chemical in violation of any provision of this chapter, all proceeds traceable to such an exchange, and all moneys, negotiable instruments, and securities used or intended to be used to facilitate any violation of any provision of this chapter or which are acquired with proceeds obtained in violation of any provision of this chapter may be seized and forfeited as provided by the Florida Contraband Forfeiture Act, except that no property shall be forfeited under this paragraph to the extent of an interest of an owner or lienholder by reason of any act or omission established by that owner or lienholder to have been committed or omitted without the knowledge or consent of that owner or lienholder.

(d) All books, records, and research, including formulas, microfilm, tapes, and data which are used, or intended for use, or which are acquired with proceeds obtained, in violation of any provision of this chapter related to a controlled substance described in s. 893.03(1) or (2) or a listed chemical may be seized and forfeited as provided by the Florida Contraband Forfeiture Act.

(e) If any of the property described in this subsection:

1. Cannot be located;
2. Has been transferred to, sold to, or deposited with, a third party;
3. Has been placed beyond the jurisdiction of the court;
4. Has been substantially diminished in value by any act or omission of the defendant; or
5. Has been commingled with any property which cannot be divided without difficulty,

the court shall order the forfeiture of any other property of the defendant up to the value of any property subject to forfeiture under this subsection.

(3) Any law enforcement agency is empowered to authorize or designate officers, agents, or other persons to carry out the seizure provisions of this section. It shall be the duty of any officer, agent, or other person so authorized or designated, or authorized by law, whenever she or he shall discover any vessel, vehicle, aircraft, real property or interest in real property, money, negotiable instrument, security, book, record, or research which has been or is being used or intended to be used, or which is acquired with proceeds obtained, in violation of any of the provisions of this chapter, or in, upon, or by means of which any violation of this chapter has taken or is taking place, to seize such vessel, vehicle, aircraft, real property or interest in real property, money, negotiable instrument, security, book, record, or research and place it in the custody of such person as may be authorized or designated for that purpose by the respective law enforcement agency pursuant to these provisions.

(4) The rights of any bona fide holder of a duly recorded mortgage or duly recorded vendor's privilege on the property seized under this chapter shall not be affected by the seizure.

History.—s. 12, ch. 73-331; ss. 10, 11, ch. 74-385; s. 471, ch. 77-147; s. 185, ch. 79-164; s. 4, ch. 80-30; s. 9, ch.

80-68; s. 5, ch. 89-148; s. 4, ch. 91-279; s. 1444, ch. 97-102; s. 1, ch. 98-395; s. 303, ch. 99-8; s. 13, ch. 99-186; s. 21, ch. 2000-320; s. 17, ch. 2004-11.

893.13 Prohibited acts; penalties.—

(1)(a) Except as authorized by this chapter and chapter 499, it is unlawful for any person to sell, manufacture, or deliver, or possess with intent to sell, manufacture, or deliver, a controlled substance. Any person who violates this provision with respect to:

1. A controlled substance named or described in s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4., commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. A controlled substance named or described in s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3. A controlled substance named or described in s. 893.03(5) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(b) Except as provided in this chapter, it is unlawful to sell or deliver in excess of 10 grams of any substance named or described in s. 893.03(1)(a) or (1)(b), or any combination thereof, or any mixture containing any such substance. Any person who violates this paragraph commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) Except as authorized by this chapter, it is unlawful for any person to sell, manufacture, or deliver, or possess with intent to sell, manufacture, or deliver, a controlled substance in, on, or within 1,000 feet of the real property comprising a child care facility as defined in s. 402.302 or a public or private elementary, middle, or secondary school between the hours of 6 a.m. and 12 midnight, or at any time in, on, or within 1,000 feet of real property comprising a state, county, or municipal park, a community center, or a publicly owned recreational facility. For the purposes of this paragraph, the term “community center” means a facility operated by a nonprofit community-based organization for the provision of recreational, social, or educational services to the public. Any person who violates this paragraph with respect to:

1. A controlled substance named or described in s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4., commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. The defendant must be sentenced to a minimum term of imprisonment of 3 calendar years unless the offense was committed within 1,000 feet of the real property comprising a child care facility as defined in s. 402.302.

2. A controlled substance named or described in s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3. Any other controlled substance, except as lawfully sold, manufactured, or delivered, must

be sentenced to pay a \$500 fine and to serve 100 hours of public service in addition to any other penalty prescribed by law.

This paragraph does not apply to a child care facility unless the owner or operator of the facility posts a sign that is not less than 2 square feet in size with a word legend identifying the facility as a licensed child care facility and that is posted on the property of the child care facility in a conspicuous place where the sign is reasonably visible to the public.

(d) Except as authorized by this chapter, it is unlawful for any person to sell, manufacture, or deliver, or possess with intent to sell, manufacture, or deliver, a controlled substance in, on, or within 1,000 feet of the real property comprising a public or private college, university, or other postsecondary educational institution. Any person who violates this paragraph with respect to:

1. A controlled substance named or described in s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4., commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. A controlled substance named or described in s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3. Any other controlled substance, except as lawfully sold, manufactured, or delivered, must be sentenced to pay a \$500 fine and to serve 100 hours of public service in addition to any other penalty prescribed by law.

(e) Except as authorized by this chapter, it is unlawful for any person to sell, manufacture, or deliver, or possess with intent to sell, manufacture, or deliver, a controlled substance not authorized by law in, on, or within 1,000 feet of a physical place for worship at which a church or religious organization regularly conducts religious services or within 1,000 feet of a convenience business as defined in s. 812.171. Any person who violates this paragraph with respect to:

1. A controlled substance named or described in s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4., commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. A controlled substance named or described in s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3. Any other controlled substance, except as lawfully sold, manufactured, or delivered, must be sentenced to pay a \$500 fine and to serve 100 hours of public service in addition to any other penalty prescribed by law.

(f) Except as authorized by this chapter, it is unlawful for any person to sell, manufacture, or deliver, or possess with intent to sell, manufacture, or deliver, a controlled substance in, on, or within 1,000 feet of the real property comprising a public housing facility at any time. For purposes

of this section, the term “real property comprising a public housing facility” means real property, as defined in s. 421.03(12), of a public corporation created as a housing authority pursuant to part I of chapter 421. Any person who violates this paragraph with respect to:

1.A controlled substance named or described in s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4., commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2.A controlled substance named or described in s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3.Any other controlled substance, except as lawfully sold, manufactured, or delivered, must be sentenced to pay a \$500 fine and to serve 100 hours of public service in addition to any other penalty prescribed by law.

(g)Except as authorized by this chapter, it is unlawful for any person to manufacture methamphetamine or phencyclidine, or possess any listed chemical as defined in s. 893.033 in violation of s. 893.149 and with intent to manufacture methamphetamine or phencyclidine. If any person violates this paragraph and:

1.The commission or attempted commission of the crime occurs in a structure or conveyance where any child under 16 years of age is present, the person commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. In addition, the defendant must be sentenced to a minimum term of imprisonment of 5 calendar years.

2.The commission of the crime causes any child under 16 years of age to suffer great bodily harm, the person commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. In addition, the defendant must be sentenced to a minimum term of imprisonment of 10 calendar years.

(h)Except as authorized by this chapter, it is unlawful for any person to sell, manufacture, or deliver, or possess with intent to sell, manufacture, or deliver, a controlled substance in, on, or within 1,000 feet of the real property comprising an assisted living facility, as that term is used in chapter 429. Any person who violates this paragraph with respect to:

1.A controlled substance named or described in s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2.A controlled substance named or described in s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2)(a)Except as authorized by this chapter and chapter 499, it is unlawful for any person to purchase, or possess with intent to purchase, a controlled substance. Any person who violates this

provision with respect to:

1.A controlled substance named or described in s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4., commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2.A controlled substance named or described in s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3.A controlled substance named or described in s. 893.03(5) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(b)Except as provided in this chapter, it is unlawful to purchase in excess of 10 grams of any substance named or described in s. 893.03(1)(a) or (1)(b), or any combination thereof, or any mixture containing any such substance. Any person who violates this paragraph commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3)Any person who delivers, without consideration, not more than 20 grams of cannabis, as defined in this chapter, commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. For the purposes of this paragraph, “cannabis” does not include the resin extracted from the plants of the genus *Cannabis* or any compound manufacture, salt, derivative, mixture, or preparation of such resin.

(4)Except as authorized by this chapter, it is unlawful for any person 18 years of age or older to deliver any controlled substance to a person under the age of 18 years, or to use or hire a person under the age of 18 years as an agent or employee in the sale or delivery of such a substance, or to use such person to assist in avoiding detection or apprehension for a violation of this chapter. Any person who violates this provision with respect to:

(a)A controlled substance named or described in s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4., commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b)A controlled substance named or described in s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Imposition of sentence may not be suspended or deferred, nor shall the person so convicted be placed on probation.

(5)It is unlawful for any person to bring into this state any controlled substance unless the possession of such controlled substance is authorized by this chapter or unless such person is licensed to do so by the appropriate federal agency. Any person who violates this provision with respect to:

(a)A controlled substance named or described in s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b),

or (2)(c)4., commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b)A controlled substance named or described in s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c)A controlled substance named or described in s. 893.03(5) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(6)(a)It is unlawful for any person to be in actual or constructive possession of a controlled substance unless such controlled substance was lawfully obtained from a practitioner or pursuant to a valid prescription or order of a practitioner while acting in the course of his or her professional practice or to be in actual or constructive possession of a controlled substance except as otherwise authorized by this chapter. Any person who violates this provision commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b)If the offense is the possession of not more than 20 grams of cannabis, as defined in this chapter, or 3 grams or less of a controlled substance described in s. 893.03(1)(c)46.-50. and 114.-142., the person commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. For the purposes of this subsection, “cannabis” does not include the resin extracted from the plants of the genus *Cannabis*, or any compound manufacture, salt, derivative, mixture, or preparation of such resin, and a controlled substance described in s. 893.03(1)(c)46.-50. and 114.-142. does not include the substance in a powdered form.

(c)Except as provided in this chapter, it is unlawful to possess in excess of 10 grams of any substance named or described in s. 893.03(1)(a) or (1)(b), or any combination thereof, or any mixture containing any such substance. Any person who violates this paragraph commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(d)Notwithstanding any provision to the contrary of the laws of this state relating to arrest, a law enforcement officer may arrest without warrant any person who the officer has probable cause to believe is violating the provisions of this chapter relating to possession of cannabis.

(7)(a)A person may not:

1. Distribute or dispense a controlled substance in violation of this chapter.
2. Refuse or fail to make, keep, or furnish any record, notification, order form, statement, invoice, or information required under this chapter.
3. Refuse entry into any premises for any inspection or refuse to allow any inspection authorized by this chapter.
4. Distribute a controlled substance named or described in s. 893.03(1) or (2) except pursuant to an order form as required by s. 893.06.
5. Keep or maintain any store, shop, warehouse, dwelling, building, vehicle, boat, aircraft, or

other structure or place which is resorted to by persons using controlled substances in violation of this chapter for the purpose of using these substances, or which is used for keeping or selling them in violation of this chapter.

6. Use to his or her own personal advantage, or reveal, any information obtained in enforcement of this chapter except in a prosecution or administrative hearing for a violation of this chapter.

7. Possess a prescription form which has not been completed and signed by the practitioner whose name appears printed thereon, unless the person is that practitioner, is an agent or employee of that practitioner, is a pharmacist, or is a supplier of prescription forms who is authorized by that practitioner to possess those forms.

8. Withhold information from a practitioner from whom the person seeks to obtain a controlled substance or a prescription for a controlled substance that the person making the request has received a controlled substance or a prescription for a controlled substance of like therapeutic use from another practitioner within the previous 30 days.

9. Acquire or obtain, or attempt to acquire or obtain, possession of a controlled substance by misrepresentation, fraud, forgery, deception, or subterfuge.

10. Affix any false or forged label to a package or receptacle containing a controlled substance.

11. Furnish false or fraudulent material information in, or omit any material information from, any report or other document required to be kept or filed under this chapter or any record required to be kept by this chapter.

12. Store anhydrous ammonia in a container that is not approved by the United States Department of Transportation to hold anhydrous ammonia or is not constructed in accordance with sound engineering, agricultural, or commercial practices.

13. With the intent to obtain a controlled substance or combination of controlled substances that are not medically necessary for the person or an amount of a controlled substance or substances that is not medically necessary for the person, obtain or attempt to obtain from a practitioner a controlled substance or a prescription for a controlled substance by misrepresentation, fraud, forgery, deception, subterfuge, or concealment of a material fact. For purposes of this subparagraph, a material fact includes whether the person has an existing prescription for a controlled substance issued for the same period of time by another practitioner or as described in subparagraph 8.

(b) A health care practitioner, with the intent to provide a controlled substance or combination of controlled substances that are not medically necessary to his or her patient or an amount of controlled substances that is not medically necessary for his or her patient, may not provide a controlled substance or a prescription for a controlled substance by misrepresentation, fraud,

forgery, deception, subterfuge, or concealment of a material fact. For purposes of this paragraph, a material fact includes whether the patient has an existing prescription for a controlled substance issued for the same period of time by another practitioner or as described in subparagraph (a)8.

(c) Any person who violates the provisions of subparagraphs (a)1.-7. commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083; except that, upon a second or subsequent violation, the person commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(d) Any person who violates the provisions of subparagraphs (a)8.-12. commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(e) A person or health care practitioner who violates the provisions of subparagraph (a)13. or paragraph (b) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if any controlled substance that is the subject of the offense is listed in Schedule II, Schedule III, or Schedule IV.

(8)(a) Notwithstanding subsection (9), a prescribing practitioner may not:

1. Knowingly assist a patient, other person, or the owner of an animal in obtaining a controlled substance through deceptive, untrue, or fraudulent representations in or related to the practice of the prescribing practitioner's professional practice;

2. Employ a trick or scheme in the practice of the prescribing practitioner's professional practice to assist a patient, other person, or the owner of an animal in obtaining a controlled substance;

3. Knowingly write a prescription for a controlled substance for a fictitious person; or

4. Write a prescription for a controlled substance for a patient, other person, or an animal if the sole purpose of writing such prescription is to provide a monetary benefit to, or obtain a monetary benefit for, the prescribing practitioner.

(b) If the prescribing practitioner wrote a prescription or multiple prescriptions for a controlled substance for the patient, other person, or animal for which there was no medical necessity, or which was in excess of what was medically necessary to treat the patient, other person, or animal, that fact does not give rise to any presumption that the prescribing practitioner violated subparagraph (a)1., but may be considered with other competent evidence in determining whether the prescribing practitioner knowingly assisted a patient, other person, or the owner of an animal to obtain a controlled substance in violation of subparagraph (a)1.

(c) A person who violates paragraph (a) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(d) Notwithstanding paragraph (c), if a prescribing practitioner has violated paragraph (a) and received \$1,000 or more in payment for writing one or more prescriptions or, in the case of a prescription written for a controlled substance described in s. 893.135, has written one or more

prescriptions for a quantity of a controlled substance which, individually or in the aggregate, meets the threshold for the offense of trafficking in a controlled substance under s. 893.15, the violation is reclassified as a felony of the second degree and ranked in level 4 of the Criminal Punishment Code.

(9)The provisions of subsections (1)-(8) are not applicable to the delivery to, or actual or constructive possession for medical or scientific use or purpose only of controlled substances by, persons included in any of the following classes, or the agents or employees of such persons, for use in the usual course of their business or profession or in the performance of their official duties:

(a)Pharmacists.

(b)Practitioners.

(c)Persons who procure controlled substances in good faith and in the course of professional practice only, by or under the supervision of pharmacists or practitioners employed by them, or for the purpose of lawful research, teaching, or testing, and not for resale.

(d)Hospitals that procure controlled substances for lawful administration by practitioners, but only for use by or in the particular hospital.

(e)Officers or employees of state, federal, or local governments acting in their official capacity only, or informers acting under their jurisdiction.

(f)Common carriers.

(g)Manufacturers, wholesalers, and distributors.

(h)Law enforcement officers for bona fide law enforcement purposes in the course of an active criminal investigation.

(10)If a person violates any provision of this chapter and the violation results in a serious injury to a state or local law enforcement officer as defined in s. 943.10, firefighter as defined in s. 633.30, emergency medical technician as defined in s. 401.23, paramedic as defined in s. 401.23, employee of a public utility or an electric utility as defined in s. 366.02, animal control officer as defined in s. 828.27, volunteer firefighter engaged by state or local government, law enforcement officer employed by the Federal Government, or any other local, state, or Federal Government employee injured during the course and scope of his or her employment, the person commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. If the injury sustained results in death or great bodily harm, the person commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

History.—s. 13, ch. 73-331; s. 1, ch. 76-200; s. 1, ch. 77-174; s. 2, ch. 79-1; s. 3, ch. 79-325; s. 5, ch. 80-30; s. 2, ch. 80-70; s. 490, ch. 81-259; s. 2, ch. 82-16; s. 52, ch. 83-215; s. 1, ch. 84-77; s. 5, ch. 85-242; s. 4, ch. 87-243; s. 2, ch. 88-381; s. 4, ch. 89-281; s. 1, ch. 89-524; ss. 1, 6, ch. 90-111; s. 1, ch. 93-59; s. 2, ch. 93-92; s. 1, ch. 93-194; ss. 22, 23, ch. 93-406; s. 2, ch. 96-360; s. 2, ch. 97-1; s. 1, ch. 97-43; s. 1827, ch. 97-102; s. 22, ch. 97-194; s. 106, ch. 97-264; s. 1, ch. 97-269; s. 47, ch. 97-271; s. 1, ch. 98-22; s. 1, ch. 99-154; s. 14, ch. 99-186; s. 3, ch. 2000-320;

s. 11, ch. 2002-78; s. 2, ch. 2002-81; s. 3, ch. 2003-10; s. 1, ch. 2003-95; s. 2, ch. 2005-128; s. 108, ch. 2006-197; s. 2, ch. 2006-306; s. 2, ch. 2008-88; s. 6, ch. 2010-113; ss. 3, 4, ch. 2011-73; s. 2, ch. 2011-90; s. 26, ch. 2011-141; s. 2, ch. 2012-23.

893.135 Trafficking; mandatory sentences; suspension or reduction of sentences; conspiracy to engage in trafficking.—

(1) Except as authorized in this chapter or in chapter 499 and notwithstanding the provisions of s. 893.13:

(a) Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, in excess of 25 pounds of cannabis, or 300 or more cannabis plants, commits a felony of the first degree, which felony shall be known as “trafficking in cannabis,” punishable as provided in s. 775.082, s. 775.083, or s. 775.084. If the quantity of cannabis involved:

1. Is in excess of 25 pounds, but less than 2,000 pounds, or is 300 or more cannabis plants, but not more than 2,000 cannabis plants, such person shall be sentenced to a mandatory minimum term of imprisonment of 3 years, and the defendant shall be ordered to pay a fine of \$25,000.

2. Is 2,000 pounds or more, but less than 10,000 pounds, or is 2,000 or more cannabis plants, but not more than 10,000 cannabis plants, such person shall be sentenced to a mandatory minimum term of imprisonment of 7 years, and the defendant shall be ordered to pay a fine of \$50,000.

3. Is 10,000 pounds or more, or is 10,000 or more cannabis plants, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 calendar years and pay a fine of \$200,000.

For the purpose of this paragraph, a plant, including, but not limited to, a seedling or cutting, is a “cannabis plant” if it has some readily observable evidence of root formation, such as root hairs. To determine if a piece or part of a cannabis plant severed from the cannabis plant is itself a cannabis plant, the severed piece or part must have some readily observable evidence of root formation, such as root hairs. Callous tissue is not readily observable evidence of root formation. The viability and sex of a plant and the fact that the plant may or may not be a dead harvested plant are not relevant in determining if the plant is a “cannabis plant” or in the charging of an offense under this paragraph. Upon conviction, the court shall impose the longest term of imprisonment provided for in this paragraph.

(b) 1. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 28 grams or more of cocaine, as described in s. 893.03(2)(a)4., or of any mixture containing cocaine, but less than 150 kilograms of cocaine or any such mixture, commits a felony of the first degree, which felony shall be known as “trafficking in cocaine,” punishable as provided in s. 775.082, s. 775.083, or s. 775.084. If the quantity involved:

a. Is 28 grams or more, but less than 200 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 3 years, and the defendant shall be ordered to pay a fine of \$50,000.

b. Is 200 grams or more, but less than 400 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 7 years, and the defendant shall be ordered to pay a fine of \$100,000.

c. Is 400 grams or more, but less than 150 kilograms, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 calendar years and pay a fine of \$250,000.

2. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 150 kilograms or more of cocaine, as described in s. 893.03(2)(a)4., commits the first degree felony of trafficking in cocaine. A person who has been convicted of the first degree felony of trafficking in cocaine under this subparagraph shall be punished by life imprisonment and is ineligible for any form of discretionary early release except pardon or executive clemency or conditional medical release under s. 947.149. However, if the court determines that, in addition to committing any act specified in this paragraph:

a. The person intentionally killed an individual or counseled, commanded, induced, procured, or caused the intentional killing of an individual and such killing was the result; or

b. The person's conduct in committing that act led to a natural, though not inevitable, lethal result,

such person commits the capital felony of trafficking in cocaine, punishable as provided in ss. 775.082 and 921.142. Any person sentenced for a capital felony under this paragraph shall also be sentenced to pay the maximum fine provided under subparagraph 1.

3. Any person who knowingly brings into this state 300 kilograms or more of cocaine, as described in s. 893.03(2)(a)4., and who knows that the probable result of such importation would be the death of any person, commits capital importation of cocaine, a capital felony punishable as provided in ss. 775.082 and 921.142. Any person sentenced for a capital felony under this paragraph shall also be sentenced to pay the maximum fine provided under subparagraph 1.

(c)1. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 4 grams or more of any morphine, opium, oxycodone, hydrocodone, hydromorphone, or any salt, derivative, isomer, or salt of an isomer thereof, including heroin, as described in s. 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or 4 grams or more of any mixture containing any such substance, but less than 30 kilograms of such substance or mixture, commits a felony of the first degree, which felony shall be known as "trafficking in illegal drugs," punishable as provided in s. 775.082, s. 775.083, or s. 775.084. If the quantity involved:

a. Is 4 grams or more, but less than 14 grams, such person shall be sentenced to a mandatory

minimum term of imprisonment of 3 years, and the defendant shall be ordered to pay a fine of \$50,000.

b. Is 14 grams or more, but less than 28 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 years, and the defendant shall be ordered to pay a fine of \$100,000.

c. Is 28 grams or more, but less than 30 kilograms, such person shall be sentenced to a mandatory minimum term of imprisonment of 25 calendar years and pay a fine of \$500,000.

2. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 30 kilograms or more of any morphine, opium, oxycodone, hydrocodone, hydromorphone, or any salt, derivative, isomer, or salt of an isomer thereof, including heroin, as described in s. 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or 30 kilograms or more of any mixture containing any such substance, commits the first degree felony of trafficking in illegal drugs. A person who has been convicted of the first degree felony of trafficking in illegal drugs under this subparagraph shall be punished by life imprisonment and is ineligible for any form of discretionary early release except pardon or executive clemency or conditional medical release under s. 947.149. However, if the court determines that, in addition to committing any act specified in this paragraph:

a. The person intentionally killed an individual or counseled, commanded, induced, procured, or caused the intentional killing of an individual and such killing was the result; or

b. The person's conduct in committing that act led to a natural, though not inevitable, lethal result,

such person commits the capital felony of trafficking in illegal drugs, punishable as provided in ss. 775.082 and 921.142. Any person sentenced for a capital felony under this paragraph shall also be sentenced to pay the maximum fine provided under subparagraph 1.

3. Any person who knowingly brings into this state 60 kilograms or more of any morphine, opium, oxycodone, hydrocodone, hydromorphone, or any salt, derivative, isomer, or salt of an isomer thereof, including heroin, as described in s. 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or 60 kilograms or more of any mixture containing any such substance, and who knows that the probable result of such importation would be the death of any person, commits capital importation of illegal drugs, a capital felony punishable as provided in ss. 775.082 and 921.142. Any person sentenced for a capital felony under this paragraph shall also be sentenced to pay the maximum fine provided under subparagraph 1.

(d) 1. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 28 grams or more of phencyclidine or of any mixture containing phencyclidine, as described in s. 893.03(2)(b), commits a felony of the first degree, which felony shall be known as "trafficking in phencyclidine,"

punishable as provided in s. 775.082, s. 775.083, or s. 775.084. If the quantity involved:

a. Is 28 grams or more, but less than 200 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 3 years, and the defendant shall be ordered to pay a fine of \$50,000.

b. Is 200 grams or more, but less than 400 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 7 years, and the defendant shall be ordered to pay a fine of \$100,000.

c. Is 400 grams or more, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 calendar years and pay a fine of \$250,000.

2. Any person who knowingly brings into this state 800 grams or more of phencyclidine or of any mixture containing phencyclidine, as described in s. 893.03(2)(b), and who knows that the probable result of such importation would be the death of any person commits capital importation of phencyclidine, a capital felony punishable as provided in ss. 775.082 and 921.142. Any person sentenced for a capital felony under this paragraph shall also be sentenced to pay the maximum fine provided under subparagraph 1.

(e) 1. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 200 grams or more of methaqualone or of any mixture containing methaqualone, as described in s. 893.03(1)(d), commits a felony of the first degree, which felony shall be known as "trafficking in methaqualone," punishable as provided in s. 775.082, s. 775.083, or s. 775.084. If the quantity involved:

a. Is 200 grams or more, but less than 5 kilograms, such person shall be sentenced to a mandatory minimum term of imprisonment of 3 years, and the defendant shall be ordered to pay a fine of \$50,000.

b. Is 5 kilograms or more, but less than 25 kilograms, such person shall be sentenced to a mandatory minimum term of imprisonment of 7 years, and the defendant shall be ordered to pay a fine of \$100,000.

c. Is 25 kilograms or more, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 calendar years and pay a fine of \$250,000.

2. Any person who knowingly brings into this state 50 kilograms or more of methaqualone or of any mixture containing methaqualone, as described in s. 893.03(1)(d), and who knows that the probable result of such importation would be the death of any person commits capital importation of methaqualone, a capital felony punishable as provided in ss. 775.082 and 921.142. Any person sentenced for a capital felony under this paragraph shall also be sentenced to pay the maximum fine provided under subparagraph 1.

(f) 1. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 14 grams or more of

amphetamine, as described in s. 893.03(2)(c)2., or methamphetamine, as described in s. 893.03(2)(c)4., or of any mixture containing amphetamine or methamphetamine, or phenylacetone, phenylacetic acid, pseudoephedrine, or ephedrine in conjunction with other chemicals and equipment utilized in the manufacture of amphetamine or methamphetamine, commits a felony of the first degree, which felony shall be known as “trafficking in amphetamine,” punishable as provided in s. 775.082, s. 775.083, or s. 775.084. If the quantity involved:

a. Is 14 grams or more, but less than 28 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 3 years, and the defendant shall be ordered to pay a fine of \$50,000.

b. Is 28 grams or more, but less than 200 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 7 years, and the defendant shall be ordered to pay a fine of \$100,000.

c. Is 200 grams or more, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 calendar years and pay a fine of \$250,000.

2. Any person who knowingly manufactures or brings into this state 400 grams or more of amphetamine, as described in s. 893.03(2)(c)2., or methamphetamine, as described in s. 893.03(2)(c)4., or of any mixture containing amphetamine or methamphetamine, or phenylacetone, phenylacetic acid, pseudoephedrine, or ephedrine in conjunction with other chemicals and equipment used in the manufacture of amphetamine or methamphetamine, and who knows that the probable result of such manufacture or importation would be the death of any person commits capital manufacture or importation of amphetamine, a capital felony punishable as provided in ss. 775.082 and 921.142. Any person sentenced for a capital felony under this paragraph shall also be sentenced to pay the maximum fine provided under subparagraph 1.

(g) 1. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 4 grams or more of flunitrazepam or any mixture containing flunitrazepam as described in s. 893.03(1)(a) commits a felony of the first degree, which felony shall be known as “trafficking in flunitrazepam,” punishable as provided in s. 775.082, s. 775.083, or s. 775.084. If the quantity involved:

a. Is 4 grams or more but less than 14 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 3 years, and the defendant shall be ordered to pay a fine of \$50,000.

b. Is 14 grams or more but less than 28 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 7 years, and the defendant shall be ordered to pay a fine of \$100,000.

c. Is 28 grams or more but less than 30 kilograms, such person shall be sentenced to a mandatory minimum term of imprisonment of 25 calendar years and pay a fine of \$500,000.

2. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state or who is knowingly in actual or constructive possession of 30 kilograms or more of flunitrazepam or any mixture containing flunitrazepam as described in s. 893.03(1)(a) commits the first degree felony of trafficking in flunitrazepam. A person who has been convicted of the first degree felony of trafficking in flunitrazepam under this subparagraph shall be punished by life imprisonment and is ineligible for any form of discretionary early release except pardon or executive clemency or conditional medical release under s. 947.149. However, if the court determines that, in addition to committing any act specified in this paragraph:

a. The person intentionally killed an individual or counseled, commanded, induced, procured, or caused the intentional killing of an individual and such killing was the result; or

b. The person's conduct in committing that act led to a natural, though not inevitable, lethal result,

such person commits the capital felony of trafficking in flunitrazepam, punishable as provided in ss. 775.082 and 921.142. Any person sentenced for a capital felony under this paragraph shall also be sentenced to pay the maximum fine provided under subparagraph 1.

(h) 1. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 1 kilogram or more of gamma-hydroxybutyric acid (GHB), as described in s. 893.03(1)(d), or any mixture containing gamma-hydroxybutyric acid (GHB), commits a felony of the first degree, which felony shall be known as "trafficking in gamma-hydroxybutyric acid (GHB)," punishable as provided in s. 775.082, s. 775.083, or s. 775.084. If the quantity involved:

a. Is 1 kilogram or more but less than 5 kilograms, such person shall be sentenced to a mandatory minimum term of imprisonment of 3 years, and the defendant shall be ordered to pay a fine of \$50,000.

b. Is 5 kilograms or more but less than 10 kilograms, such person shall be sentenced to a mandatory minimum term of imprisonment of 7 years, and the defendant shall be ordered to pay a fine of \$100,000.

c. Is 10 kilograms or more, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 calendar years and pay a fine of \$250,000.

2. Any person who knowingly manufactures or brings into this state 150 kilograms or more of gamma-hydroxybutyric acid (GHB), as described in s. 893.03(1)(d), or any mixture containing gamma-hydroxybutyric acid (GHB), and who knows that the probable result of such manufacture or importation would be the death of any person commits capital manufacture or importation of gamma-hydroxybutyric acid (GHB), a capital felony punishable as provided in ss. 775.082 and 921.142. Any person sentenced for a capital felony under this paragraph shall also be sentenced to pay the maximum fine provided under subparagraph 1.

(i)1. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 1 kilogram or more of gamma-butyrolactone (GBL), as described in s. 893.03(1)(d), or any mixture containing gamma-butyrolactone (GBL), commits a felony of the first degree, which felony shall be known as “trafficking in gamma-butyrolactone (GBL),” punishable as provided in s. 775.082, s. 775.083, or s. 775.084. If the quantity involved:

a. Is 1 kilogram or more but less than 5 kilograms, such person shall be sentenced to a mandatory minimum term of imprisonment of 3 years, and the defendant shall be ordered to pay a fine of \$50,000.

b. Is 5 kilograms or more but less than 10 kilograms, such person shall be sentenced to a mandatory minimum term of imprisonment of 7 years, and the defendant shall be ordered to pay a fine of \$100,000.

c. Is 10 kilograms or more, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 calendar years and pay a fine of \$250,000.

2. Any person who knowingly manufactures or brings into the state 150 kilograms or more of gamma-butyrolactone (GBL), as described in s. 893.03(1)(d), or any mixture containing gamma-butyrolactone (GBL), and who knows that the probable result of such manufacture or importation would be the death of any person commits capital manufacture or importation of gamma-butyrolactone (GBL), a capital felony punishable as provided in ss. 775.082 and 921.142. Any person sentenced for a capital felony under this paragraph shall also be sentenced to pay the maximum fine provided under subparagraph 1.

(j)1. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 1 kilogram or more of 1,4-Butanediol as described in s. 893.03(1)(d), or of any mixture containing 1,4-Butanediol, commits a felony of the first degree, which felony shall be known as “trafficking in 1,4-Butanediol,” punishable as provided in s. 775.082, s. 775.083, or s. 775.084. If the quantity involved:

a. Is 1 kilogram or more, but less than 5 kilograms, such person shall be sentenced to a mandatory minimum term of imprisonment of 3 years, and the defendant shall be ordered to pay a fine of \$50,000.

b. Is 5 kilograms or more, but less than 10 kilograms, such person shall be sentenced to a mandatory minimum term of imprisonment of 7 years, and the defendant shall be ordered to pay a fine of \$100,000.

c. Is 10 kilograms or more, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 calendar years and pay a fine of \$500,000.

2. Any person who knowingly manufactures or brings into this state 150 kilograms or more of 1,4-Butanediol as described in s. 893.03(1)(d), or any mixture containing 1,4-Butanediol, and who

knows that the probable result of such manufacture or importation would be the death of any person commits capital manufacture or importation of 1,4-Butanediol, a capital felony punishable as provided in ss. 775.082 and 921.142. Any person sentenced for a capital felony under this paragraph shall also be sentenced to pay the maximum fine provided under subparagraph 1.

(k)1. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 10 grams or more of any of the following substances described in s. 893.03(1)(a) or (c):

- a. 3,4-Methylenedioxymethamphetamine (MDMA);
- b. 4-Bromo-2,5-dimethoxyamphetamine;
- c. 4-Bromo-2,5-dimethoxyphenethylamine;
- d. 2,5-Dimethoxyamphetamine;
- e. 2,5-Dimethoxy-4-ethylamphetamine (DOET);
- f. N-ethylamphetamine;
- g. N-Hydroxy-3,4-methylenedioxyamphetamine;
- h. 5-Methoxy-3,4-methylenedioxyamphetamine;
- i. 4-methoxyamphetamine;
- j. 4-methoxymethamphetamine;
- k. 4-Methyl-2,5-dimethoxyamphetamine;
- l. 3,4-Methylenedioxy-N-ethylamphetamine;
- m. 3,4-Methylenedioxyamphetamine;
- n. N,N-dimethylamphetamine; or
- o. 3,4,5-Trimethoxyamphetamine,

individually or in any combination of or any mixture containing any substance listed in sub-subparagraphs a.-o., commits a felony of the first degree, which felony shall be known as “trafficking in Phenethylamines,” punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. If the quantity involved:

a. Is 10 grams or more but less than 200 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 3 years, and the defendant shall be ordered to pay a fine of \$50,000.

b. Is 200 grams or more, but less than 400 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 7 years, and the defendant shall be ordered to pay a fine of \$100,000.

c. Is 400 grams or more, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 calendar years and pay a fine of \$250,000.

3. Any person who knowingly manufactures or brings into this state 30 kilograms or more of any of the following substances described in s. 893.03(1)(a) or (c):

- a. 3,4-Methylenedioxyamphetamine (MDMA);
- b. 4-Bromo-2,5-dimethoxyamphetamine;
- c. 4-Bromo-2,5-dimethoxyphenethylamine;
- d. 2,5-Dimethoxyamphetamine;
- e. 2,5-Dimethoxy-4-ethylamphetamine (DOET);
- f. N-ethylamphetamine;
- g. N-Hydroxy-3,4-methylenedioxyamphetamine;
- h. 5-Methoxy-3,4-methylenedioxyamphetamine;
- i. 4-methoxyamphetamine;
- j. 4-methoxymethamphetamine;
- k. 4-Methyl-2,5-dimethoxyamphetamine;
- l. 3,4-Methylenedioxy-N-ethylamphetamine;
- m. 3,4-Methylenedioxyamphetamine;
- n. N,N-dimethylamphetamine; or
- o. 3,4,5-Trimethoxyamphetamine,

individually or in any combination of or any mixture containing any substance listed in sub-paragraphs a.-o., and who knows that the probable result of such manufacture or importation would be the death of any person commits capital manufacture or importation of Phenethylamines, a capital felony punishable as provided in ss. 775.082 and 921.142. Any person sentenced for a capital felony under this paragraph shall also be sentenced to pay the maximum fine provided under subparagraph 1.

(l) 1. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 1 gram or more of lysergic acid diethylamide (LSD) as described in s. 893.03(1)(c), or of any mixture containing lysergic acid diethylamide (LSD), commits a felony of the first degree, which felony shall be known as “trafficking in lysergic acid diethylamide (LSD),” punishable as provided in s. 775.082, s. 775.083, or s. 775.084. If the quantity involved:

a. Is 1 gram or more, but less than 5 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 3 years, and the defendant shall be ordered to pay a fine of \$50,000.

b. Is 5 grams or more, but less than 7 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 7 years, and the defendant shall be ordered to pay a fine of \$100,000.

c. Is 7 grams or more, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 calendar years and pay a fine of \$500,000.

2. Any person who knowingly manufactures or brings into this state 7 grams or more of lysergic

acid diethylamide (LSD) as described in s. 893.03(1)(c), or any mixture containing lysergic acid diethylamide (LSD), and who knows that the probable result of such manufacture or importation would be the death of any person commits capital manufacture or importation of lysergic acid diethylamide (LSD), a capital felony punishable as provided in ss. 775.082 and 921.142. Any person sentenced for a capital felony under this paragraph shall also be sentenced to pay the maximum fine provided under subparagraph 1.

(2)A person acts knowingly under subsection (1) if that person intends to sell, purchase, manufacture, deliver, or bring into this state, or to actually or constructively possess, any of the controlled substances listed in subsection (1), regardless of which controlled substance listed in subsection (1) is in fact sold, purchased, manufactured, delivered, or brought into this state, or actually or constructively possessed.

(3)Notwithstanding the provisions of s. 948.01, with respect to any person who is found to have violated this section, adjudication of guilt or imposition of sentence shall not be suspended, deferred, or withheld, nor shall such person be eligible for parole prior to serving the mandatory minimum term of imprisonment prescribed by this section. A person sentenced to a mandatory minimum term of imprisonment under this section is not eligible for any form of discretionary early release, except pardon or executive clemency or conditional medical release under s. 947.149, prior to serving the mandatory minimum term of imprisonment.

(4)The state attorney may move the sentencing court to reduce or suspend the sentence of any person who is convicted of a violation of this section and who provides substantial assistance in the identification, arrest, or conviction of any of that person's accomplices, accessories, coconspirators, or principals or of any other person engaged in trafficking in controlled substances. The arresting agency shall be given an opportunity to be heard in aggravation or mitigation in reference to any such motion. Upon good cause shown, the motion may be filed and heard in camera. The judge hearing the motion may reduce or suspend the sentence if the judge finds that the defendant rendered such substantial assistance.

(5)Any person who agrees, conspires, combines, or confederates with another person to commit any act prohibited by subsection (1) commits a felony of the first degree and is punishable as if he or she had actually committed such prohibited act. Nothing in this subsection shall be construed to prohibit separate convictions and sentences for a violation of this subsection and any violation of subsection (1).

(6)A mixture, as defined in s. 893.02, containing any controlled substance described in this section includes, but is not limited to, a solution or a dosage unit, including but not limited to, a pill or tablet, containing a controlled substance. For the purpose of clarifying legislative intent regarding the weighing of a mixture containing a controlled substance described in this section, the weight of the controlled substance is the total weight of the mixture, including the controlled

substance and any other substance in the mixture. If there is more than one mixture containing the same controlled substance, the weight of the controlled substance is calculated by aggregating the total weight of each mixture.

(7)For the purpose of further clarifying legislative intent, the Legislature finds that the opinion in *Hayes v. State*, 750 So. 2d 1 (Fla. 1999) does not correctly construe legislative intent. The Legislature finds that the opinions in *State v. Hayes*, 720 So. 2d 1095 (Fla. 4th DCA 1998) and *State v. Baxley*, 684 So. 2d 831 (Fla. 5th DCA 1996) correctly construe legislative intent.

History.—s. 1, ch. 79-1; s. 1, ch. 80-70; s. 2, ch. 80-353; s. 491, ch. 81-259; s. 1, ch. 82-2; s. 3, ch. 82-16; s. 53, ch. 83-215; s. 5, ch. 87-243; ss. 1, 4, ch. 89-281; s. 1, ch. 90-112; s. 3, ch. 93-92; s. 24, ch. 93-406; s. 15, ch. 95-184; s. 5, ch. 95-415; s. 54, ch. 96-388; s. 3, ch. 97-1; s. 1828, ch. 97-102; s. 23, ch. 97-194; s. 9, ch. 99-188; s. 4, ch. 2000-320; s. 2, ch. 2001-55; s. 7, ch. 2001-57; ss. 1, 2, 3, ch. 2002-212; s. 4, ch. 2003-10; s. 3, ch. 2005-128; s. 7, ch. 2008-184; s. 5, ch. 2011-73; s. 3, ch. 2011-90.

893.1351Ownership, lease, rental, or possession for trafficking in or manufacturing a controlled substance.—

(1)A person may not own, lease, or rent any place, structure, or part thereof, trailer, or other conveyance with the knowledge that the place, structure, trailer, or conveyance will be used for the purpose of trafficking in a controlled substance, as provided in s. 893.135; for the sale of a controlled substance, as provided in s. 893.13; or for the manufacture of a controlled substance intended for sale or distribution to another. A person who violates this subsection commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2)A person may not knowingly be in actual or constructive possession of any place, structure, or part thereof, trailer, or other conveyance with the knowledge that the place, structure, or part thereof, trailer, or conveyance will be used for the purpose of trafficking in a controlled substance, as provided in s. 893.135; for the sale of a controlled substance, as provided in s. 893.13; or for the manufacture of a controlled substance intended for sale or distribution to another. A person who violates this subsection commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3)A person who is in actual or constructive possession of a place, structure, trailer, or conveyance with the knowledge that the place, structure, trailer, or conveyance is being used to manufacture a controlled substance intended for sale or distribution to another and who knew or should have known that a minor is present or resides in the place, structure, trailer, or conveyance commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(4)For the purposes of this section, proof of the possession of 25 or more cannabis plants constitutes prima facie evidence that the cannabis is intended for sale or distribution.

History.—s. 1, ch. 91-118; s. 10, ch. 99-188; s. 22, ch. 2000-320; s. 1, ch. 2002-212; s. 14, ch. 2005-128; s. 2, ch.

2008-184.

893.138 Local administrative action to abate drug-related, prostitution-related, or stolen-property-related public nuisances and criminal gang activity.—

(1) It is the intent of this section to promote, protect, and improve the health, safety, and welfare of the citizens of the counties and municipalities of this state by authorizing the creation of administrative boards with authority to impose administrative fines and other noncriminal penalties in order to provide an equitable, expeditious, effective, and inexpensive method of enforcing ordinances in counties and municipalities under circumstances when a pending or repeated violation continues to exist.

(2) Any place or premises that has been used:

(a) On more than two occasions within a 6-month period, as the site of a violation of s. 796.07;

(b) On more than two occasions within a 6-month period, as the site of the unlawful sale, delivery, manufacture, or cultivation of any controlled substance;

(c) On one occasion as the site of the unlawful possession of a controlled substance, where such possession constitutes a felony and that has been previously used on more than one occasion as the site of the unlawful sale, delivery, manufacture, or cultivation of any controlled substance;

(d) By a criminal gang for the purpose of conducting criminal gang activity as defined by s. 874.03; or

(e) On more than two occasions within a 6-month period, as the site of a violation of s. 812.019 relating to dealing in stolen property

may be declared to be a public nuisance, and such nuisance may be abated pursuant to the procedures provided in this section.

(3) Any pain-management clinic, as described in s. 458.3265 or s. 459.0137, which has been used on more than two occasions within a 6-month period as the site of a violation of:

(a) Section 784.011, s. 784.021, s. 784.03, or s. 784.045, relating to assault and battery;

(b) Section 810.02, relating to burglary;

(c) Section 812.014, relating to dealing in theft;

(d) Section 812.131, relating to robbery by sudden snatching; or

(e) Section 893.13, relating to the unlawful distribution of controlled substances,

may be declared to be a public nuisance, and such nuisance may be abated pursuant to the procedures provided in this section.

(4) Any county or municipality may, by ordinance, create an administrative board to hear complaints regarding the nuisances described in subsection (2). Any employee, officer, or resident of the county or municipality may bring a complaint before the board after giving not less than 3 days' written notice of such complaint to the owner of the place or premises at his or her last known address. After a hearing in which the board may consider any evidence, including evidence

of the general reputation of the place or premises, and at which the owner of the premises shall have an opportunity to present evidence in his or her defense, the board may declare the place or premises to be a public nuisance as described in subsection (2).

(5) If the board declares a place or premises to be a public nuisance, it may enter an order requiring the owner of such place or premises to adopt such procedure as may be appropriate under the circumstances to abate any such nuisance or it may enter an order immediately prohibiting:

(a) The maintaining of the nuisance;

(b) The operating or maintaining of the place or premises, including the closure of the place or premises or any part thereof; or

(c) The conduct, operation, or maintenance of any business or activity on the premises which is conducive to such nuisance.

(6) An order entered under subsection (5) shall expire after 1 year or at such earlier time as is stated in the order.

(7) An order entered under subsection (5) may be enforced pursuant to the procedures contained in s. 120.69. This subsection does not subject a municipality that creates a board under this section, or the board so created, to any other provision of chapter 120.

(8) The board may bring a complaint under s. 60.05 seeking temporary and permanent injunctive relief against any nuisance described in subsection (2).

(9) This section does not restrict the right of any person to proceed under s. 60.05 against any public nuisance.

(10) As used in this section, the term "controlled substance" includes any substance sold in lieu of a controlled substance in violation of s. 817.563 or any imitation controlled substance defined in s. 817.564.

(11) The provisions of this section may be supplemented by a county or municipal ordinance. The ordinance may include, but is not limited to, provisions that establish additional penalties for public nuisances, including fines not to exceed \$250 per day; provide for the payment of reasonable costs, including reasonable attorney fees associated with investigations of and hearings on public nuisances; provide for continuing jurisdiction for a period of 1 year over any place or premises that has been or is declared to be a public nuisance; establish penalties, including fines not to exceed \$500 per day for recurring public nuisances; provide for the recording of orders on public nuisances so that notice must be given to subsequent purchasers, successors in interest, or assigns of the real property that is the subject of the order; provide that recorded orders on public nuisances may become liens against the real property that is the subject of the order; and provide for the foreclosure of property subject to a lien and the recovery of all costs, including reasonable attorney fees, associated with the recording of orders and foreclosure. No lien created pursuant to

the provisions of this section may be foreclosed on real property which is a homestead under s. 4, Art. X of the State Constitution. Where a local government seeks to bring an administrative action, based on a stolen property nuisance, against a property owner operating an establishment where multiple tenants, on one site, conduct their own retail business, the property owner shall not be subject to a lien against his or her property or the prohibition of operation provision if the property owner evicts the business declared to be a nuisance within 90 days after notification by registered mail to the property owner of a second stolen property conviction of the tenant. The total fines imposed pursuant to the authority of this section shall not exceed \$15,000. Nothing contained within this section prohibits a county or municipality from proceeding against a public nuisance by any other means.

History.—s. 7, ch. 87-243; s. 2, ch. 90-207; s. 1, ch. 91-143; s. 6, ch. 93-227; s. 1, ch. 94-242; s. 42, ch. 96-388; s. 1829, ch. 97-102; s. 1, ch. 97-200; s. 2, ch. 98-395; s. 1, ch. 2000-111; s. 5, ch. 2001-66; s. 24, ch. 2008-238; s. 27, ch. 2011-141; s. 87, ch. 2012-5.

893.145“Drug paraphernalia” defined.—The term “drug paraphernalia” means all equipment, products, and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, transporting, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of this chapter or s. 877.111. Drug paraphernalia is deemed to be contraband which shall be subject to civil forfeiture. The term includes, but is not limited to:

(1)Kits used, intended for use, or designed for use in the planting, propagating, cultivating, growing, or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived.

(2)Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances.

(3)Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance.

(4)Testing equipment used, intended for use, or designed for use in identifying, or in analyzing the strength, effectiveness, or purity of, controlled substances.

(5)Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances.

(6)Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose, and lactose, used, intended for use, or designed for use in cutting controlled substances.

(7)Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, cannabis.

(8) Blenders, bowls, containers, spoons, and mixing devices used, intended for use, or designed for use in compounding controlled substances.

(9) Capsules, balloons, envelopes, and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances.

(10) Containers and other objects used, intended for use, or designed for use in storing, concealing, or transporting controlled substances.

(11) Hypodermic syringes, needles, and other objects used, intended for use, or designed for use in parenterally injecting controlled substances into the human body.

(12) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing cannabis, cocaine, hashish, hashish oil, or nitrous oxide into the human body, such as:

(a) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes, with or without screens, permanent screens, hashish heads, or punctured metal bowls.

(b) Water pipes.

(c) Carburetion tubes and devices.

(d) Smoking and carburetion masks.

(e) Roach clips: meaning objects used to hold burning material, such as a cannabis cigarette, that has become too small or too short to be held in the hand.

(f) Miniature cocaine spoons, and cocaine vials.

(g) Chamber pipes.

(h) Carburetor pipes.

(i) Electric pipes.

(j) Air-driven pipes.

(k) Chillums.

(l) Bong.

(m) Ice pipes or chillers.

(n) A cartridge or canister, which means a small metal device used to contain nitrous oxide.

(o) A charger, sometimes referred to as a "cracker," which means a small metal or plastic device that contains an interior pin that may be used to expel nitrous oxide from a cartridge or container.

(p) A charging bottle, which means a device that may be used to expel nitrous oxide from a cartridge or canister.

(q) A whip-it, which means a device that may be used to expel nitrous oxide.

(r) A tank.

(s) A balloon.

(t) A hose or tube.

(u) A 2-liter-type soda bottle.

(v) Duct tape.

History.—s. 1, ch. 80-30; s. 6, ch. 2000-320; s. 15, ch. 2000-360.

893.146 Determination of paraphernalia.—In determining whether an object is drug paraphernalia, a court or other authority or jury shall consider, in addition to all other logically relevant factors, the following:

(1) Statements by an owner or by anyone in control of the object concerning its use.

(2) The proximity of the object, in time and space, to a direct violation of this act.

(3) The proximity of the object to controlled substances.

(4) The existence of any residue of controlled substances on the object.

(5) Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons who he or she knows, or should reasonably know, intend to use the object to facilitate a violation of this act. The innocence of an owner, or of anyone in control of the object, as to a direct violation of this act shall not prevent a finding that the object is intended for use, or designed for use, as drug paraphernalia.

(6) Instructions, oral or written, provided with the object concerning its use.

(7) Descriptive materials accompanying the object which explain or depict its use.

(8) Any advertising concerning its use.

(9) The manner in which the object is displayed for sale.

(10) Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor of or dealer in tobacco products.

(11) Direct or circumstantial evidence of the ratio of sales of the object or objects to the total sales of the business enterprise.

(12) The existence and scope of legitimate uses for the object in the community.

(13) Expert testimony concerning its use.

History.—s. 2, ch. 80-30; s. 1445, ch. 97-102.

893.147 Use, possession, manufacture, delivery, transportation, or advertisement of drug paraphernalia.—

(1) **USE OR POSSESSION OF DRUG PARAPHERNALIA.**—It is unlawful for any person to use, or to possess with intent to use, drug paraphernalia:

(a) To plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, or conceal a controlled substance in violation of this chapter; or

(b) To inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of this chapter.

Any person who violates this subsection is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(2)MANUFACTURE OR DELIVERY OF DRUG PARAPHERNALIA.—It is unlawful for any person to deliver, possess with intent to deliver, or manufacture with intent to deliver drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used:

(a)To plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, or conceal a controlled substance in violation of this act; or

(b)To inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of this act.

Any person who violates this subsection is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3)DELIVERY OF DRUG PARAPHERNALIA TO A MINOR.—

(a)Any person 18 years of age or over who violates subsection (2) by delivering drug paraphernalia to a person under 18 years of age is guilty of a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b)It is unlawful for any person to sell or otherwise deliver hypodermic syringes, needles, or other objects which may be used, are intended for use, or are designed for use in parenterally injecting substances into the human body to any person under 18 years of age, except that hypodermic syringes, needles, or other such objects may be lawfully dispensed to a person under 18 years of age by a licensed practitioner, parent, or legal guardian or by a pharmacist pursuant to a valid prescription for same. Any person who violates the provisions of this paragraph is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(4)TRANSPORTATION OF DRUG PARAPHERNALIA.—It is unlawful to use, possess with the intent to use, or manufacture with the intent to use drug paraphernalia, knowing or under circumstances in which one reasonably should know that it will be used to transport:

(a)A controlled substance in violation of this chapter; or

(b)Contraband as defined in s. 932.701(2)(a)1.

Any person who violates this subsection commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(5)ADVERTISEMENT OF DRUG PARAPHERNALIA.—It is unlawful for any person to place in any newspaper, magazine, handbill, or other publication any advertisement, knowing, or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia. Any person who violates this subsection is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 3, ch. 80-30; s. 1, ch. 81-149; s. 54, ch. 83-215; s. 1, ch. 85-8; s. 223, ch. 91-224; s. 16, ch. 2000-360.

893.149Unlawful possession of listed chemical.—

(1) It is unlawful for any person to knowingly or intentionally:

(a) Possess a listed chemical with the intent to unlawfully manufacture a controlled substance;

(b) Possess or distribute a listed chemical knowing, or having reasonable cause to believe, that the listed chemical will be used to unlawfully manufacture a controlled substance.

(2) Any person who violates this section commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) This section does not apply to a public employee or private contractor authorized to clean up or dispose of hazardous waste or toxic substances resulting from the prohibited activities listed in s. 893.13(1)(g).

(4) Any damages arising out of the unlawful possession of, storage of, or tampering with a listed chemical, as defined in s. 893.033, shall be the sole responsibility of the person or persons unlawfully possessing, storing, or tampering with the listed chemical. In no case shall liability for damages arising out of the unlawful possession of, storage of, or tampering with a listed chemical extend to the lawful owner, installer, maintainer, designer, manufacturer, possessor, or seller of the listed chemical, unless such damages arise out of the acts or omissions of the owner, installer, maintainer, designer, manufacturer, possessor, or seller which constitute negligent misconduct or failure to abide by the laws regarding the possession or storage of a listed chemical.

History.—s. 5, ch. 91-279; s. 3, ch. 2003-15; s. 4, ch. 2005-128.

893.1495 Retail sale of ephedrine and related compounds.—

(1) For purposes of this section, the term “ephedrine or related compounds” means ephedrine, pseudoephedrine, phenylpropanolamine, or any of their salts, optical isomers, or salts of optical isomers.

(2) A person may not knowingly obtain or deliver to an individual in any retail over-the-counter sale any nonprescription compound, mixture, or preparation containing ephedrine or related compounds in excess of the following amounts:

(a) In any single day, any number of packages that contain a total of 3.6 grams of ephedrine or related compounds;

(b) In any single retail, over-the-counter sale, three packages, regardless of weight, containing ephedrine or related compounds; or

(c) In any 30-day period, in any number of retail, over-the-counter sales, a total of 9 grams or more of ephedrine or related compounds.

(3) A person may not knowingly display and offer for retail sale any nonprescription compound, mixture, or preparation containing ephedrine or related compounds other than behind a checkout counter where the public is not permitted or other such location that is not otherwise accessible to the general public.

(4) A person who is the owner or primary operator of a retail outlet where any nonprescription

compound, mixture, or preparation containing ephedrine or related compounds is available for sale may not knowingly allow an employee to engage in the retail sale of such compound, mixture, or preparation unless the employee has completed an employee training program that shall include, at a minimum, basic instruction on state and federal regulations relating to the sale and distribution of such compounds, mixtures, or preparations.

(5)(a) Any person purchasing, receiving, or otherwise acquiring any nonprescription compound, mixture, or preparation containing any detectable quantity of ephedrine or related compounds must:

1. Be at least 18 years of age.

2. Produce a government-issued photo identification showing his or her name, date of birth, address, and photo identification number or an alternative form of identification acceptable under federal regulation 8 C.F.R. s. 274a.2(b)(1)(v)(A) and (B).

3. Sign his or her name on a record of the purchase, either on paper or on an electronic signature capture device.

(b) The Department of Law Enforcement shall approve an electronic recordkeeping system for the purpose of recording and monitoring the real-time purchase of products containing ephedrine or related compounds and for the purpose of monitoring this information in order to prevent or investigate illegal purchases of these products. The approved electronic recordkeeping system shall be provided to a pharmacy or retailer without any additional cost or expense. A pharmacy or retailer may request an exemption from electronic reporting from the Department of Law Enforcement if the pharmacy or retailer lacks the technology to access the electronic recordkeeping system and such pharmacy or retailer maintains a sales volume of less than 72 grams of ephedrine or related compounds in a 30-day period. The electronic recordkeeping system shall record the following:

1. The date and time of the transaction.

2. The name, date of birth, address, and photo identification number of the purchaser, as well as the type of identification and the government of issuance.

3. The number of packages purchased, the total grams per package, and the name of the compound, mixture, or preparation containing ephedrine or related compounds.

4. The signature of the purchaser, or a unique number relating the transaction to a paper signature maintained at the retail premises.

(c) The electronic recordkeeping system shall provide for:

1. Real-time tracking of nonprescription over-the-counter sales under this section.

2. The blocking of nonprescription over-the-counter sales in excess of those allowed by the laws of this state or federal law.

(6) A nonprescription compound, mixture, or preparation containing any quantity of ephedrine

or related compounds may not be sold over the counter unless reported to an electronic recordkeeping system approved by the Department of Law Enforcement. This subsection does not apply if the pharmacy or retailer has received an exemption from the Department of Law Enforcement under paragraph (5)(b).

(7) Prior to completing a transaction, a pharmacy or retailer distributing products containing ephedrine or related compounds to consumers in this state shall submit all required data into an electronic recordkeeping system approved by the Department of Law Enforcement at the point of sale or through an interface with the electronic recordkeeping system, unless granted an exemption by the Department of Law Enforcement pursuant to paragraph (5)(b).

(8) The data submitted to the electronic recordkeeping system must be retained within the system for no less than 2 years following the date of entry.

(9) The requirements of this section relating to the marketing, sale, or distribution of products containing ephedrine or related compounds supersede any local ordinance or regulation passed by a county, municipality, or other local governmental authority.

(10) This section does not apply to:

(a) Licensed manufacturers manufacturing and lawfully distributing products in the channels of commerce.

(b) Wholesalers lawfully distributing products in the channels of commerce.

(c) Health care facilities licensed under chapter 395.

(d) Licensed long-term care facilities.

(e) Government-operated health departments.

(f) Physicians' offices.

(g) Publicly operated prisons, jails, or juvenile correctional facilities or private adult or juvenile correctional facilities under contract with the state.

(h) Public or private educational institutions maintaining health care programs.

(i) Government-operated or industry-operated medical facilities serving employees of the government or industry operating them.

(11) Any individual who violates subsection (2), subsection (3), or subsection (4) commits:

(a) For a first offense, a misdemeanor of the second degree, punishable as provided in s. 775.083.

(b) For a second offense, a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(c) For a third or subsequent offense, a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(12) Information contained within the electronic recordkeeping system shall be disclosed in a manner authorized by state or federal law. Any retailer or entity that collects information on

behalf of a retailer as required by the Combat Methamphetamine Epidemic Act of 2005 and this section may not access or use that information, except for law enforcement purposes pursuant to state or federal law or to facilitate a product recall for public health and safety.

(13) A person who sells any product containing ephedrine or related compounds who in good faith releases information under this section to federal, state, or local law enforcement officers, or any person acting on behalf of such an officer, is immune from civil liability for the release unless the release constitutes gross negligence or intentional, wanton, or willful misconduct.

(14) The Department of Law Enforcement shall contract or enter into a memorandum of understanding, as applicable, with a private third-party administrator to implement the electronic recordkeeping system required by this section.

(15) The Department of Law Enforcement shall adopt rules necessary to implement this section.

History.—s. 5, ch. 2005-128; s. 1, ch. 2010-191.

893.15 Rehabilitation.—Any person who violates s. 893.13(6)(a) or (b) relating to possession may, in the discretion of the trial judge, be required to participate in a substance abuse services program approved or regulated by the Department of Children and Family Services pursuant to the provisions of chapter 397, provided the director of such program approves the placement of the defendant in such program. Such required participation shall be imposed in addition to any penalty or probation otherwise prescribed by law. However, the total time of such penalty, probation, and program participation shall not exceed the maximum length of sentence possible for the offense.

History.—s. 15, ch. 73-331; s. 46, ch. 91-110; s. 40, ch. 93-39; s. 3, ch. 94-107; s. 39, ch. 97-194; s. 304, ch. 99-8.

893.165 County alcohol and other drug abuse treatment or education trust funds.—

(1) Counties in which there is established or in existence a comprehensive alcohol and other drug abuse treatment or education program which meets the standards for qualification of such programs by the Department of Children and Family Services are authorized to establish a County Alcohol and Other Drug Abuse Trust Fund for the purpose of receiving the assessments collected pursuant to s. 938.23 and disbursing assistance grants on an annual basis to such alcohol and other drug abuse treatment or education program.

(2) Assessments collected by the clerks of court pursuant to s. 938.23 shall be remitted to the board of county commissioners of the county in which the indictment was found or the prosecution commenced for payment into the County Alcohol and Other Drug Abuse Trust Fund. The county commissioners shall require a full report from all clerks of county courts and clerks of circuit courts once each month of the amount of assessments imposed by their courts.

(3)(a) No county shall receive assessments collected pursuant to s. 938.23 in an amount exceeding that county's jurisdictional share as described in subsection (2).

(b) Assessments collected by clerks of circuit courts having more than one county in the

circuit, for any county in the circuit which does not have a County Alcohol and Other Drug Abuse Trust Fund, shall be remitted to the Department of Children and Family Services, in accordance with administrative rules adopted, for deposit into the department's Grants and Donations Trust Fund for distribution pursuant to the guidelines and priorities developed by the department.

(4) No assessments shall be remitted to a county until the board of county commissioners has submitted documentation to the court substantiating the establishment of its County Alcohol and Other Drug Abuse Trust Fund.

(5) If the board of county commissioners chooses to establish a County Alcohol and Other Drug Abuse Trust Fund, the board shall be responsible for the establishment of such fund and its implementation, administration, supervision, and evaluation.

(6) In order to receive assistance grants from the County Alcohol and Other Drug Abuse Trust Fund, county alcohol and other drug abuse prevention, treatment, or education programs shall be designated by the board of county commissioners as the chosen program recipients. Designations shall be made annually, based on success of the programs.

(7) An alcohol and other drug abuse treatment or education program recipient shall, in seeking assistance grants from the County Alcohol and Other Drug Abuse Trust Fund, provide the board of county commissioners with detailed financial information and requests for expenditures.

History.—s. 4, ch. 88-381; s. 3, ch. 93-194; s. 37, ch. 97-271; s. 305, ch. 99-8; s. 5, ch. 2009-47.

893.20 Continuing criminal enterprise.—

(1) Any person who commits three or more felonies under this chapter in concert with five or more other persons with respect to whom such person occupies a position of organizer, a supervisory position, or any other position of management and who obtains substantial assets or resources from these acts is guilty of engaging in a continuing criminal enterprise.

(2) A person who commits the offense of engaging in a continuing criminal enterprise is guilty of a life felony, punishable pursuant to the Criminal Punishment Code and by a fine of \$500,000.

(3) Notwithstanding the provisions of s. 948.01, with respect to any person who is found to have violated this section, adjudication of guilt or imposition of sentence may not be suspended, deferred, or withheld.

(4) This section does not prohibit separate convictions and sentences for violation of this section and for felony violations of this chapter.

(5) This section must be interpreted in concert with its federal analog, 21 U.S.C. s. 848.

History.—s. 1, ch. 89-145; s. 25, ch. 93-406; s. 24, ch. 97-194.

893.21 Drug-related overdoses; medical assistance; immunity from prosecution.—

(1) A person acting in good faith who seeks medical assistance for an individual experiencing a drug-related overdose may not be charged, prosecuted, or penalized pursuant to this chapter for possession of a controlled substance if the evidence for possession of a controlled substance was

obtained as a result of the person's seeking medical assistance.

(2)A person who experiences a drug-related overdose and is in need of medical assistance may not be charged, prosecuted, or penalized pursuant to this chapter for possession of a controlled substance if the evidence for possession of a controlled substance was obtained as a result of the overdose and the need for medical assistance.

(3)Protection in this section from prosecution for possession offenses under this chapter may not be grounds for suppression of evidence in other criminal prosecutions.

History.—s. 2, ch. 2012-36

Title XXXII
REGULATION OF PROFESSIONS AND OCCUPATIONS
CHAPTER 456
HEALTH PROFESSIONS AND OCCUPATIONS: GENERAL PROVISIONS

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45 6.001 Definitions.—As used in this chapter, the term:

(1)“Board” means any board or commission, or other statutorily created entity to the extent such entity is authorized to exercise regulatory or rulemaking functions, within the department, except that, for ss. 456.003-456.018, 456.022, 456.023, 456.025-456.034, and 456.039-456.082, “board” means only a board, or other statutorily created entity to the extent such entity is authorized to exercise regulatory or rulemaking functions, within the Division of Medical Quality Assurance.

(2)“Consumer member” means a person appointed to serve on a specific board or who has served on a specific board, who is not, and never has been, a member or practitioner of the profession, or of any closely related profession, regulated by such board.

(3)“Department” means the Department of Health.

(4)“Health care practitioner” means any person licensed under chapter 457; chapter 458; chapter 459; chapter 460; chapter 461; chapter 462; chapter 463; chapter 464; chapter 465; chapter 466; chapter 467; part I, part II, part III, part V, part X, part XIII, or part XIV of chapter 468; chapter 478; chapter 480; part III or part IV of chapter 483; chapter 484; chapter 486; chapter 490; or chapter 491.

(5)“License” means any permit, registration, certificate, or license, including a provisional license, issued by the department.

(6)“Licensee” means any person or entity issued a permit, registration, certificate, or license, including a provisional license, by the department.

(7)“Profession” means any activity, occupation, profession, or vocation regulated by the department in the Division of Medical Quality Assurance.

History.—s. 33, ch. 97-261; s. 72, ch. 99-397; s. 36, ch. 2000-160; s. 2, ch. 2002-199.

Note.—Former s. 455.501.

456.002Applicability.—This chapter applies only to the regulation by the department of professions.

History.—s. 34, ch. 97-261; s. 37, ch. 2000-160.

Note.—Former s. 455.504.

456.003Legislative intent; requirements.—

(1)It is the intent of the Legislature that persons desiring to engage in any lawful profession regulated by the department shall be entitled to do so as a matter of right if otherwise qualified.

(2)The Legislature further believes that such professions shall be regulated only for the preservation of the health, safety, and welfare of the public under the police powers of the state. Such professions shall be regulated when:

(a)Their unregulated practice can harm or endanger the health, safety, and welfare of the public, and when the potential for such harm is recognizable and clearly outweighs any anticompetitive impact which may result from regulation.

(b)The public is not effectively protected by other means, including, but not limited to, other state statutes, local ordinances, or federal legislation.

(c)Less restrictive means of regulation are not available.

(3)It is further legislative intent that the use of the term “profession” with respect to those activities licensed and regulated by the department shall not be deemed to mean that such activities are not occupations for other purposes in state or federal law.

(4)(a)Neither the department nor any board may create unreasonably restrictive and extraordinary standards that deter qualified persons from entering the various professions. Neither the department nor any board may take any action that tends to create or maintain an economic condition that unreasonably restricts competition, except as specifically provided by law.

(b)Neither the department nor any board may create a regulation that has an unreasonable effect on job creation or job retention in the state or that places unreasonable restrictions on the ability of individuals who seek to practice or who are practicing a profession or occupation to find employment.

(c)The Legislature shall evaluate proposals to increase the regulation of regulated professions or occupations to determine the effect of increased regulation on job creation or retention and employment opportunities.

(5)Policies adopted by the department shall ensure that all expenditures are made in the most cost-effective manner to maximize competition, minimize licensure costs, and maximize public access to meetings conducted for the purpose of professional regulation. The long-range planning function of the department shall be implemented to facilitate effective operations and to eliminate inefficiencies.

(6)Unless expressly and specifically granted in statute, the duties conferred on the boards do not include the enlargement, modification, or contravention of the lawful scope of practice of the profession regulated by the boards. This subsection shall not prohibit the boards, or the department when there is no board, from taking disciplinary action or issuing a declaratory statement.

History.—s. 38, ch. 97-261; s. 135, ch. 99-251; s. 38, ch. 2000-160; s. 57, ch. 2001-277.

Note.—Former s. 455.517.

456.004Department; powers and duties.—The department, for the professions under its jurisdiction, shall:

(1)Adopt rules establishing a procedure for the biennial renewal of licenses; however, the department may issue up to a 4-year license to selected licensees notwithstanding any other provisions of law to the contrary. The rules shall specify the expiration dates of licenses and the process for tracking compliance with continuing education requirements, financial responsibility requirements, and any other conditions of renewal set forth in statute or rule. Fees for such renewal shall not exceed the fee caps for individual professions on an annualized basis as authorized by law.

(2)Appoint the executive director of each board, subject to the approval of the board.

(3)Submit an annual budget to the Legislature at a time and in the manner provided by law.

(4)Develop a training program for persons newly appointed to membership on any board. The program shall familiarize such persons with the substantive and procedural laws and rules and fiscal information relating to the regulation of the appropriate profession and with the structure of the department.

(5)Adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this chapter.

(6)Establish by rules procedures by which the department shall use the expert or technical advice of the appropriate board for the purposes of investigation, inspection, evaluation of applications, other duties of the department, or any other areas the department may deem appropriate.

(7)Require all proceedings of any board or panel thereof and all formal or informal proceedings conducted by the department, an administrative law judge, or a hearing officer with respect to

licensing or discipline to be electronically recorded in a manner sufficient to assure the accurate transcription of all matters so recorded.

(8) Select only those investigators, or consultants who undertake investigations, who meet criteria established with the advice of the respective boards.

(9) Work cooperatively with the Department of Revenue to establish an automated method for periodically disclosing information relating to current licensees to the Department of Revenue, the state's Title IV-D agency. The purpose of this subsection is to promote the public policy of this state relating to child support as established in s. 409.2551. The department shall, when directed by the court or the Department of Revenue pursuant to s. 409.2598, suspend or deny the license of any licensee found not to be in compliance with a support order, a subpoena, an order to show cause, or a written agreement with the Department of Revenue. The department shall issue or reinstate the license without additional charge to the licensee when notified by the court or the Department of Revenue that the licensee has complied with the terms of the support order. The department is not liable for any license denial or suspension resulting from the discharge of its duties under this subsection.

(10) Set an examination fee that includes all costs to develop, purchase, validate, administer, and defend the examination and is an amount certain to cover all administrative costs plus the actual per-applicant cost of the examination.

(11) Work cooperatively with the Agency for Health Care Administration and the judicial system to recover Medicaid overpayments by the Medicaid program. The department shall investigate and prosecute health care practitioners who have not remitted amounts owed to the state for an overpayment from the Medicaid program pursuant to a final order, judgment, or stipulation or settlement.

History.—s. 39, ch. 97-261; s. 118, ch. 98-200; s. 74, ch. 99-397; s. 39, ch. 2000-160; s. 52, ch. 2001-158; s. 5, ch. 2001-277; s. 6, ch. 2008-92; s. 21, ch. 2009-223.

Note.—Former s. 455.521.

456.005 Long-range policy planning.—To facilitate efficient and cost-effective regulation, the department and the board, if appropriate, shall develop and implement a long-range policy planning and monitoring process that includes recommendations specific to each profession. The process shall include estimates of revenues, expenditures, cash balances, and performance statistics for each profession. The period covered may not be less than 5 years. The department, with input from the boards and licensees, shall develop and adopt the long-range plan. The department shall monitor compliance with the plan and, with input from the boards and licensees, shall annually update the plans. The department shall provide concise management reports to the boards quarterly. As part of the review process, the department shall evaluate:

(1) Whether the department, including the boards and the various functions performed by the

department, is operating efficiently and effectively and if there is a need for a board or council to assist in cost-effective regulation.

(2)How and why the various professions are regulated.

(3)Whether there is a need to continue regulation, and to what degree.

(4)Whether or not consumer protection is adequate, and how it can be improved.

(5)Whether there is consistency between the various practice acts.

(6)Whether unlicensed activity is adequately enforced.

The plans shall include conclusions and recommendations on these and other issues as appropriate.

History.—s. 40, ch. 97-261; s. 40, ch. 2000-160; s. 61, ch. 2008-6; s. 148, ch. 2010-102.

Note.—Former s. 455.524.

456.006Contacting boards through department.—Each board under the jurisdiction of the department may be contacted through the headquarters of the department in the City of Tallahassee.

History.—s. 41, ch. 97-261; s. 40, ch. 2000-160.

Note.—Former s. 455.527.

456.007Board members.—Notwithstanding any provision of law to the contrary, any person who otherwise meets the requirements of law for board membership and who is connected in any way with any medical college, dental college, or community college may be appointed to any board so long as that connection does not result in a relationship wherein such college represents the person's principal source of income. However, this section shall not apply to the physicians required by s. 458.307(2) to be on the faculty of a medical school in this state or on the full-time staff of a teaching hospital in this state.

History.—s. 2, ch. 84-161; s. 1, ch. 84-271; s. 3, ch. 88-392; s. 42, ch. 97-261; s. 17, ch. 97-264; s. 40, ch. 2000-160.

Note.—Former s. 455.206; s. 455.531.

456.008Accountability and liability of board members.—

(1)Each board member shall be accountable to the Governor for the proper performance of duties as a member of the board. The Governor shall investigate any legally sufficient complaint or unfavorable written report received by the Governor or by the department or a board concerning the actions of the board or its individual members. The Governor may suspend from office any board member for malfeasance, misfeasance, neglect of duty, drunkenness, incompetence, permanent inability to perform his or her official duties, or commission of a felony.

(2)Each board member and each former board member serving on a probable cause panel shall be exempt from civil liability for any act or omission when acting in the member's official capacity, and the department shall defend any such member in any action against any board or member of a board arising from any such act or omission. In addition, the department may defend the member's company or business in any action against the company or business if the department determines that the

actions from which the suit arises are actions taken by the member in the member's official capacity and were not beyond the member's statutory authority. In providing such defense, the department may employ or utilize the legal services of the Department of Legal Affairs or outside counsel retained pursuant to s. 287.059. Fees and costs of providing legal services provided under this subsection shall be paid from a trust fund used by the department to implement this chapter, subject to the provisions of s. 456.025.

History.—s. 45, ch. 97-261; s. 21, ch. 99-7; s. 153, ch. 99-251; s. 41, ch. 2000-160.

Note.—Former s. 455.541.

456.009 Legal and investigative services.—

(1)The department shall provide board counsel for boards within the department by contracting with the Department of Legal Affairs, by retaining private counsel pursuant to s. 287.059, or by providing department staff counsel. The primary responsibility of board counsel shall be to represent the interests of the citizens of the state. A board shall provide for the periodic review and evaluation of the services provided by its board counsel. Fees and costs of such counsel shall be paid from a trust fund used by the department to implement this chapter, subject to the provisions of s. 456.025. All contracts for independent counsel shall provide for periodic review and evaluation by the board and the department of services provided.

(2)The department may employ or use the legal services of outside counsel and the investigative services of outside personnel. However, no attorney employed or utilized by the department shall prosecute a matter and provide legal services to the board with respect to the same matter.

(3)Any person retained by the department under contract to review materials, make site visits, or provide expert testimony regarding any complaint or application filed with the department relating to a profession under the jurisdiction of the department shall be considered an agent of the department in determining the state insurance coverage and sovereign immunity protection applicability of ss. 284.31 and 768.28.

History.—s. 60, ch. 97-261; s. 154, ch. 99-251; s. 42, ch. 2000-160.

Note.—Former s. 455.594.

456.011 Boards; organization; meetings; compensation and travel expenses.—

(1)Each board within the department shall comply with the provisions of this chapter.

(2)The board shall annually elect from among its number a chairperson and vice chairperson.

(3)The board shall meet at least once annually and may meet as often as is necessary. Meetings shall be conducted through teleconferencing or other technological means, unless disciplinary hearings involving standard of care, sexual misconduct, fraud, impairment, or felony convictions; licensure denial hearings; or controversial rule hearings are being conducted; or unless otherwise approved in advance of the meeting by the director of the Division of Medical Quality Assurance. The chairperson or a quorum of the board shall have the authority to call meetings, except as provided above relating to

in-person meetings. A quorum shall be necessary for the conduct of official business by the board or any committee thereof. Unless otherwise provided by law, 51 percent or more of the appointed members of the board or any committee, when applicable, shall constitute a quorum. The membership of committees of the board, except as otherwise authorized pursuant to this chapter or the applicable practice act, shall be composed of currently appointed members of the board. The vote of a majority of the members of the quorum shall be necessary for any official action by the board or committee. Three consecutive unexcused absences or absences constituting 50 percent or more of the board's meetings within any 12-month period shall cause the board membership of the member in question to become void, and the position shall be considered vacant. The board, or the department when there is no board, shall, by rule, define unexcused absences.

(4)Unless otherwise provided by law, a board member or former board member serving on a probable cause panel shall be compensated \$50 for each day in attendance at an official meeting of the board and for each day of participation in any other business involving the board. Each board shall adopt rules defining the phrase "other business involving the board," but the phrase may not routinely be defined to include telephone conference calls that last less than 4 hours. A board member also shall be entitled to reimbursement for expenses pursuant to s. 112.061. Travel out of state shall require the prior approval of the State Surgeon General.

(5)When two or more boards have differences between them, the boards may elect to, or the State Surgeon General may request that the boards, establish a special committee to settle those differences. The special committee shall consist of three members designated by each board, who may be members of the designating board or other experts designated by the board, and of one additional person designated and agreed to by the members of the special committee. In the event the special committee cannot agree on the additional designee, upon request of the special committee, the State Surgeon General may select the designee. The committee shall recommend rules necessary to resolve the differences. If a rule adopted pursuant to this provision is challenged, the participating boards shall share the costs associated with defending the rule or rules. The department shall provide legal representation for any special committee established pursuant to this section.

History.—s. 43, ch. 97-261; s. 43, ch. 2000-160; s. 10, ch. 2001-277; s. 62, ch. 2008-6.

Note.—Former s. 455.534.

456.012 Board rules; final agency action; challenges.—

(1)The State Surgeon General shall have standing to challenge any rule or proposed rule of a board under its jurisdiction pursuant to s. 120.56. In addition to challenges for any invalid exercise of delegated legislative authority, the administrative law judge, upon such a challenge by the State Surgeon General, may declare all or part of a rule or proposed rule invalid if it:

- (a)Does not protect the public from any significant and discernible harm or damages;
- (b)Unreasonably restricts competition or the availability of professional services in the state or in a

significant part of the state; or

(c) Unnecessarily increases the cost of professional services without a corresponding or equivalent public benefit.

However, there shall not be created a presumption of the existence of any of the conditions cited in this subsection in the event that the rule or proposed rule is challenged.

(2) In addition, either the State Surgeon General or the board shall be a substantially interested party for purposes of s. 120.54(7). The board may, as an adversely affected party, initiate and maintain an action pursuant to s. 120.68 challenging the final agency action.

(3) No board created within the department shall have standing to challenge a rule or proposed rule of another board. However, if there is a dispute between boards concerning a rule or proposed rule, the boards may avail themselves of the provisions of s. 456.011(5).

History.—s. 46, ch. 97-261; s. 44, ch. 2000-160; s. 63, ch. 2008-6.

Note.—Former s. 455.544.

456.013 Department; general licensing provisions.—

(1)(a) Any person desiring to be licensed in a profession within the jurisdiction of the department shall apply to the department in writing to take the licensure examination. The application shall be made on a form prepared and furnished by the department. The application form must be available on the World Wide Web and the department may accept electronically submitted applications beginning July 1, 2001. The application shall require the social security number of the applicant, except as provided in paragraph (b). The form shall be supplemented as needed to reflect any material change in any circumstance or condition stated in the application which takes place between the initial filing of the application and the final grant or denial of the license and which might affect the decision of the department. If an application is submitted electronically, the department may require supplemental materials, including an original signature of the applicant and verification of credentials, to be submitted in a nonelectronic format. An incomplete application shall expire 1 year after initial filing. In order to further the economic development goals of the state, and notwithstanding any law to the contrary, the department may enter into an agreement with the county tax collector for the purpose of appointing the county tax collector as the department's agent to accept applications for licenses and applications for renewals of licenses. The agreement must specify the time within which the tax collector must forward any applications and accompanying application fees to the department.

(b) If an applicant has not been issued a social security number by the Federal Government at the time of application because the applicant is not a citizen or resident of this country, the department may process the application using a unique personal identification number. If such an applicant is otherwise eligible for licensure, the board, or the department when there is no board, may issue a temporary license to the applicant, which shall expire 30 days after issuance unless a social security number is obtained and submitted in writing to the department. Upon receipt of the applicant's social

security number, the department shall issue a new license, which shall expire at the end of the current biennium.

(2) Before the issuance of any license, the department shall charge an initial license fee as determined by the applicable board or, if there is no board, by rule of the department. Upon receipt of the appropriate license fee, the department shall issue a license to any person certified by the appropriate board, or its designee, as having met the licensure requirements imposed by law or rule. The license shall consist of a wallet-size identification card and a wall card measuring 6 1/2 inches by 5 inches. The licensee shall surrender to the department the wallet-size identification card and the wall card if the licensee's license is issued in error or is revoked.

(3)(a) The board, or the department when there is no board, may refuse to issue an initial license to any applicant who is under investigation or prosecution in any jurisdiction for an action that would constitute a violation of this chapter or the professional practice acts administered by the department and the boards, until such time as the investigation or prosecution is complete, and the time period in which the licensure application must be granted or denied shall be tolled until 15 days after the receipt of the final results of the investigation or prosecution.

(b) If an applicant has been convicted of a felony related to the practice or ability to practice any health care profession, the board, or the department when there is no board, may require the applicant to prove that his or her civil rights have been restored.

(c) In considering applications for licensure, the board, or the department when there is no board, may require a personal appearance of the applicant. If the applicant is required to appear, the time period in which a licensure application must be granted or denied shall be tolled until such time as the applicant appears. However, if the applicant fails to appear before the board at either of the next two regularly scheduled board meetings, or fails to appear before the department within 30 days if there is no board, the application for licensure shall be denied.

(4) When any administrative law judge conducts a hearing pursuant to the provisions of chapter 120 with respect to the issuance of a license by the department, the administrative law judge shall submit his or her recommended order to the appropriate board, which shall thereupon issue a final order. The applicant for licensure may appeal the final order of the board in accordance with the provisions of chapter 120.

(5) A privilege against civil liability is hereby granted to any witness for any information furnished by the witness in any proceeding pursuant to this section, unless the witness acted in bad faith or with malice in providing such information.

(6) As a condition of renewal of a license, the Board of Medicine, the Board of Osteopathic Medicine, the Board of Chiropractic Medicine, and the Board of Podiatric Medicine shall each require licensees which they respectively regulate to periodically demonstrate their professional competency by completing at least 40 hours of continuing education every 2 years. The boards may require by rule that up to 1 hour of the required 40 or more hours be in the area of risk management or cost

containment. This provision shall not be construed to limit the number of hours that a licensee may obtain in risk management or cost containment to be credited toward satisfying the 40 or more required hours. This provision shall not be construed to require the boards to impose any requirement on licensees except for the completion of at least 40 hours of continuing education every 2 years. Each of such boards shall determine whether any specific continuing education requirements not otherwise mandated by law shall be mandated and shall approve criteria for, and the content of, any continuing education mandated by such board. Notwithstanding any other provision of law, the board, or the department when there is no board, may approve by rule alternative methods of obtaining continuing education credits in risk management. The alternative methods may include attending a board meeting at which another licensee is disciplined, serving as a volunteer expert witness for the department in a disciplinary case, or serving as a member of a probable cause panel following the expiration of a board member's term. Other boards within the Division of Medical Quality Assurance, or the department if there is no board, may adopt rules granting continuing education hours in risk management for attending a board meeting at which another licensee is disciplined, for serving as a volunteer expert witness for the department in a disciplinary case, or for serving as a member of a probable cause panel following the expiration of a board member's term.

(7)The boards, or the department when there is no board, shall require the completion of a 2-hour course relating to prevention of medical errors as part of the licensure and renewal process. The 2-hour course shall count towards the total number of continuing education hours required for the profession. The course shall be approved by the board or department, as appropriate, and shall include a study of root-cause analysis, error reduction and prevention, and patient safety. In addition, the course approved by the Board of Medicine and the Board of Osteopathic Medicine shall include information relating to the five most misdiagnosed conditions during the previous biennium, as determined by the board. If the course is being offered by a facility licensed pursuant to chapter 395 for its employees, the board may approve up to 1 hour of the 2-hour course to be specifically related to error reduction and prevention methods used in that facility.

(8)The respective boards within the jurisdiction of the department, or the department when there is no board, may adopt rules to provide for the use of approved videocassette courses, not to exceed 5 hours per subject, to fulfill the continuing education requirements of the professions they regulate. Such rules shall provide for prior approval of the board, or the department when there is no board, of the criteria for and content of such courses and shall provide for a videocassette course validation form to be signed by the vendor and the licensee and submitted to the department, along with the license renewal application, for continuing education credit.

(9)Any board that currently requires continuing education for renewal of a license, or the department if there is no board, shall adopt rules to establish the criteria for continuing education courses. The rules may provide that up to a maximum of 25 percent of the required continuing education hours can be fulfilled by the performance of pro bono services to the indigent or to

underserved populations or in areas of critical need within the state where the licensee practices. The board, or the department if there is no board, must require that any pro bono services be approved in advance in order to receive credit for continuing education under this subsection. The standard for determining indigency shall be that recognized by the Federal Poverty Income Guidelines produced by the United States Department of Health and Human Services. The rules may provide for approval by the board, or the department if there is no board, that a part of the continuing education hours can be fulfilled by performing research in critical need areas or for training leading to advanced professional certification. The board, or the department if there is no board, may make rules to define underserved and critical need areas. The department shall adopt rules for administering continuing education requirements adopted by the boards or the department if there is no board.

(10)Notwithstanding any law to the contrary, an elected official who is licensed under a practice act administered by the Division of Medical Quality Assurance may hold employment for compensation with any public agency concurrent with such public service. Such dual service must be disclosed according to any disclosure required by applicable law.

(11)In any instance in which a licensee or applicant to the department is required to be in compliance with a particular provision by, on, or before a certain date, and if that date occurs on a Saturday, Sunday, or a legal holiday, then the licensee or applicant is deemed to be in compliance with the specific date requirement if the required action occurs on the first succeeding day which is not a Saturday, Sunday, or legal holiday.

(12)Pursuant to the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, each party is required to provide his or her social security number in accordance with this section. Disclosure of social security numbers obtained through this requirement shall be limited to the purpose of administration of the Title IV-D program for child support enforcement.

History.—s. 44, ch. 92-33; s. 1, ch. 93-27; s. 23, ch. 93-129; s. 27, ch. 95-144; s. 2, ch. 96-309; s. 209, ch. 96-410; s. 1079, ch. 97-103; s. 64, ch. 97-170; s. 51, ch. 97-261; s. 54, ch. 97-278; ss. 7, 237, 262, ch. 98-166; s. 145, ch. 99-251; s. 76, ch. 99-397; s. 45, ch. 2000-160; s. 20, ch. 2000-318; ss. 11, 68, ch. 2001-277; s. 11, ch. 2003-416; s. 1, ch. 2005-62.

Note.—Former s. 455.2141; s. 455.564.

456.0135General background screening provisions.—

(1)An application for initial licensure received on or after January 1, 2013, under chapter 458, chapter 459, chapter 460, chapter 461, chapter 464, or s. 465.022 shall include fingerprints pursuant to procedures established by the department through a vendor approved by the Department of Law Enforcement and fees imposed for the initial screening and retention of fingerprints. Fingerprints must be submitted electronically to the Department of Law Enforcement for state processing, and the Department of Law Enforcement shall forward the fingerprints to the Federal Bureau of Investigation for national processing. Each board, or the department if there is no board, shall screen the results to determine if an applicant meets licensure requirements. For any subsequent renewal of the applicant's

license that requires a national criminal history check, the department shall request the Department of Law Enforcement to forward the retained fingerprints of the applicant to the Federal Bureau of Investigation.

(2) All fingerprints submitted to the Department of Law Enforcement as required under subsection (1) shall be retained by the Department of Law Enforcement as provided under s. 943.05(2)(g) and (h) and (3). The department shall notify the Department of Law Enforcement regarding any person whose fingerprints have been retained but who is no longer licensed.

(3) The costs of fingerprint processing, including the cost for retaining fingerprints, shall be borne by the applicant subject to the background screening.

History.—s. 13, ch. 2012-73.

456.014 Public inspection of information required from applicants; exceptions; examination hearing.—

(1) All information required by the department of any applicant shall be a public record and shall be open to public inspection pursuant to s. 119.07, except financial information, medical information, school transcripts, examination questions, answers, papers, grades, and grading keys, which are confidential and exempt from s. 119.07(1) and shall not be discussed with or made accessible to anyone except the program director of an approved program or accredited program as provided in s. 464.019(7), members of the board, the department, and staff thereof, who have a bona fide need to know such information. Any information supplied to the department by any other agency which is exempt from the provisions of chapter 119 or is confidential shall remain exempt or confidential pursuant to applicable law while in the custody of the department or the agency.

(2) The department shall establish by rule the procedure by which an applicant, and the applicant's attorney, may review examination questions and answers. Examination questions and answers are not subject to discovery but may be introduced into evidence and considered only in camera in any administrative proceeding under chapter 120. If an administrative hearing is held, the department shall provide challenged examination questions and answers to the administrative law judge. The examination questions and answers provided at the hearing are confidential and exempt from s. 119.07(1), unless invalidated by the administrative law judge.

(3) Unless an applicant notifies the department at least 5 days prior to an examination hearing of the applicant's inability to attend, or unless an applicant can demonstrate an extreme emergency for failing to attend, the department may require an applicant who fails to attend to pay reasonable attorney's fees, costs, and court costs of the department for the examination hearing.

History.—s. 76, ch. 97-261; s. 46, ch. 2000-160; s. 1, ch. 2010-37.

Note.—Former s. 455.647.

456.015 Limited licenses.—

(1) It is the intent of the Legislature that, absent a threat to the health, safety, and welfare of the

public, the use of retired professionals in good standing to serve the indigent, underserved, or critical need populations of this state should be encouraged. To that end, the board, or the department when there is no board, may adopt rules to permit practice by retired professionals as limited licensees under this section.

(2) Any person desiring to obtain a limited license, when permitted by rule, shall submit to the board, or the department when there is no board, an application and fee, not to exceed \$300, and an affidavit stating that the applicant has been licensed to practice in any jurisdiction in the United States for at least 10 years in the profession for which the applicant seeks a limited license. The affidavit shall also state that the applicant has retired or intends to retire from the practice of that profession and intends to practice only pursuant to the restrictions of the limited license granted pursuant to this section. If the applicant for a limited license submits a notarized statement from the employer stating that the applicant will not receive monetary compensation for any service involving the practice of her or his profession, the application and all licensure fees shall be waived.

(3) The board, or the department when there is no board, may deny limited licensure to an applicant who has committed, or is under investigation or prosecution for, any act which would constitute the basis for discipline pursuant to the provisions of this chapter or the applicable practice act.

(4) The recipient of a limited license may practice only in the employ of public agencies or institutions or nonprofit agencies or institutions which meet the requirements of s. 501(c)(3) of the Internal Revenue Code, and which provide professional liability coverage for acts or omissions of the limited licensee. A limited licensee may provide services only to the indigent, underserved, or critical need populations within the state. The standard for determining indigency shall be that recognized by the Federal Poverty Income Guidelines produced by the United States Department of Health and Human Services. The board, or the department when there is no board, may adopt rules to define underserved and critical need areas and to ensure implementation of this section.

(5) A board, or the department when there is no board, may provide by rule for supervision of limited licensees to protect the health, safety, and welfare of the public.

(6) Each applicant granted a limited license is subject to all the provisions of this chapter and the respective practice act under which the limited license is issued which are not in conflict with this section.

(7) This section does not apply to chapter 458 or chapter 459.

History.—s. 50, ch. 97-261; s. 22, ch. 99-7; s. 47, ch. 2000-160.

Note.—Former s. 455.561.

456.016 Use of professional testing services.—Notwithstanding any other provision of law to the contrary, the department may use a professional testing service to prepare, administer, grade, and evaluate any computerized examination, when that service is available and approved by the board, or

the department if there is no board.

History.—s. 53, ch. 97-261; s. 48, ch. 2000-160.

Note.—Former s. 455.571.

456.01 7Examinations.—

(1)(a)The department shall provide, contract, or approve services for the development, preparation, administration, scoring, score reporting, and evaluation of all examinations, in consultation with the appropriate board. The department shall certify that examinations developed and approved by the department adequately and reliably measure an applicant’s ability to practice the profession regulated by the department. After an examination developed or approved by the department has been administered, the board, or the department when there is no board, may reject any question which does not reliably measure the general areas of competency specified in the rules of the board. The department may contract for the preparation, administration, scoring, score reporting, and evaluation of examinations, when such services are available and approved by the board.

(b)For each examination developed by the department or contracted vendor, to the extent not otherwise specified by statute, the board, or the department when there is no board, shall by rule specify the general areas of competency to be covered by each examination, the relative weight to be assigned in grading each area tested, and the score necessary to achieve a passing grade. The department shall assess fees to cover the actual cost for any purchase, development, validation, administration, and defense of required examinations. This subsection does not apply to national examinations approved and administered pursuant to paragraph (c). If a practical examination is deemed to be necessary, the rules shall specify the criteria by which examiners are to be selected, the grading criteria to be used by the examiner, the relative weight to be assigned in grading each criterion, and the score necessary to achieve a passing grade. When a mandatory standardization exercise for a practical examination is required by law, the board, or the department when there is no board, may conduct such exercise. Therefore, board members, or employees of the department when there is no board, may serve as examiners at a practical examination with the consent of the board or department, as appropriate.

(c)The board, or the department when there is no board, shall approve by rule the use of one or more national examinations that the department has certified as meeting requirements of national examinations and generally accepted testing standards pursuant to department rules.

1.Providers of examinations seeking certification shall pay the actual costs incurred by the department in making a determination regarding the certification. The name and number of a candidate may be provided to a national contractor for the limited purpose of preparing the grade tape and information to be returned to the board or department; or, to the extent otherwise specified by rule, the candidate may apply directly to the vendor of the national examination and supply test score information to the department. The department may delegate to the board the duty to provide and

administer the examination. Any national examination approved by a board, or the department when there is no board, prior to October 1, 1997, is deemed certified under this paragraph.

2. Neither the board nor the department may administer a state-developed written examination if a national examination has been certified by the department. The examination may be administered electronically if adequate security measures are used, as determined by rule of the department.

3. The board, or the department when there is no board, may administer a state-developed practical or clinical examination, as required by the applicable practice act, if all costs of development, purchase, validation, administration, review, and defense are paid by the examination candidate prior to the administration of the examination. If a national practical or clinical examination is available and certified by the department pursuant to this section, the board, or the department when there is no board, may administer the national examination.

4. It is the intent of the Legislature to reduce the costs associated with state examinations and to encourage the use of national examinations whenever possible.

(d) Each board, or the department when there is no board, shall adopt rules regarding the security and monitoring of examinations. The department shall implement those rules adopted by the respective boards. In order to maintain the security of examinations, the department may employ the procedures set forth in s. 456.065 to seek fines and injunctive relief against an examinee who violates the provisions of s. 456.018 or the rules adopted pursuant to this paragraph. The department, or any agent thereof, may, for the purposes of investigation, confiscate any written, photographic, or recording material or device in the possession of the examinee at the examination site which the department deems necessary to enforce such provisions or rules. The scores of candidates who have taken state-developed examinations shall be provided to the candidates electronically using a candidate identification number, and the department shall post the aggregate scores on the department's website without identifying the names of the candidates.

(e) If the professional board with jurisdiction over an examination concurs, the department may, for a fee, share with any other state's licensing authority or a national testing entity an examination or examination item bank developed by or for the department unless prohibited by a contract entered into by the department for development or purchase of the examination. The department, with the concurrence of the appropriate board, shall establish guidelines that ensure security of a shared exam and shall require that any other state's licensing authority comply with those guidelines. Those guidelines shall be approved by the appropriate professional board. All fees paid by the user shall be applied to the department's examination and development program for professions regulated by this chapter.

(f) The department may adopt rules necessary to administer this subsection.

(2) For each examination developed by the department or a contracted vendor, the board, or the department when there is no board, shall adopt rules providing for reexamination of any applicants who failed an examination developed by the department or a contracted vendor. If both a written and

a practical examination are given, an applicant shall be required to retake only the portion of the examination on which the applicant failed to achieve a passing grade, if the applicant successfully passes that portion within a reasonable time, as determined by rule of the board, or the department when there is no board, of passing the other portion. Except for national examinations approved and administered pursuant to this section, the department shall provide procedures for applicants who fail an examination developed by the department or a contracted vendor to review their examination questions, answers, papers, grades, and grading key for the questions the candidate answered incorrectly or, if not feasible, the parts of the examination failed. Applicants shall bear the actual cost for the department to provide examination review pursuant to this subsection. An applicant may waive in writing the confidentiality of the applicant's examination grades. Notwithstanding any other provisions, only candidates who fail an examination with a score that is less than 10 percent below the minimum score required to pass the examination shall be entitled to challenge the validity of the examination at hearing.

(3) For each examination developed or administered by the department or a contracted vendor, an accurate record of each applicant's examination questions, answers, papers, grades, and grading key shall be kept for a period of not less than 2 years immediately following the examination, and such record shall thereafter be maintained or destroyed as provided in chapters 119 and 257. This subsection does not apply to national examinations approved and administered pursuant to this section.

(4) Meetings of any member of the department or of any board within the department held for the exclusive purpose of creating or reviewing licensure examination questions or proposed examination questions are exempt from the provisions of s. 286.011 and s. 24(b), Art. I of the State Constitution. Any public records, such as tape recordings, minutes, or notes, generated during or as a result of such meetings are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution. However, these exemptions shall not affect the right of any person to review an examination as provided in subsection (2).

(5) For examinations developed by the department or a contracted vendor, each board, or the department when there is no board, may provide licensure examinations in an applicant's native language. Notwithstanding any other provision of law, applicants for examination or reexamination pursuant to this subsection shall bear the full cost for the department's development, preparation, validation, administration, grading, and evaluation of any examination in a language other than English prior to the examination being administered. Requests for translated examinations must be on file in the board office at least 6 months prior to the scheduled examination. When determining whether it is in the public interest to allow the examination to be translated into a language other than English, the board shall consider the percentage of the population who speak the applicant's native language. Applicants must apply for translation to the applicable board at least 6 months prior to the scheduled examination.

(6) In addition to meeting any other requirements for licensure by examination or by endorsement, and notwithstanding the provisions in paragraph (1)(c), an applicant may be required by a board, or the department when there is no board, to certify competency in state laws and rules relating to the applicable practice act. Beginning October 1, 2001, all laws and rules examinations shall be administered electronically unless the laws and rules examination is administered concurrently with another written examination for that profession or unless the electronic administration would be substantially more expensive.

(7) The department may post examination scores electronically on the Internet in lieu of mailing the scores to each applicant. The electronic posting of the examination scores meets the requirements of chapter 120 if the department also posts along with the examination scores a notification of the rights set forth in chapter 120. The date of receipt for purposes of chapter 120 is the date the examination scores are posted electronically. The department shall also notify the applicant when scores are posted electronically of the availability of postexamination review, if applicable.

History.—s. 46, ch. 92-33; s. 23, ch. 93-129; s. 1, ch. 95-367; s. 304, ch. 96-406; s. 1081, ch. 97-103; s. 54, ch. 97-261; s. 238, ch. 98-166; s. 79, ch. 99-397; s. 49, ch. 2000-160; s. 46, ch. 2000-318; s. 12, ch. 2001-277; s. 2, ch. 2005-62.

Note.—Former s. 455.2173; s. 455.574.

456.018 Penalty for theft or reproduction of an examination.—In addition to, or in lieu of, any other discipline imposed pursuant to s. 456.072, the theft of an examination in whole or in part or the act of reproducing or copying any examination administered by the department, whether such examination is reproduced or copied in part or in whole and by any means, constitutes a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

History.—s. 55, ch. 97-261; s. 50, ch. 2000-160; s. 27, ch. 2000-318.

Note.—Former s. 455.577.

456.019 Restriction on requirement of citizenship.—A person is not disqualified from practicing an occupation or profession regulated by the state solely because she or he is not a United States citizen.

History.—s. 36, ch. 97-261; s. 20, ch. 99-7; s. 51, ch. 2000-160.

Note.—Former s. 455.511.

456.021 Qualification of immigrants for examination to practice a licensed profession or occupation.—

(1) It is the declared purpose of this section to encourage the use of foreign-speaking Florida residents duly qualified to become actively qualified in their professions so that all people of this state may receive better services.

(2) Any person who has successfully completed, or is currently enrolled in, an approved course of study created pursuant to chapters 74-105 and 75-177, Laws of Florida, shall be deemed qualified for

examination and reexaminations for a professional or occupational license which shall be administered in the English language unless 15 or more such applicants request that the reexamination be administered in their native language. In the event that such reexamination is administered in a foreign language, the full cost to the board of preparing and administering it shall be borne by the applicants.

(3) Each board within the department shall adopt and implement programs designed to qualify for examination all persons who were resident nationals of the Republic of Cuba and who, on July 1, 1977, were residents of this state.

History.—s. 37, ch. 97-261; s. 51, ch. 2000-160.

Note.—Former s. 455.514.

456.022 Foreign-trained professionals; special examination and license provisions.—

(1) When not otherwise provided by law, within its jurisdiction, the department shall by rule provide procedures under which exiled professionals may be examined within each practice act. A person shall be eligible for such examination if the person:

(a) Immigrated to the United States after leaving the person's home country because of political reasons, provided such country is located in the Western Hemisphere and lacks diplomatic relations with the United States;

(b) Applies to the department and submits a fee;

(c) Was a Florida resident immediately preceding the person's application;

(d) Demonstrates to the department, through submission of documentation verified by the applicant's respective professional association in exile, that the applicant was graduated with an appropriate professional or occupational degree from a college or university; however, the department may not require receipt of any documentation from the Republic of Cuba as a condition of eligibility under this section;

(e) Lawfully practiced the profession for at least 3 years;

(f) Prior to 1980, successfully completed an approved course of study pursuant to chapters 74-105 and 75-177, Laws of Florida; and

(g) Presents a certificate demonstrating the successful completion of a continuing education program which offers a course of study that will prepare the applicant for the examination offered under subsection (2). The department shall develop rules for the approval of such programs for its boards.

(2) Upon request of a person who meets the requirements of subsection (1) and submits an examination fee, the department, for its boards, shall provide a written practical examination which tests the person's current ability to practice the profession competently in accordance with the actual practice of the profession. Evidence of meeting the requirements of subsection (1) shall be treated by the department as evidence of the applicant's preparation in the academic and preprofessional fundamentals necessary for successful professional practice, and the applicant shall not be examined

by the department on such fundamentals.

(3)The fees charged for the examinations offered under subsection (2) shall be established by the department, for its boards, by rule and shall be sufficient to develop or to contract for the development of the examination and its administration, grading, and grade reviews.

(4)The department shall examine any applicant who meets the requirements of subsections (1) and (2). Upon passing the examination and the issuance of the license, a licensee is subject to the administrative requirements of this chapter and the respective practice act under which the license is issued. Each applicant so licensed is subject to all provisions of this chapter and the respective practice act under which the license was issued.

(5)Upon a request by an applicant otherwise qualified under this section, the examinations offered under subsection (2) may be given in the applicant's native language, provided that any translation costs are borne by the applicant.

(6)The department, for its boards, shall not issue an initial license to, or renew a license of, any applicant or licensee who is under investigation or prosecution in any jurisdiction for an action which would constitute a violation of this chapter or the professional practice acts administered by the department and the boards until such time as the investigation or prosecution is complete, at which time the provisions of the professional practice acts shall apply.

History.—s. 56, ch. 97-261; s. 52, ch. 2000-160.

Note.—Former s. 455.581.

456.023 Exemption for certain out-of-state or foreign professionals; limited practice permitted.—

(1)A professional of any other state or of any territory or other jurisdiction of the United States or of any other nation or foreign jurisdiction is exempt from the requirements of licensure under this chapter and the applicable professional practice act under the agency with regulatory jurisdiction over the profession if that profession is regulated in this state under the agency with regulatory jurisdiction over the profession and if that person:

(a)Holds, if so required in the jurisdiction in which that person practices, an active license to practice that profession.

(b)Engages in the active practice of that profession outside the state.

(c)Is employed or designated in that professional capacity by a sports entity visiting the state for a specific sporting event.

(2)A professional's practice under this section is limited to the members, coaches, and staff of the team for which that professional is employed or designated and to any animals used if the sporting event for which that professional is employed or designated involves animals. A professional practicing under authority of this section shall not have practice privileges in any licensed health care facility or veterinary facility without the approval of that facility.

History.—s. 57, ch. 97-261; s. 53, ch. 2000-160.

Note.—Former s. 455.584.

456.024 Members of Armed Forces in good standing with administrative boards or the department; spouses.—

(1) Any member of the Armed Forces of the United States now or hereafter on active duty who, at the time of becoming such a member, was in good standing with any administrative board of the state, or the department when there is no board, and was entitled to practice or engage in his or her profession or vocation in the state shall be kept in good standing by such administrative board, or the department when there is no board, without registering, paying dues or fees, or performing any other act on his or her part to be performed, as long as he or she is a member of the Armed Forces of the United States on active duty and for a period of 6 months after discharge from active duty as a member of the Armed Forces of the United States, provided he or she is not engaged in his or her licensed profession or vocation in the private sector for profit.

(2) The boards listed in s. 20.43, or the department when there is no board, shall adopt rules exempting the spouses of members of the Armed Forces of the United States from licensure renewal provisions, but only in cases of absence from the state because of their spouses' duties with the Armed Forces.

(3)(a) The board, or the department if there is no board, may issue a temporary professional license to the spouse of an active duty member of the Armed Forces of the United States who submits to the department:

1. A completed application upon a form prepared and furnished by the department in accordance with the board's rules;

2. The required application fee;

3. Proof that the applicant is married to a member of the Armed Forces of the United States who is on active duty;

4. Proof that the applicant holds a valid license for the profession issued by another state, the District of Columbia, or a possession or territory of the United States, and is not the subject of any disciplinary proceeding in any jurisdiction in which the applicant holds a license to practice a profession regulated by this chapter;

5. Proof that the applicant's spouse is assigned to a duty station in this state pursuant to the member's official active duty military orders; and

6. Proof that the applicant would otherwise be entitled to full licensure under the appropriate practice act, and is eligible to take the respective licensure examination as required in Florida.

(b) The applicant must also submit to the Department of Law Enforcement a complete set of fingerprints. The Department of Law Enforcement shall conduct a statewide criminal history check and forward the fingerprints to the Federal Bureau of Investigation for a national criminal history check.

(c)Each board, or the department if there is no board, shall review the results of the state and federal criminal history checks according to the level 2 screening standards in s. 435.04 when granting an exemption and when granting or denying the temporary license.

(d)The applicant shall pay the cost of fingerprint processing. If the fingerprints are submitted through an authorized agency or vendor, the agency or vendor shall collect the required processing fees and remit the fees to the Department of Law Enforcement.

(e)The department shall set an application fee, which may not exceed the cost of issuing the license.

(f)A temporary license expires 12 months after the date of issuance and is not renewable.

(g)An applicant for a temporary license under this subsection is subject to the requirements under s. 456.013(3)(a) and (c).

(h)An applicant shall be deemed ineligible for a temporary license pursuant to this section if the applicant:

1.Has been convicted of or pled nolo contendere to, regardless of adjudication, any felony or misdemeanor related to the practice of a health care profession;

2.Has had a health care provider license revoked or suspended from another of the United States, the District of Columbia, or a United States territory;

3.Has been reported to the National Practitioner Data Bank, unless the applicant has successfully appealed to have his or her name removed from the data bank; or

4.Has previously failed the Florida examination required to receive a license to practice the profession for which the applicant is seeking a license.

(i)The board, or department if there is no board, may revoke a temporary license upon finding that the individual violated the profession's governing practice act.

(j)An applicant who is issued a temporary professional license to practice as a dentist pursuant to this section must practice under the indirect supervision, as defined in s. 466.003, of a dentist licensed pursuant to chapter 466.

History.—s. 35, ch. 97-261; s. 19, ch. 99-7; s. 73, ch. 99-397; s. 54, ch. 2000-160; s. 1, ch. 2011-95.

Note.—Former s. 455.507.

456.025 Fees; receipts; disposition.—

(1)It is the intent of the Legislature that all costs of regulating health care professions and practitioners shall be borne solely by licensees and licensure applicants. It is also the intent of the Legislature that fees should be reasonable and not serve as a barrier to licensure. Moreover, it is the intent of the Legislature that the department operate as efficiently as possible and regularly report to the Legislature additional methods to streamline operational costs. Therefore, the boards in consultation with the department, or the department if there is no board, shall, by rule, set renewal fees which:

(a) Shall be based on revenue projections prepared using generally accepted accounting procedures;

(b) Shall be adequate to cover all expenses relating to that board identified in the department's long-range policy plan, as required by s. 456.005;

(c) Shall be reasonable, fair, and not serve as a barrier to licensure;

(d) Shall be based on potential earnings from working under the scope of the license;

(e) Shall be similar to fees imposed on similar licensure types;

(f) Shall not be more than 10 percent greater than the actual cost to regulate that profession for the previous biennium; and

(g) Shall be subject to challenge pursuant to chapter 120.

(2) The chairpersons of the boards and councils listed in s. 20.43(3)(g) shall meet annually at division headquarters to review the long-range policy plan required by s. 456.005 and current and proposed fee schedules. The chairpersons shall make recommendations for any necessary statutory changes relating to fees and fee caps. Such recommendations shall be compiled by the Department of Health and be included in the annual report to the Legislature required by s. 456.026 as well as be included in the long-range policy plan required by s. 456.005.

(3) Each board within the jurisdiction of the department, or the department when there is no board, shall determine by rule the amount of license fees for the profession it regulates, based upon long-range estimates prepared by the department of the revenue required to implement laws relating to the regulation of professions by the department and the board. Each board, or the department if there is no board, shall ensure that license fees are adequate to cover all anticipated costs and to maintain a reasonable cash balance, as determined by rule of the agency, with advice of the applicable board. If sufficient action is not taken by a board within 1 year after notification by the department that license fees are projected to be inadequate, the department shall set license fees on behalf of the applicable board to cover anticipated costs and to maintain the required cash balance. The department shall include recommended fee cap increases in its annual report to the Legislature. Further, it is the legislative intent that no regulated profession operate with a negative cash balance. The department may provide by rule for advancing sufficient funds to any profession operating with a negative cash balance. The advancement may be for a period not to exceed 2 consecutive years, and the regulated profession must pay interest. Interest shall be calculated at the current rate earned on investments of a trust fund used by the department to implement this chapter. Interest earned shall be allocated to the various funds in accordance with the allocation of investment earnings during the period of the advance.

(4) Each board, or the department if there is no board, may charge a fee not to exceed \$25, as determined by rule, for the issuance of a wall certificate pursuant to s. 456.013(2) requested by a licensee who was licensed prior to July 1, 1998, or for the issuance of a duplicate wall certificate requested by any licensee.

(5) Each board, or the department if there is no board, may, by rule, assess and collect a one-time fee from each active status licensee and each inactive status licensee in an amount necessary to eliminate a cash deficit or, if there is not a cash deficit, in an amount sufficient to maintain the financial integrity of the professions as required in this section. Not more than one such assessment may be made in any 4-year period without specific legislative authorization.

(6) If the cash balance of the trust fund at the end of any fiscal year exceeds the total appropriation provided for the regulation of the health care professions in the prior fiscal year, the boards, in consultation with the department, may lower the license renewal fees.

(7) Each board, or the department if there is no board, shall establish, by rule, a fee not to exceed \$250 for anyone seeking approval to provide continuing education courses or programs and shall establish by rule a biennial renewal fee not to exceed \$250 for the renewal of providership of such courses. The fees collected from continuing education providers shall be used for the purposes of reviewing course provider applications, monitoring the integrity of the courses provided, covering legal expenses incurred as a result of not granting or renewing a providership, and developing and maintaining an electronic continuing education tracking system. The department shall implement an electronic continuing education tracking system for each new biennial renewal cycle for which electronic renewals are implemented after the effective date of this act and shall integrate such system into the licensure and renewal system. All approved continuing education providers shall provide information on course attendance to the department necessary to implement the electronic tracking system. The department shall, by rule, specify the form and procedures by which the information is to be submitted.

(8) All moneys collected by the department from fees or fines or from costs awarded to the agency by a court shall be paid into a trust fund used by the department to implement this chapter. The Legislature shall appropriate funds from this trust fund sufficient to carry out this chapter and the provisions of law with respect to professions regulated by the Division of Medical Quality Assurance within the department and the boards. The department may contract with public and private entities to receive and deposit revenue pursuant to this section. The department shall maintain separate accounts in the trust fund used by the department to implement this chapter for every profession within the department. To the maximum extent possible, the department shall directly charge all expenses to the account of each regulated profession. For the purpose of this subsection, direct charge expenses include, but are not limited to, costs for investigations, examinations, and legal services. For expenses that cannot be charged directly, the department shall provide for the proportionate allocation among the accounts of expenses incurred by the department in the performance of its duties with respect to each regulated profession. The regulation by the department of professions, as defined in this chapter, shall be financed solely from revenue collected by it from fees and other charges and deposited in the Medical Quality Assurance Trust Fund, and all such revenue is hereby appropriated to the department. However, it is legislative intent that each profession shall operate within its

anticipated fees. The department may not expend funds from the account of a profession to pay for the expenses incurred on behalf of another profession, except that the Board of Nursing must pay for any costs incurred in the regulation of certified nursing assistants. The department shall maintain adequate records to support its allocation of agency expenses. The department shall provide any board with reasonable access to these records upon request. On or before October 1 of each year, the department shall provide each board an annual report of revenue and direct and allocated expenses related to the operation of that profession. The board shall use these reports and the department's adopted long-range plan to determine the amount of license fees. A condensed version of this information, with the department's recommendations, shall be included in the annual report to the Legislature prepared under s. 456.026.

(9)The department shall provide a management report of revenues and expenditures, performance measures, and recommendations to each board at least once a quarter.

(10)If a duplicate license is required or requested by the licensee, the board or, if there is no board, the department may charge a fee as determined by rule not to exceed \$25 before issuance of the duplicate license.

(11)The department or the appropriate board shall charge a fee not to exceed \$25 for the certification of a public record. The fee shall be determined by rule of the department. The department or the appropriate board shall assess a fee for duplicating a public record as provided in s. 119.07(4).

History.—s. 49, ch. 92-33; s. 23, ch. 93-129; s. 58, ch. 97-261; s. 80, ch. 99-397; s. 55, ch. 2000-160; ss. 32, 164, ch. 2000-318; s. 73, ch. 2001-62; s. 6, ch. 2001-277; s. 12, ch. 2003-416; s. 45, ch. 2004-335; s. 149, ch. 2010-102.

Note.—Former s. 455.220; s. 455.587.

456.026Annual report concerning finances, administrative complaints, disciplinary actions, and recommendations.—The department is directed to prepare and submit a report to the President of the Senate and the Speaker of the House of Representatives by November 1 of each year. In addition to finances and any other information the Legislature may require, the report shall include statistics and relevant information, profession by profession, detailing:

(1)The revenues, expenditures, and cash balances for the prior year, and a review of the adequacy of existing fees.

(2)The number of complaints received and investigated.

(3)The number of findings of probable cause made.

(4)The number of findings of no probable cause made.

(5)The number of administrative complaints filed.

(6)The disposition of all administrative complaints.

(7)A description of disciplinary actions taken.

(8)A description of any effort by the department to reduce or otherwise close any investigation or

disciplinary proceeding not before the Division of Administrative Hearings under chapter 120 or otherwise not completed within 1 year after the initial filing of a complaint under this chapter.

(9)The status of the development and implementation of rules providing for disciplinary guidelines pursuant to s. 456.079.

(10)Such recommendations for administrative and statutory changes necessary to facilitate efficient and cost-effective operation of the department and the various boards.

History.—s. 75, ch. 97-261; s. 56, ch. 2000-160; s. 4, ch. 2002-254.

Note.—Former s. 455.644.

456.027Education; accreditation.—Notwithstanding any other provision of law, educational programs and institutions which are required by statute to be accredited, but which were accredited by an agency that has since ceased to perform an accrediting function, shall be recognized until such programs and institutions are accredited by a qualified successor to the original accrediting agency, an accrediting agency recognized by the United States Department of Education, or an accrediting agency recognized by the board, or the department when there is no board.

History.—s. 48, ch. 97-261; s. 57, ch. 2000-160.

Note.—Former s. 455.551.

456.028Consultation with postsecondary education boards prior to adoption of changes to training requirements.—Any state agency or board that has jurisdiction over the regulation of a profession or occupation shall consult with the Commission for Independent Education, the Board of Governors of the State University System, and the State Board of Education prior to adopting any changes to training requirements relating to entry into the profession or occupation. This consultation must allow the educational board to provide advice regarding the impact of the proposed changes in terms of the length of time necessary to complete the training program and the fiscal impact of the changes. The educational board must be consulted only when an institution offering the training program falls under its jurisdiction.

History.—s. 49, ch. 97-261; s. 35, ch. 98-421; s. 57, ch. 2000-160; s. 72, ch. 2004-5; s. 14, ch. 2004-41; s. 54, ch. 2007-217.

Note.—Former s. 455.554.

456.029Education; substituting demonstration of competency for clock-hour requirements.—Any board, or the department when there is no board, that requires student completion of a specific number of clock hours of classroom instruction for initial licensure purposes shall establish the minimal competencies that such students must demonstrate in order to be licensed. The demonstration of such competencies may be substituted for specific classroom clock-hour requirements established in statute or rule which are related to instructional programs for licensure purposes. Student demonstration of the established minimum competencies shall be certified by the educational institution. The provisions

of this section shall not apply to boards for which federal licensure standards are more restrictive or stringent than the standards prescribed in statute.

History.—s. 47, ch. 97-261; s. 57, ch. 2000-160.

Note.—Former s. 455.547.

456.031 Requirement for instruction on domestic violence.—

(1)(a)The appropriate board shall require each person licensed or certified under chapter 458, chapter 459, part I of chapter 464, chapter 466, chapter 467, chapter 490, or chapter 491 to complete a 2-hour continuing education course, approved by the board, on domestic violence, as defined in s. 741.28, as part of every third biennial relicensure or recertification. The course shall consist of information on the number of patients in that professional’s practice who are likely to be victims of domestic violence and the number who are likely to be perpetrators of domestic violence, screening procedures for determining whether a patient has any history of being either a victim or a perpetrator of domestic violence, and instruction on how to provide such patients with information on, or how to refer such patients to, resources in the local community, such as domestic violence centers and other advocacy groups, that provide legal aid, shelter, victim counseling, batterer counseling, or child protection services.

(b)Each such licensee or certificateholder shall submit confirmation of having completed such course, on a form provided by the board, when submitting fees for every third biennial renewal.

(c)The board may approve additional equivalent courses that may be used to satisfy the requirements of paragraph (a). Each licensing board that requires a licensee to complete an educational course pursuant to this subsection may include the hour required for completion of the course in the total hours of continuing education required by law for such profession unless the continuing education requirements for such profession consist of fewer than 30 hours biennially.

(d)Any person holding two or more licenses subject to the provisions of this subsection shall be permitted to show proof of having taken one board-approved course on domestic violence, for purposes of relicensure or recertification for additional licenses.

(e)Failure to comply with the requirements of this subsection shall constitute grounds for disciplinary action under each respective practice act and under s. 456.072(1)(k). In addition to discipline by the board, the licensee shall be required to complete such course.

(2)Each board may adopt rules to carry out the provisions of this section.

History.—s. 4, ch. 95-187; s. 61, ch. 97-261; s. 58, ch. 2000-160; s. 6, ch. 2000-295; s. 112, ch. 2000-318; s. 1, ch. 2001-176; s. 1, ch. 2001-250; s. 105, ch. 2001-277; s. 1, ch. 2006-251.

Note.—Former s. 455.222; s. 455.597.

456.032 Hepatitis B or HIV carriers.—

(1)The department and each appropriate board within the Division of Medical Quality Assurance shall have the authority to establish procedures to handle, counsel, and provide other services to

health care professionals within their respective boards who are infected with hepatitis B or the human immunodeficiency virus.

(2) Any person licensed by the department and any other person employed by a health care facility who contracts a blood-borne infection shall have a rebuttable presumption that the illness was contracted in the course and scope of his or her employment, provided that the person, as soon as practicable, reports to the person's supervisor or the facility's risk manager any significant exposure, as that term is defined in s. 381.004(1)(c), to blood or body fluids. The employer may test the blood or body fluid to determine if it is infected with the same disease contracted by the employee. The employer may rebut the presumption by the preponderance of the evidence. Except as expressly provided in this subsection, there shall be no presumption that a blood-borne infection is a job-related injury or illness.

History.—s. 75, ch. 91-297; s. 76, ch. 94-218; s. 62, ch. 97-261; s. 81, ch. 99-397; s. 59, ch. 2000-160; s. 121, ch. 2012-184.

Note.—Former s. 455.2224; s. 455.601.

456.033 Requirement for instruction for certain licensees on HIV and AIDS.—The following requirements apply to each person licensed or certified under chapter 457; chapter 458; chapter 459; chapter 460; chapter 461; chapter 463; part I of chapter 464; chapter 465; chapter 466; part II, part III, part V, or part X of chapter 468; or chapter 486:

(1) Each person shall be required by the appropriate board to complete no later than upon first renewal a continuing educational course, approved by the board, on human immunodeficiency virus and acquired immune deficiency syndrome as part of biennial relicensure or recertification. The course shall consist of education on the modes of transmission, infection control procedures, clinical management, and prevention of human immunodeficiency virus and acquired immune deficiency syndrome. Such course shall include information on current Florida law on acquired immune deficiency syndrome and its impact on testing, confidentiality of test results, treatment of patients, and any protocols and procedures applicable to human immunodeficiency virus counseling and testing, reporting, the offering of HIV testing to pregnant women, and partner notification issues pursuant to ss. 381.004 and 384.25.

(2) Each person shall submit confirmation of having completed the course required under subsection (1), on a form as provided by the board, when submitting fees for first renewal.

(3) The board shall have the authority to approve additional equivalent courses that may be used to satisfy the requirements in subsection (1). Each licensing board that requires a licensee to complete an educational course pursuant to this section may count the hours required for completion of the course included in the total continuing educational requirements as required by law.

(4) Any person holding two or more licenses subject to the provisions of this section shall be permitted to show proof of having taken one board-approved course on human immunodeficiency virus

and acquired immune deficiency syndrome, for purposes of relicensure or recertification for additional licenses.

(5) Failure to comply with the above requirements shall constitute grounds for disciplinary action under each respective licensing chapter and s. 456.072(1)(e). In addition to discipline by the board, the licensee shall be required to complete the course.

History.—s. 63, ch. 97-261; s. 4, ch. 98-171; s. 9, ch. 99-331; s. 82, ch. 99-397; s. 60, ch. 2000-160; s. 113, ch. 2000-318; s. 2, ch. 2001-176; s. 2, ch. 2001-250; s. 106, ch. 2001-277; s. 2, ch. 2006-251.

Note.—Former s. 455.604.

456.035 Address of record.—

(1) Each licensee of the department is solely responsible for notifying the department in writing of the licensee's current mailing address and place of practice, as defined by rule of the board or the department if there is no board. Electronic notification shall be allowed by the department; however, it shall be the responsibility of the licensee to ensure that the electronic notification was received by the department. A licensee's failure to notify the department of a change of address constitutes a violation of this section, and the licensee may be disciplined by the board or the department if there is no board.

(2) Notwithstanding any other law, service by regular mail to a licensee's last known address of record with the department constitutes adequate and sufficient notice to the licensee for any official communication to the licensee by the board or the department except when other service is required under s. 456.076.

History.—s. 97, ch. 97-261; s. 39, ch. 98-166; s. 62, ch. 2000-160; s. 13, ch. 2001-277.

Note.—Former s. 455.717.

456.036 Licenses; active and inactive status; delinquency.—

(1) A licensee may practice a profession only if the licensee has an active status license. A licensee who practices a profession with an inactive status license, a retired status license, or a delinquent license is in violation of this section and s. 456.072, and the board, or the department if there is no board, may impose discipline on the licensee.

(2) Each board, or the department if there is no board, shall permit a licensee to choose, at the time of licensure renewal, an active, inactive, or retired status.

(3) Each board, or the department if there is no board, shall by rule impose a fee for renewal of an active or inactive status license. The renewal fee for an inactive status license may not exceed the fee for an active status license.

(4) Notwithstanding any other provision of law to the contrary, a licensee may change licensure status at any time.

(a) Active status licensees choosing inactive status at the time of license renewal must pay the inactive status renewal fee, and, if applicable, the delinquency fee and the fee to change licensure

status. Active status licensees choosing inactive status at any other time than at the time of license renewal must pay the fee to change licensure status.

(b) An active status licensee or an inactive status licensee who chooses retired status at the time of license renewal must pay the retired status fee, which may not exceed \$50 as established by rule of the board or the department if there is no board. An active status licensee or inactive status licensee who chooses retired status at any time other than at the time of license renewal must pay the retired status fee plus a change-of-status fee.

(c) An inactive status licensee may change to active status at any time, if the licensee meets all requirements for active status. Inactive status licensees choosing active status at the time of license renewal must pay the active status renewal fee, any applicable reactivation fees as set by the board, or the department if there is no board, and, if applicable, the delinquency fee and the fee to change licensure status. Inactive status licensees choosing active status at any other time than at the time of license renewal must pay the difference between the inactive status renewal fee and the active status renewal fee, if any exists, any applicable reactivation fees as set by the board, or the department if there is no board, and the fee to change licensure status.

(5) A licensee must apply with a complete application, as defined by rule of the board, or the department if there is no board, to renew an active or inactive status license before the license expires. If a licensee fails to renew before the license expires, the license becomes delinquent in the license cycle following expiration.

(6) A delinquent licensee must affirmatively apply with a complete application, as defined by rule of the board, or the department if there is no board, for active or inactive status during the licensure cycle in which a licensee becomes delinquent. Failure by a delinquent licensee to become active or inactive before the expiration of the current licensure cycle renders the license null without any further action by the board or the department. Any subsequent licensure shall be as a result of applying for and meeting all requirements imposed on an applicant for new licensure.

(7) Each board, or the department if there is no board, shall by rule impose an additional delinquency fee, not to exceed the biennial renewal fee for an active status license, on a delinquent licensee when such licensee applies for active or inactive status.

(8) Each board, or the department if there is no board, shall by rule impose an additional fee, not to exceed the biennial renewal fee for an active status license, for processing a licensee's request to change licensure status at any time other than at the beginning of a licensure cycle.

(9) Each board, or the department if there is no board, may by rule impose reasonable conditions, excluding full reexamination but including part of a national examination or a special purpose examination to assess current competency, necessary to ensure that a licensee who has been on inactive status for more than two consecutive biennial licensure cycles and who applies for active status can practice with the care and skill sufficient to protect the health, safety, and welfare of the public. Reactivation requirements may differ depending on the length of time licensees are inactive.

The costs to meet reactivation requirements shall be borne by licensees requesting reactivation.

(10) Each board, or the department if there is no board, may by rule impose reasonable conditions, including full reexamination to assess current competency, in order to ensure that a licensee who has been on retired status for more than 5 years, or a licensee from another state who has not been in active practice within the past 5 years, and who applies for active status is able to practice with the care and skill sufficient to protect the health, safety, and welfare of the public. Requirements for reactivation of a license may differ depending on the length of time a licensee has been retired.

(11) Before reactivation, an inactive status licensee or a delinquent licensee who was inactive prior to becoming delinquent must meet the same continuing education requirements, if any, imposed on an active status licensee for all biennial licensure periods in which the licensee was inactive or delinquent.

(12) Before the license of a retired status licensee is reactivated, the licensee must meet the same requirements for continuing education, if any, and pay any renewal fees imposed on an active status licensee for all biennial licensure periods during which the licensee was on retired status.

(13) The status or a change in status of a licensee does not alter in any way the right of the board, or of the department if there is no board, to impose discipline or to enforce discipline previously imposed on a licensee for acts or omissions committed by the licensee while holding a license, whether active, inactive, retired, or delinquent.

(14) A person who has been denied renewal of licensure, certification, or registration under s. 456.0635(3) may regain licensure, certification, or registration only by meeting the qualifications and completing the application process for initial licensure as defined by the board, or the department if there is no board. However, a person who was denied renewal of licensure, certification, or registration under s. 24, chapter 2009-223, Laws of Florida, between July 1, 2009, and June 30, 2012, is not required to retake and pass examinations applicable for initial licensure, certification, or registration.

(15) This section does not apply to a business establishment registered, permitted, or licensed by the department to do business.

(16) The board, or the department when there is no board, may adopt rules pursuant to ss. 120.536(1) and 120.54 as necessary to implement this section.

History.—s. 95, ch. 97-261; s. 63, ch. 2000-160; s. 31, ch. 2000-318; s. 3, ch. 2005-62; s. 2, ch. 2012-64.

Note.—Former s. 455.711.

456.037 Business establishments; requirements for active status licenses; delinquency; discipline; applicability.—

(1) A business establishment regulated by the Division of Medical Quality Assurance pursuant to this chapter may provide regulated services only if the business establishment has an active status license. A business establishment that provides regulated services without an active status license is in violation

of this section and s. 456.072, and the board, or the department if there is no board, may impose discipline on the business establishment.

(2)A business establishment must apply with a complete application, as defined by rule of the board, or the department if there is no board, to renew an active status license before the license expires. If a business establishment fails to renew before the license expires, the license becomes delinquent, except as otherwise provided in statute, in the license cycle following expiration.

(3)A delinquent business establishment must apply with a complete application, as defined by rule of the board, or the department if there is no board, for active status within 6 months after becoming delinquent. Failure of a delinquent business establishment to renew the license within the 6 months after the expiration date of the license renders the license null without any further action by the board or the department. Any subsequent licensure shall be as a result of applying for and meeting all requirements imposed on a business establishment for new licensure.

(4)The status or a change in status of a business establishment license does not alter in any way the right of the board, or of the department if there is no board, to impose discipline or to enforce discipline previously imposed on a business establishment for acts or omissions committed by the business establishment while holding a license, whether active or null.

(5)This section applies to any business establishment registered, permitted, or licensed by the department to do business. Business establishments include, but are not limited to, dental laboratories, electrology facilities, massage establishments, pharmacies, and pain-management clinics required to be registered under s. 458.3265 or s. 459.0137.

History.—s. 89, ch. 99-397; s. 64, ch. 2000-160; s. 27, ch. 2000-318; s. 102, ch. 2000-349; s. 1, ch. 2010-211.

Note.—Former s. 455.712.

456.038Renewal and cancellation notices.—

(1)At least 90 days before the end of a licensure cycle, the department shall:

(a)Forward a licensure renewal notification to an active or inactive status licensee at the licensee's last known address of record with the department.

(b)Forward a notice of pending cancellation of licensure to a delinquent licensee at the licensee's last known address of record with the department.

(2)Each licensure renewal notification and each notice of pending cancellation of licensure must state conspicuously that a licensee who remains on inactive status for more than two consecutive biennial licensure cycles and who wishes to reactivate the license may be required to demonstrate the competency to resume active practice by sitting for a special purpose examination or by completing other reactivation requirements, as defined by rule of the board or the department if there is no board.

History.—s. 96, ch. 97-261; s. 65, ch. 2000-160; s. 33, ch. 2000-318.

Note.—Former s. 455.714.

456.039 Designated health care professionals; information required for licensure.—

(1) Each person who applies for initial licensure as a physician under chapter 458, chapter 459, chapter 460, or chapter 461, except a person applying for registration pursuant to ss. 458.345 and 459.021, must, at the time of application, and each physician who applies for license renewal under chapter 458, chapter 459, chapter 460, or chapter 461, except a person registered pursuant to ss. 458.345 and 459.021, must, in conjunction with the renewal of such license and under procedures adopted by the Department of Health, and in addition to any other information that may be required from the applicant, furnish the following information to the Department of Health:

(a) 1. The name of each medical school that the applicant has attended, with the dates of attendance and the date of graduation, and a description of all graduate medical education completed by the applicant, excluding any coursework taken to satisfy medical licensure continuing education requirements.

2. The name of each hospital at which the applicant has privileges.

3. The address at which the applicant will primarily conduct his or her practice.

4. Any certification that the applicant has received from a specialty board that is recognized by the board to which the applicant is applying.

5. The year that the applicant began practicing medicine.

6. Any appointment to the faculty of a medical school which the applicant currently holds and an indication as to whether the applicant has had the responsibility for graduate medical education within the most recent 10 years.

7. A description of any criminal offense of which the applicant has been found guilty, regardless of whether adjudication of guilt was withheld, or to which the applicant has pled guilty or nolo contendere. A criminal offense committed in another jurisdiction which would have been a felony or misdemeanor if committed in this state must be reported. If the applicant indicates that a criminal offense is under appeal and submits a copy of the notice for appeal of that criminal offense, the department must state that the criminal offense is under appeal if the criminal offense is reported in the applicant's profile. If the applicant indicates to the department that a criminal offense is under appeal, the applicant must, upon disposition of the appeal, submit to the department a copy of the final written order of disposition.

8. A description of any final disciplinary action taken within the previous 10 years against the applicant by the agency regulating the profession that the applicant is or has been licensed to practice, whether in this state or in any other jurisdiction, by a specialty board that is recognized by the American Board of Medical Specialties, the American Osteopathic Association, or a similar national organization, or by a licensed hospital, health maintenance organization, prepaid health clinic, ambulatory surgical center, or nursing home. Disciplinary action includes resignation from or nonrenewal of medical staff membership or the restriction of privileges at a licensed hospital, health

maintenance organization, prepaid health clinic, ambulatory surgical center, or nursing home taken in lieu of or in settlement of a pending disciplinary case related to competence or character. If the applicant indicates that the disciplinary action is under appeal and submits a copy of the document initiating an appeal of the disciplinary action, the department must state that the disciplinary action is under appeal if the disciplinary action is reported in the applicant's profile.

9. Relevant professional qualifications as defined by the applicable board.

(b) In addition to the information required under paragraph (a), each applicant who seeks licensure under chapter 458, chapter 459, or chapter 461, and who has practiced previously in this state or in another jurisdiction or a foreign country must provide the information required of licensees under those chapters pursuant to s. 456.049. An applicant for licensure under chapter 460 who has practiced previously in this state or in another jurisdiction or a foreign country must provide the same information as is required of licensees under chapter 458, pursuant to s. 456.049.

(2) Before the issuance of the licensure renewal notice required by s. 456.038, the Department of Health shall send a notice to each person licensed under chapter 458, chapter 459, chapter 460, or chapter 461, at the licensee's last known address of record with the department, regarding the requirements for information to be submitted by those practitioners pursuant to this section in conjunction with the renewal of such license and under procedures adopted by the department.

(3) Each person who has submitted information pursuant to subsection (1) must update that information in writing by notifying the Department of Health within 45 days after the occurrence of an event or the attainment of a status that is required to be reported by subsection (1). Failure to comply with the requirements of this subsection to update and submit information constitutes a ground for disciplinary action under each respective licensing chapter and s. 456.072(1)(k). For failure to comply with the requirements of this subsection to update and submit information, the department or board, as appropriate, may:

(a) Refuse to issue a license to any person applying for initial licensure who fails to submit and update the required information.

(b) Issue a citation to any licensee who fails to submit and update the required information and may fine the licensee up to \$50 for each day that the licensee is not in compliance with this subsection. The citation must clearly state that the licensee may choose, in lieu of accepting the citation, to follow the procedure under s. 456.073. If the licensee disputes the matter in the citation, the procedures set forth in s. 456.073 must be followed. However, if the licensee does not dispute the matter in the citation with the department within 30 days after the citation is served, the citation becomes a final order and constitutes discipline. Service of a citation may be made by personal service or certified mail, restricted delivery, to the subject at the licensee's last known address.

(4)(a) An applicant for initial licensure must submit a set of fingerprints to the Department of Health in accordance with s. 458.311, s. 458.3115, s. 458.3124, s. 458.313, s. 459.0055, s. 460.406, or s. 461.006.

(b)An applicant for renewed licensure must submit a set of fingerprints for the initial renewal of his or her license after January 1, 2000, to the agency regulating that profession in accordance with procedures established under s. 458.319, s. 459.008, s. 460.407, or s. 461.007.

(c)The Department of Health shall submit the fingerprints provided by an applicant for initial licensure to the Florida Department of Law Enforcement for a statewide criminal history check, and the Florida Department of Law Enforcement shall forward the fingerprints to the Federal Bureau of Investigation for a national criminal history check of the applicant. The department shall submit the fingerprints provided by an applicant for a renewed license to the Florida Department of Law Enforcement for a statewide criminal history check, and the Florida Department of Law Enforcement shall forward the fingerprints to the Federal Bureau of Investigation for a national criminal history check for the initial renewal of the applicant's license after January 1, 2000; for any subsequent renewal of the applicant's license, the department shall submit the required information for a statewide criminal history check of the applicant.

(5)Each person who is required to submit information pursuant to this section may submit additional information. Such information may include, but is not limited to:

(a)Information regarding publications in peer-reviewed medical literature within the previous 10 years.

(b)Information regarding professional or community service activities or awards.

(c)Languages, other than English, used by the applicant to communicate with patients and identification of any translating service that may be available at the place where the applicant primarily conducts his or her practice.

(d)An indication of whether the person participates in the Medicaid program.

History.—s. 127, ch. 97-237; s. 3, ch. 97-273; ss. 8, 34, ch. 98-166; s. 60, ch. 99-397; s. 66, ch. 2000-160; s. 21, ch. 2000-318; s. 74, ch. 2001-62; s. 13, ch. 2003-416; s. 57, ch. 2010-114.

Note.—Former s. 455.565.

456.0391Advanced registered nurse practitioners; information required for certification.—

(1)(a)Each person who applies for initial certification under s. 464.012 must, at the time of application, and each person certified under s. 464.012 who applies for certification renewal must, in conjunction with the renewal of such certification and under procedures adopted by the Department of Health, and in addition to any other information that may be required from the applicant, furnish the following information to the Department of Health:

1.The name of each school or training program that the applicant has attended, with the months and years of attendance and the month and year of graduation, and a description of all graduate professional education completed by the applicant, excluding any coursework taken to satisfy continuing education requirements.

2.The name of each location at which the applicant practices.

3.The address at which the applicant will primarily conduct his or her practice.

4.Any certification or designation that the applicant has received from a specialty or certification board that is recognized or approved by the regulatory board or department to which the applicant is applying.

5.The year that the applicant received initial certification and began practicing the profession in any jurisdiction and the year that the applicant received initial certification in this state.

6.Any appointment which the applicant currently holds to the faculty of a school related to the profession and an indication as to whether the applicant has had the responsibility for graduate education within the most recent 10 years.

7.A description of any criminal offense of which the applicant has been found guilty, regardless of whether adjudication of guilt was withheld, or to which the applicant has pled guilty or nolo contendere. A criminal offense committed in another jurisdiction which would have been a felony or misdemeanor if committed in this state must be reported. If the applicant indicates that a criminal offense is under appeal and submits a copy of the notice for appeal of that criminal offense, the department must state that the criminal offense is under appeal if the criminal offense is reported in the applicant's profile. If the applicant indicates to the department that a criminal offense is under appeal, the applicant must, within 15 days after the disposition of the appeal, submit to the department a copy of the final written order of disposition.

8.A description of any final disciplinary action taken within the previous 10 years against the applicant by a licensing or regulatory body in any jurisdiction, by a specialty board that is recognized by the board or department, or by a licensed hospital, health maintenance organization, prepaid health clinic, ambulatory surgical center, or nursing home. Disciplinary action includes resignation from or nonrenewal of staff membership or the restriction of privileges at a licensed hospital, health maintenance organization, prepaid health clinic, ambulatory surgical center, or nursing home taken in lieu of or in settlement of a pending disciplinary case related to competence or character. If the applicant indicates that the disciplinary action is under appeal and submits a copy of the document initiating an appeal of the disciplinary action, the department must state that the disciplinary action is under appeal if the disciplinary action is reported in the applicant's profile.

(b)In addition to the information required under paragraph (a), each applicant for initial certification or certification renewal must provide the information required of licensees pursuant to s. 456.049.

(2)The Department of Health shall send a notice to each person certified under s. 464.012 at the certificateholder's last known address of record regarding the requirements for information to be submitted by advanced registered nurse practitioners pursuant to this section in conjunction with the renewal of such certificate.

(3)Each person certified under s. 464.012 who has submitted information pursuant to subsection (1) must update that information in writing by notifying the Department of Health within 45 days after the

occurrence of an event or the attainment of a status that is required to be reported by subsection (1). Failure to comply with the requirements of this subsection to update and submit information constitutes a ground for disciplinary action under chapter 464 and s. 456.072(1)(k). For failure to comply with the requirements of this subsection to update and submit information, the department or board, as appropriate, may:

(a) Refuse to issue a certificate to any person applying for initial certification who fails to submit and update the required information.

(b) Issue a citation to any certificateholder who fails to submit and update the required information and may fine the certificateholder up to \$50 for each day that the certificateholder is not in compliance with this subsection. The citation must clearly state that the certificateholder may choose, in lieu of accepting the citation, to follow the procedure under s. 456.073. If the certificateholder disputes the matter in the citation, the procedures set forth in s. 456.073 must be followed. However, if the certificateholder does not dispute the matter in the citation with the department within 30 days after the citation is served, the citation becomes a final order and constitutes discipline. Service of a citation may be made by personal service or certified mail, restricted delivery, to the subject at the certificateholder's last known address.

(4)(a) An applicant for initial certification under s. 464.012 must submit a set of fingerprints to the Department of Health on a form and under procedures specified by the department, along with payment in an amount equal to the costs incurred by the Department of Health for a national criminal history check of the applicant.

(b) An applicant for renewed certification who has not previously submitted a set of fingerprints to the Department of Health for purposes of certification must submit a set of fingerprints to the department as a condition of the initial renewal of his or her certificate after the effective date of this section. The applicant must submit the fingerprints on a form and under procedures specified by the department, along with payment in an amount equal to the costs incurred by the Department of Health for a national criminal history check. For subsequent renewals, the applicant for renewed certification must only submit information necessary to conduct a statewide criminal history check, along with payment in an amount equal to the costs incurred by the Department of Health for a statewide criminal history check.

(c) 1. The Department of Health shall submit the fingerprints provided by an applicant for initial certification to the Florida Department of Law Enforcement for a statewide criminal history check, and the Florida Department of Law Enforcement shall forward the fingerprints to the Federal Bureau of Investigation for a national criminal history check of the applicant.

2. The department shall submit the fingerprints provided by an applicant for the initial renewal of certification to the Florida Department of Law Enforcement for a statewide criminal history check, and the Florida Department of Law Enforcement shall forward the fingerprints to the Federal Bureau of Investigation for a national criminal history check for the initial renewal of the applicant's certificate

after the effective date of this section.

3. For any subsequent renewal of the applicant's certificate, the department shall submit the required information for a statewide criminal history check of the applicant to the Florida Department of Law Enforcement.

(d) Any applicant for initial certification or renewal of certification as an advanced registered nurse practitioner who submits to the Department of Health a set of fingerprints and information required for the criminal history check required under this section shall not be required to provide a subsequent set of fingerprints or other duplicate information required for a criminal history check to the Agency for Health Care Administration, the Department of Juvenile Justice, or the Department of Children and Family Services for employment or licensure with such agency or department, if the applicant has undergone a criminal history check as a condition of initial certification or renewal of certification as an advanced registered nurse practitioner with the Department of Health, notwithstanding any other provision of law to the contrary. In lieu of such duplicate submission, the Agency for Health Care Administration, the Department of Juvenile Justice, and the Department of Children and Family Services shall obtain criminal history information for employment or licensure of persons certified under s. 464.012 by such agency or department from the Department of Health's health care practitioner credentialing system.

(5) Each person who is required to submit information pursuant to this section may submit additional information to the Department of Health. Such information may include, but is not limited to:

(a) Information regarding publications in peer-reviewed professional literature within the previous 10 years.

(b) Information regarding professional or community service activities or awards.

(c) Languages, other than English, used by the applicant to communicate with patients or clients and identification of any translating service that may be available at the place where the applicant primarily conducts his or her practice.

(d) An indication of whether the person participates in the Medicaid program.

History.—s. 152, ch. 2000-318.

456.0392 Prescription labeling.—

(1) A prescription written by a practitioner who is authorized under the laws of this state to write prescriptions for drugs that are not listed as controlled substances in chapter 893 but who is not eligible for a federal Drug Enforcement Administration number shall include that practitioner's name and professional license number. The pharmacist or dispensing practitioner must include the practitioner's name on the container of the drug that is dispensed. A pharmacist shall be permitted, upon verification by the prescriber, to document any information required by this section.

(2) A prescription for a drug that is not listed as a controlled substance in chapter 893 which is

written by an advanced registered nurse practitioner certified under s. 464.012 is presumed, subject to rebuttal, to be valid and within the parameters of the prescriptive authority delegated by a practitioner licensed under chapter 458, chapter 459, or chapter 466.

(3)A prescription for a drug that is not listed as a controlled substance in chapter 893 which is written by a physician assistant licensed under chapter 458 or chapter 459 is presumed, subject to rebuttal, to be valid and within the parameters of the prescriptive authority delegated by the physician assistant's supervising physician.

History.—s. 1, ch. 2004-8.

456.041Practitioner profile; creation.—

(1)(a)The Department of Health shall compile the information submitted pursuant to s. 456.039 into a practitioner profile of the applicant submitting the information, except that the Department of Health shall develop a format to compile uniformly any information submitted under s. 456.039(4)(b). Beginning July 1, 2001, the Department of Health may compile the information submitted pursuant to s. 456.0391 into a practitioner profile of the applicant submitting the information. The protocol submitted pursuant to s. 464.012(3) must be included in the practitioner profile of the advanced registered nurse practitioner.

(b)Beginning July 1, 2005, the department shall verify the information submitted by the applicant under s. 456.039 concerning disciplinary history and medical malpractice claims at the time of initial licensure and license renewal using the National Practitioner Data Bank. The physician profiles shall reflect the disciplinary action and medical malpractice claims as reported by the National Practitioner Data Bank, and shall include information relating to liability and disciplinary actions obtained as a result of a search of the National Practitioner Data Bank.

(c)Within 30 calendar days after receiving an update of information required for the practitioner's profile, the department shall update the practitioner's profile in accordance with the requirements of subsection (8).

(2)On the profile published under subsection (1), the department shall indicate if the information provided under s. 456.039(1)(a)7. or s. 456.0391(1)(a)7. is or is not corroborated by a criminal history check conducted according to this subsection. The department, or the board having regulatory authority over the practitioner acting on behalf of the department, shall investigate any information received by the department or the board.

(3)The Department of Health shall include in each practitioner's practitioner profile that criminal information that directly relates to the practitioner's ability to competently practice his or her profession. The department must include in each practitioner's practitioner profile the following statement: "The criminal history information, if any exists, may be incomplete; federal criminal history information is not available to the public." The department shall provide in each practitioner profile, for every final disciplinary action taken against the practitioner, an easy-to-read narrative description

that explains the administrative complaint filed against the practitioner and the final disciplinary action imposed on the practitioner. The department shall include a hyperlink to each final order listed in its website report of dispositions of recent disciplinary actions taken against practitioners.

(4)The Department of Health shall include, with respect to a practitioner licensed under chapter 458 or chapter 459, a statement of how the practitioner has elected to comply with the financial responsibility requirements of s. 458.320 or s. 459.0085. The department shall include, with respect to practitioners subject to s. 456.048, a statement of how the practitioner has elected to comply with the financial responsibility requirements of that section. The department shall include, with respect to practitioners licensed under chapter 461, information relating to liability actions which has been reported under s. 456.049 or s. 627.912 within the previous 10 years for any paid claim that exceeds \$5,000. The department shall include, with respect to practitioners licensed under chapter 458 or chapter 459, information relating to liability actions which has been reported under ss. 456.049 and 627.912 within the previous 10 years for any paid claim that exceeds \$100,000. Such claims information shall be reported in the context of comparing an individual practitioner's claims to the experience of other practitioners within the same specialty, or profession if the practitioner is not a specialist. The department must provide a hyperlink in such practitioner's profile to all such comparison reports. If information relating to a liability action is included in a practitioner's practitioner profile, the profile must also include the following statement: "Settlement of a claim may occur for a variety of reasons that do not necessarily reflect negatively on the professional competence or conduct of the practitioner. A payment in settlement of a medical malpractice action or claim should not be construed as creating a presumption that medical malpractice has occurred."

(5)The Department of Health shall include the date of a hospital or ambulatory surgical center disciplinary action taken by a licensed hospital or an ambulatory surgical center, in accordance with the requirements of s. 395.0193, in the practitioner profile. The department shall state whether the action related to professional competence and whether it related to the delivery of services to a patient.

(6)The Department of Health shall provide in each practitioner profile for every physician or advanced registered nurse practitioner terminated for cause from participating in the Medicaid program, pursuant to s. 409.913, or sanctioned by the Medicaid program a statement that the practitioner has been terminated from participating in the Florida Medicaid program or sanctioned by the Medicaid program.

(7)The Department of Health may include in the practitioner's practitioner profile any other information that is a public record of any governmental entity and that relates to a practitioner's ability to competently practice his or her profession.

(8)Upon the completion of a practitioner profile under this section, the Department of Health shall furnish the practitioner who is the subject of the profile a copy of it for review and verification. The practitioner has a period of 30 days in which to review and verify the contents of the profile and to

correct any factual inaccuracies in it. The Department of Health shall make the profile available to the public at the end of the 30-day period regardless of whether the practitioner has provided verification of the profile content. A practitioner shall be subject to a fine of up to \$100 per day for failure to verify the profile contents and to correct any factual errors in his or her profile within the 30-day period. The department shall make the profiles available to the public through the World Wide Web and other commonly used means of distribution. The department must include the following statement, in boldface type, in each profile that has not been reviewed by the practitioner to which it applies: “The practitioner has not verified the information contained in this profile.”

(9)The Department of Health must provide in each profile an easy-to-read explanation of any disciplinary action taken and the reason the sanction or sanctions were imposed.

(10)The Department of Health may provide one link in each profile to a practitioner’s professional website if the practitioner requests that such a link be included in his or her profile.

(11)Making a practitioner profile available to the public under this section does not constitute agency action for which a hearing under s. 120.57 may be sought.

History.—s. 128, ch. 97-237; s. 4, ch. 97-273; s. 35, ch. 98-166; s. 77, ch. 99-397; s. 111, ch. 2000-153; s. 67, ch. 2000-160; ss. 22, 153, ch. 2000-318; s. 14, ch. 2003-416; s. 7, ch. 2005-62; s. 1, ch. 2005-266; s. 3, ch. 2006-251; s. 22, ch. 2009-223; s. 103, ch. 2010-5.

Note.—Former s. 455.5651.

456.042Practitioner profiles; update.—A practitioner must submit updates of required information within 15 days after the final activity that renders such information a fact. The Department of Health shall update each practitioner’s practitioner profile periodically. An updated profile is subject to the same requirements as an original profile.

History.—s. 129, ch. 97-237; s. 5, ch. 97-273; s. 68, ch. 2000-160; s. 15, ch. 2003-416.

Note.—Former s. 455.5652.

456.043Practitioner profiles; data storage.—Effective upon this act becoming a law, the Department of Health must develop or contract for a computer system to accommodate the new data collection and storage requirements under this act pending the development and operation of a computer system by the Department of Health for handling the collection, input, revision, and update of data submitted by physicians as a part of their initial licensure or renewal to be compiled into individual practitioner profiles. The Department of Health must incorporate any data required by this act into the computer system used in conjunction with the regulation of health care professions under its jurisdiction. The Department of Health is authorized to contract with and negotiate any interagency agreement necessary to develop and implement the practitioner profiles. The Department of Health shall have access to any information or record maintained by the Agency for Health Care Administration, including any information or record that is otherwise confidential and exempt from the provisions of chapter 119 and s. 24(a), Art. I of the State Constitution, so that the Department of

Health may corroborate any information that practitioners are required to report under s. 456.039 or s. 456.0391.

History.—s. 130, ch. 97-237; s. 6, ch. 97-273; s. 112, ch. 2000-153; s. 69, ch. 2000-160; ss. 23, 154, ch. 2000-318.

Note.—Former s. 455.5653.

456.044Practitioner profiles; rules; workshops.—Effective upon this act becoming a law, the Department of Health shall adopt rules for the form of a practitioner profile that the agency is required to prepare. The Department of Health, pursuant to chapter 120, must hold public workshops for purposes of rule development to implement this section. An agency to which information is to be submitted under this act may adopt by rule a form for the submission of the information required under s. 456.039 or s. 456.0391.

History.—s. 131, ch. 97-237; s. 7, ch. 97-273; s. 113, ch. 2000-153; s. 70, ch. 2000-160; ss. 24, 155, ch. 2000-318.

Note.—Former s. 455.5654.

456.045Practitioner profiles; maintenance of superseded information.—Information in superseded practitioner profiles must be maintained by the Department of Health, in accordance with general law and the rules of the Department of State.

History.—s. 132, ch. 97-237; s. 8, ch. 97-273; s. 71, ch. 2000-160.

Note.—Former s. 455.5655.

456.046Practitioner profiles; confidentiality.—Any patient name or other information that identifies a patient which is in a record obtained by the Department of Health or its agent for the purpose of compiling a practitioner profile pursuant to s. 456.041 is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Other data received by the department or its agent as a result of its duty to compile and promulgate practitioner profiles are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution until the profile into which the data are incorporated or with respect to which the data are submitted is made public pursuant to the requirements of s. 456.041. Any information or record that the Department of Health obtains from the Agency for Health Care Administration or any other governmental entity for the purpose of compiling a practitioner profile or substantiating other information or records submitted for that purpose which is otherwise exempt from public disclosure shall remain exempt as otherwise provided by law.

History.—s. 1, ch. 97-175; s. 71, ch. 2000-160; s. 1, ch. 2002-198.

Note.—Former s. 455.5656.

456.048Financial responsibility requirements for certain health care practitioners.—

(1)As a prerequisite for licensure or license renewal, the Board of Acupuncture, the Board of Chiropractic Medicine, the Board of Podiatric Medicine, and the Board of Dentistry shall, by rule,

require that all health care practitioners licensed under the respective board, and the Board of Medicine and the Board of Osteopathic Medicine shall, by rule, require that all anesthesiologist assistants licensed pursuant to s. 458.3475 or s. 459.023, and the Board of Nursing shall, by rule, require that advanced registered nurse practitioners certified under s. 464.012, and the department shall, by rule, require that midwives maintain medical malpractice insurance or provide proof of financial responsibility in an amount and in a manner determined by the board or department to be sufficient to cover claims arising out of the rendering of or failure to render professional care and services in this state.

(2)The board or department may grant exemptions upon application by practitioners meeting any of the following criteria:

(a)Any person licensed under chapter 457, s. 458.3475, s. 459.023, chapter 460, chapter 461, s. 464.012, chapter 466, or chapter 467 who practices exclusively as an officer, employee, or agent of the Federal Government or of the state or its agencies or its subdivisions. For the purposes of this subsection, an agent of the state, its agencies, or its subdivisions is a person who is eligible for coverage under any self-insurance or insurance program authorized by the provisions of s. 768.28(16) or who is a volunteer under s. 110.501(1).

(b)Any person whose license or certification has become inactive under chapter 457, s. 458.3475, s. 459.023, chapter 460, chapter 461, part I of chapter 464, chapter 466, or chapter 467 and who is not practicing in this state. Any person applying for reactivation of a license must show either that such licensee maintained tail insurance coverage which provided liability coverage for incidents that occurred on or after October 1, 1993, or the initial date of licensure in this state, whichever is later, and incidents that occurred before the date on which the license became inactive; or such licensee must submit an affidavit stating that such licensee has no unsatisfied medical malpractice judgments or settlements at the time of application for reactivation.

(c)Any person holding a limited license pursuant to s. 456.015, and practicing under the scope of such limited license.

(d)Any person licensed or certified under chapter 457, s. 458.3475, s. 459.023, chapter 460, chapter 461, s. 464.012, chapter 466, or chapter 467 who practices only in conjunction with his or her teaching duties at an accredited school or in its main teaching hospitals. Such person may engage in the practice of medicine to the extent that such practice is incidental to and a necessary part of duties in connection with the teaching position in the school.

(e)Any person holding an active license or certification under chapter 457, s. 458.3475, s. 459.023, chapter 460, chapter 461, s. 464.012, chapter 466, or chapter 467 who is not practicing in this state. If such person initiates or resumes practice in this state, he or she must notify the department of such activity.

(f)Any person who can demonstrate to the board or department that he or she has no malpractice exposure in the state.

(3) Notwithstanding the provisions of this section, the financial responsibility requirements of ss. 458.320 and 459.0085 shall continue to apply to practitioners licensed under those chapters, except for anesthesiologist assistants licensed pursuant to s. 458.3475 or s. 459.023 who must meet the requirements of this section.

History.—s. 1, ch. 93-41; s. 193, ch. 97-103; s. 90, ch. 97-261; s. 266, ch. 98-166; s. 88, ch. 99-397; s. 73, ch. 2000-160; s. 116, ch. 2000-318; s. 73, ch. 2004-5; s. 1, ch. 2004-303.

Note.—Former s. 455.2456; s. 455.694.

456.049 Health care practitioners; reports on professional liability claims and actions.—Any practitioner of medicine licensed pursuant to the provisions of chapter 458, practitioner of osteopathic medicine licensed pursuant to the provisions of chapter 459, podiatric physician licensed pursuant to the provisions of chapter 461, or dentist licensed pursuant to the provisions of chapter 466 shall report to the Office of Insurance Regulation any claim or action for damages for personal injury alleged to have been caused by error, omission, or negligence in the performance of such licensee's professional services or based on a claimed performance of professional services without consent pursuant to s. 627.912.

History.—s. 13, ch. 88-1; s. 7, ch. 91-140; s. 309, ch. 96-406; s. 91, ch. 97-261; s. 193, ch. 98-166; s. 74, ch. 2000-160; s. 16, ch. 2003-416.

Note.—Former s. 455.247; s. 455.697.

456.051 Reports of professional liability actions; bankruptcies; Department of Health's responsibility to provide.—

(1) The report of a claim or action for damages for personal injury which is required to be provided to the Department of Health under s. 456.049 or s. 627.912 is public information except for the name of the claimant or injured person, which remains confidential as provided in s. 627.912(2)(e). The Department of Health shall, upon request, make such report available to any person. The department shall make such report available as a part of the practitioner's profile within 30 calendar days after receipt.

(2) Any information in the possession of the Department of Health which relates to a bankruptcy proceeding by a practitioner of medicine licensed under chapter 458, a practitioner of osteopathic medicine licensed under chapter 459, a podiatric physician licensed under chapter 461, or a dentist licensed under chapter 466 is public information. The Department of Health shall, upon request, make such information available to any person. The department shall make such report available as a part of the practitioner's profile within 30 calendar days after receipt.

History.—s. 146, ch. 97-237; s. 22, ch. 97-273; ss. 38, 194, ch. 98-166; s. 75, ch. 2000-160; s. 17, ch. 2003-416; s. 74, ch. 2004-5.

Note.—Former s. 455.698.

456.052 Disclosure of financial interest by production.—

(1) A health care provider shall not refer a patient to an entity in which such provider is an investor unless, prior to the referral, the provider furnishes the patient with a written disclosure form, informing the patient of:

(a) The existence of the investment interest.

(b) The name and address of each applicable entity in which the referring health care provider is an investor.

(c) The patient's right to obtain the items or services for which the patient has been referred at the location or from the provider or supplier of the patient's choice, including the entity in which the referring provider is an investor.

(d) The names and addresses of at least two alternative sources of such items or services available to the patient.

(2) The physician or health care provider shall post a copy of the disclosure forms in a conspicuous public place in his or her office.

(3) A violation of this section shall constitute a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. In addition to any other penalties or remedies provided, a violation of this section shall be grounds for disciplinary action by the respective board.

History.—s. 1, ch. 86-31; s. 84, ch. 91-224; s. 13, ch. 92-178; s. 92, ch. 97-261; s. 76, ch. 2000-160.

Note.—Former s. 455.25; s. 455.701.

456.053 Financial arrangements between referring health care providers and providers of health care services.—

(1) *SHORT TITLE.*—This section may be cited as the “Patient Self-Referral Act of 1992.”

(2) *LEGISLATIVE INTENT.*—It is recognized by the Legislature that the referral of a patient by a health care provider to a provider of health care services in which the referring health care provider has an investment interest represents a potential conflict of interest. The Legislature finds these referral practices may limit or eliminate competitive alternatives in the health care services market, may result in overutilization of health care services, may increase costs to the health care system, and may adversely affect the quality of health care. The Legislature also recognizes, however, that it may be appropriate for providers to own entities providing health care services, and to refer patients to such entities, as long as certain safeguards are present in the arrangement. It is the intent of the Legislature to provide guidance to health care providers regarding prohibited patient referrals between health care providers and entities providing health care services and to protect the people of Florida from unnecessary and costly health care expenditures.

(3) *DEFINITIONS.*—For the purpose of this section, the word, phrase, or term:

(a) “Board” means any of the following boards relating to the respective professions: the Board of Medicine as created in s. 458.307; the Board of Osteopathic Medicine as created in s. 459.004; the

Board of Chiropractic Medicine as created in s. 460.404; the Board of Podiatric Medicine as created in s. 461.004; the Board of Optometry as created in s. 463.003; the Board of Pharmacy as created in s. 465.004; and the Board of Dentistry as created in s. 466.004.

(b)“Comprehensive rehabilitation services” means services that are provided by health care professionals licensed under part I or part III of chapter 468 or chapter 486 to provide speech, occupational, or physical therapy services on an outpatient or ambulatory basis.

(c)“Designated health services” means, for purposes of this section, clinical laboratory services, physical therapy services, comprehensive rehabilitative services, diagnostic-imaging services, and radiation therapy services.

(d)“Diagnostic imaging services” means magnetic resonance imaging, nuclear medicine, angiography, arteriography, computed tomography, positron emission tomography, digital vascular imaging, bronchography, lymphangiography, splenography, ultrasound, EEG, EKG, nerve conduction studies, and evoked potentials.

(e)“Direct supervision” means supervision by a physician who is present in the office suite and immediately available to provide assistance and direction throughout the time services are being performed.

(f)“Entity” means any individual, partnership, firm, corporation, or other business entity.

(g)“Fair market value” means value in arms length transactions, consistent with the general market value, and, with respect to rentals or leases, the value of rental property for general commercial purposes, not taking into account its intended use, and, in the case of a lease of space, not adjusted to reflect the additional value the prospective lessee or lessor would attribute to the proximity or convenience to the lessor where the lessor is a potential source of patient referrals to the lessee.

(h)“Group practice” means a group of two or more health care providers legally organized as a partnership, professional corporation, or similar association:

1.In which each health care provider who is a member of the group provides substantially the full range of services which the health care provider routinely provides, including medical care, consultation, diagnosis, or treatment, through the joint use of shared office space, facilities, equipment, and personnel;

2.For which substantially all of the services of the health care providers who are members of the group are provided through the group and are billed in the name of the group and amounts so received are treated as receipts of the group; and

3.In which the overhead expenses of and the income from the practice are distributed in accordance with methods previously determined by members of the group.

(i)“Health care provider” means any physician licensed under chapter 458, chapter 459, chapter 460, or chapter 461, or any health care provider licensed under chapter 463 or chapter 466.

(j)“Immediate family member” means a health care provider’s spouse, child, child’s spouse,

grandchild, grandchild's spouse, parent, parent-in-law, or sibling.

(k) "Investment interest" means an equity or debt security issued by an entity, including, without limitation, shares of stock in a corporation, units or other interests in a partnership, bonds, debentures, notes, or other equity interests or debt instruments. The following investment interests shall be excepted from this definition:

1. An investment interest in an entity that is the sole provider of designated health services in a rural area;

2. An investment interest in notes, bonds, debentures, or other debt instruments issued by an entity which provides designated health services, as an integral part of a plan by such entity to acquire such investor's equity investment interest in the entity, provided that the interest rate is consistent with fair market value, and that the maturity date of the notes, bonds, debentures, or other debt instruments issued by the entity to the investor is not later than October 1, 1996.

3. An investment interest in real property resulting in a landlord-tenant relationship between the health care provider and the entity in which the equity interest is held, unless the rent is determined, in whole or in part, by the business volume or profitability of the tenant or exceeds fair market value; or

4. An investment interest in an entity which owns or leases and operates a hospital licensed under chapter 395 or a nursing home facility licensed under chapter 400.

(l) "Investor" means a person or entity owning a legal or beneficial ownership or investment interest, directly or indirectly, including, without limitation, through an immediate family member, trust, or another entity related to the investor within the meaning of 42 C.F.R. s. 413.17, in an entity.

(m) "Outside referral for diagnostic imaging services" means a referral of a patient to a group practice or sole provider for diagnostic imaging services by a physician who is not a member of the group practice or of the sole provider's practice and who does not have an investment interest in the group practice or sole provider's practice, for which the group practice or sole provider billed for both the technical and the professional fee for the patient, and the patient did not become a patient of the group practice or sole provider's practice.

(n) "Patient of a group practice" or "patient of a sole provider" means a patient who receives a physical examination, evaluation, diagnosis, and development of a treatment plan if medically necessary by a physician who is a member of the group practice or the sole provider's practice.

(o) "Referral" means any referral of a patient by a health care provider for health care services, including, without limitation:

1. The forwarding of a patient by a health care provider to another health care provider or to an entity which provides or supplies designated health services or any other health care item or service; or

2. The request or establishment of a plan of care by a health care provider, which includes the provision of designated health services or other health care item or service.

3. The following orders, recommendations, or plans of care shall not constitute a referral by a health care provider:

a. By a radiologist for diagnostic-imaging services.

b. By a physician specializing in the provision of radiation therapy services for such services.

c. By a medical oncologist for drugs and solutions to be prepared and administered intravenously to such oncologist's patient, as well as for the supplies and equipment used in connection therewith to treat such patient for cancer and the complications thereof.

d. By a cardiologist for cardiac catheterization services.

e. By a pathologist for diagnostic clinical laboratory tests and pathological examination services, if furnished by or under the supervision of such pathologist pursuant to a consultation requested by another physician.

f. By a health care provider who is the sole provider or member of a group practice for designated health services or other health care items or services that are prescribed or provided solely for such referring health care provider's or group practice's own patients, and that are provided or performed by or under the direct supervision of such referring health care provider or group practice; provided, however, that effective July 1, 1999, a physician licensed pursuant to chapter 458, chapter 459, chapter 460, or chapter 461 may refer a patient to a sole provider or group practice for diagnostic imaging services, excluding radiation therapy services, for which the sole provider or group practice billed both the technical and the professional fee for or on behalf of the patient, if the referring physician has no investment interest in the practice. The diagnostic imaging service referred to a group practice or sole provider must be a diagnostic imaging service normally provided within the scope of practice to the patients of the group practice or sole provider. The group practice or sole provider may accept no more than 15 percent of their patients receiving diagnostic imaging services from outside referrals, excluding radiation therapy services.

g. By a health care provider for services provided by an ambulatory surgical center licensed under chapter 395.

h. By a urologist for lithotripsy services.

i. By a dentist for dental services performed by an employee of or health care provider who is an independent contractor with the dentist or group practice of which the dentist is a member.

j. By a physician for infusion therapy services to a patient of that physician or a member of that physician's group practice.

k. By a nephrologist for renal dialysis services and supplies, except laboratory services.

l. By a health care provider whose principal professional practice consists of treating patients in their private residences for services to be rendered in such private residences, except for services rendered by a home health agency licensed under chapter 400. For purposes of this sub-subparagraph, the term "private residences" includes patients' private homes, independent living centers, and assisted living facilities, but does not include skilled nursing facilities.

m. By a health care provider for sleep-related testing.

(p) "Present in the office suite" means that the physician is actually physically present; provided, however, that the health care provider is considered physically present during brief unexpected absences as well as during routine absences of a short duration if the absences occur during time periods in which the health care provider is otherwise scheduled and ordinarily expected to be present and the absences do not conflict with any other requirement in the Medicare program for a particular level of health care provider supervision.

(q) "Rural area" means a county with a population density of no greater than 100 persons per square mile, as defined by the United States Census.

(r) "Sole provider" means one health care provider licensed under chapter 458, chapter 459, chapter 460, or chapter 461, who maintains a separate medical office and a medical practice separate from any other health care provider and who bills for his or her services separately from the services provided by any other health care provider. A sole provider shall not share overhead expenses or professional income with any other person or group practice.

(4) REQUIREMENTS FOR ACCEPTING OUTSIDE REFERRALS FOR DIAGNOSTIC IMAGING.—

(a) A group practice or sole provider accepting outside referrals for diagnostic imaging services is required to comply with the following conditions:

1. Diagnostic imaging services must be provided exclusively by a group practice physician or by a full-time or part-time employee of the group practice or of the sole provider's practice.

2. All equity in the group practice or sole provider's practice accepting outside referrals for diagnostic imaging must be held by the physicians comprising the group practice or the sole provider's practice, each of whom must provide at least 75 percent of his or her professional services to the group. Alternatively, the group must be incorporated under chapter 617 and must be exempt under the provisions of s. 501(c)(3) of the Internal Revenue Code and be part of a foundation in existence prior to January 1, 1999, that is created for the purpose of patient care, medical education, and research.

3. A group practice or sole provider may not enter into, extend or renew any contract with a practice management company that provides any financial incentives, directly or indirectly, based on an increase in outside referrals for diagnostic imaging services from any group or sole provider managed by the same practice management company.

4. The group practice or sole provider accepting outside referrals for diagnostic imaging services must bill for both the professional and technical component of the service on behalf of the patient, and no portion of the payment, or any type of consideration, either directly or indirectly, may be shared with the referring physician.

5. Group practices or sole providers that have a Medicaid provider agreement with the Agency for Health Care Administration must furnish diagnostic imaging services to their Medicaid patients and may not refer a Medicaid recipient to a hospital for outpatient diagnostic imaging services unless the physician furnishes the hospital with documentation demonstrating the medical necessity for such a

referral. If necessary, the Agency for Health Care Administration may apply for a federal waiver to implement this subparagraph.

6. All group practices and sole providers accepting outside referrals for diagnostic imaging shall report annually to the Agency for Health Care Administration providing the number of outside referrals accepted for diagnostic imaging services and the total number of all patients receiving diagnostic imaging services.

(b) If a group practice or sole provider accepts an outside referral for diagnostic imaging services in violation of this subsection or if a group practice or sole provider accepts outside referrals for diagnostic imaging services in excess of the percentage limitation established in subparagraph (a)2., the group practice or the sole provider shall be subject to the penalties in subsection (5).

(c) Each managing physician member of a group practice and each sole provider who accepts outside referrals for diagnostic imaging services shall submit an annual attestation signed under oath to the Agency for Health Care Administration which shall include the annual report required under subparagraph (a)6. and which shall further confirm that each group practice or sole provider is in compliance with the percentage limitations for accepting outside referrals and the requirements for accepting outside referrals listed in paragraph (a). The agency may verify the report submitted by group practices and sole providers.

(5) PROHIBITED REFERRALS AND CLAIMS FOR PAYMENT.—Except as provided in this section:

(a) A health care provider may not refer a patient for the provision of designated health services to an entity in which the health care provider is an investor or has an investment interest.

(b) A health care provider may not refer a patient for the provision of any other health care item or service to an entity in which the health care provider is an investor unless:

1. The provider's investment interest is in registered securities purchased on a national exchange or over-the-counter market and issued by a publicly held corporation:

- a. Whose shares are traded on a national exchange or on the over-the-counter market; and
- b. Whose total assets at the end of the corporation's most recent fiscal quarter exceeded \$50 million; or

2. With respect to an entity other than a publicly held corporation described in subparagraph 1., and a referring provider's investment interest in such entity, each of the following requirements are met:

a. No more than 50 percent of the value of the investment interests are held by investors who are in a position to make referrals to the entity.

b. The terms under which an investment interest is offered to an investor who is in a position to make referrals to the entity are no different from the terms offered to investors who are not in a position to make such referrals.

c. The terms under which an investment interest is offered to an investor who is in a position to make referrals to the entity are not related to the previous or expected volume of referrals from that

investor to the entity.

d. There is no requirement that an investor make referrals or be in a position to make referrals to the entity as a condition for becoming or remaining an investor.

3. With respect to either such entity or publicly held corporation:

a. The entity or corporation does not loan funds to or guarantee a loan for an investor who is in a position to make referrals to the entity or corporation if the investor uses any part of such loan to obtain the investment interest.

b. The amount distributed to an investor representing a return on the investment interest is directly proportional to the amount of the capital investment, including the fair market value of any preoperational services rendered, invested in the entity or corporation by that investor.

4. Each board and, in the case of hospitals, the Agency for Health Care Administration, shall encourage the use by licensees of the declaratory statement procedure to determine the applicability of this section or any rule adopted pursuant to this section as it applies solely to the licensee. Boards shall submit to the Agency for Health Care Administration the name of any entity in which a provider investment interest has been approved pursuant to this section, and the Agency for Health Care Administration shall adopt rules providing for periodic quality assurance and utilization review of such entities.

(c) No claim for payment may be presented by an entity to any individual, third-party payor, or other entity for a service furnished pursuant to a referral prohibited under this section.

(d) If an entity collects any amount that was billed in violation of this section, the entity shall refund such amount on a timely basis to the payor or individual, whichever is applicable.

(e) Any person that presents or causes to be presented a bill or a claim for service that such person knows or should know is for a service for which payment may not be made under paragraph (c), or for which a refund has not been made under paragraph (d), shall be subject to a civil penalty of not more than \$15,000 for each such service to be imposed and collected by the appropriate board.

(f) Any health care provider or other entity that enters into an arrangement or scheme, such as a cross-referral arrangement, which the physician or entity knows or should know has a principal purpose of assuring referrals by the physician to a particular entity which, if the physician directly made referrals to such entity, would be in violation of this section, shall be subject to a civil penalty of not more than \$100,000 for each such circumvention arrangement or scheme to be imposed and collected by the appropriate board.

(g) A violation of this section by a health care provider shall constitute grounds for disciplinary action to be taken by the applicable board pursuant to s. 458.331(2), s. 459.015(2), s. 460.413(2), s. 461.013(2), s. 463.016(2), or s. 466.028(2). Any hospital licensed under chapter 395 found in violation of this section shall be subject to the rules adopted by the Agency for Health Care Administration pursuant to s. 395.0185(2).

(h) Any hospital licensed under chapter 395 that discriminates against or otherwise penalizes a

health care provider for compliance with this act.

(i)The provision of paragraph (a) shall not apply to referrals to the offices of radiation therapy centers managed by an entity or subsidiary or general partner thereof, which performed radiation therapy services at those same offices prior to April 1, 1991, and shall not apply also to referrals for radiation therapy to be performed at no more than one additional office of any entity qualifying for the foregoing exception which, prior to February 1, 1992, had a binding purchase contract on and a nonrefundable deposit paid for a linear accelerator to be used at the additional office. The physical site of the radiation treatment centers affected by this provision may be relocated as a result of the following factors: acts of God; fire; strike; accident; war; eminent domain actions by any governmental body; or refusal by the lessor to renew a lease. A relocation for the foregoing reasons is limited to relocation of an existing facility to a replacement location within the county of the existing facility upon written notification to the Office of Licensure and Certification.

(j)A health care provider who meets the requirements of paragraphs (b) and (i) must disclose his or her investment interest to his or her patients as provided in s. 456.052.

History.—s. 7, ch. 92-178; s. 89, ch. 94-218; s. 60, ch. 95-144; s. 35, ch. 95-146; s. 8, ch. 96-296; s. 1083, ch. 97-103; s. 78, ch. 97-261; s. 70, ch. 97-264; s. 263, ch. 98-166; s. 62, ch. 98-171; s. 1, ch. 99-356; s. 10, ch. 2000-159; s. 77, ch. 2000-160; s. 14, ch. 2002-389; s. 23, ch. 2009-223.

Note.—Former s. 455.236; s. 455.654.

456.054 Kickbacks prohibited.—

(1)As used in this section, the term “kickback” means a remuneration or payment, by or on behalf of a provider of health care services or items, to any person as an incentive or inducement to refer patients for past or future services or items, when the payment is not tax deductible as an ordinary and necessary expense.

(2)It is unlawful for any health care provider or any provider of health care services to offer, pay, solicit, or receive a kickback, directly or indirectly, overtly or covertly, in cash or in kind, for referring or soliciting patients.

(3)Violations of this section shall be considered patient brokering and shall be punishable as provided in s. 817.505.

History.—s. 8, ch. 92-178; s. 2, ch. 96-152; s. 79, ch. 97-261; s. 8, ch. 99-204; s. 78, ch. 2000-160; s. 6, ch. 2006-305.

Note.—Former s. 455.237; s. 455.657.

456.055 Chiropractic and podiatric health care; denial of payment; limitation.—A chiropractic physician licensed under chapter 460 or a podiatric physician licensed under chapter 461 shall not be denied payment for treatment rendered solely on the basis that the chiropractic physician or podiatric physician is not a member of a particular preferred provider organization or exclusive provider organization which is composed only of physicians licensed under the same chapter.

History.—s. 43, ch. 85-167; s. 87, ch. 97-261; ss. 191, 264, ch. 98-166; s. 78, ch. 2000-160.

Note.—Former s. 455.244; s. 455.684.

456.056 Treatment of Medicare beneficiaries; refusal, emergencies, consulting physicians.—

(1) Effective as of January 1, 1993, as used in this section, the term:

(a) “Physician” means a physician licensed under chapter 458, an osteopathic physician licensed under chapter 459, a chiropractic physician licensed under chapter 460, a podiatric physician licensed under chapter 461, or an optometrist licensed under chapter 463.

(b) “Beneficiary” means a beneficiary of health insurance under Title XVIII of the federal Social Security Act.

(c) “Consulting physician” means any physician to whom a primary physician refers a Medicare beneficiary for treatment.

(2) A physician may refuse to treat a beneficiary. However, nothing contained in this section shall be construed to limit a physician’s obligation under state or federal law to treat a patient for an emergency medical condition, regardless of the patient’s ability to pay.

(3) If treatment is provided to a beneficiary for an emergency medical condition as defined in ¹s. 395.0142(2)(c), the physician must accept Medicare assignment provided that the requirement to accept Medicare assignment for an emergency medical condition shall not apply to treatment rendered after the patient is stabilized, or the treatment is unrelated to the original emergency medical condition. For the purpose of this subsection “stabilized” is defined to mean with respect to an emergency medical condition, that no material deterioration of the condition is likely within reasonable medical probability.

(4) If treatment provided to a beneficiary is not for such emergency medical condition, and the primary physician accepts assignment, all consulting physicians must accept assignment unless the patient agrees in writing, before receiving the treatment, that the physician need not accept assignment.

(5) Any attempt by a primary physician or a consulting physician to collect from a Medicare beneficiary any amount of charges for medical services in excess of those authorized under this section, other than the unmet deductible and the 20 percent of charges that Medicare does not pay, shall be deemed null, void, and of no merit.

History.—s. 1, ch. 92-118; s. 160, ch. 92-149; s. 89, ch. 97-261; ss. 192, 265, ch. 98-166; s. 78, ch. 2000-160.

¹**Note.**—“Emergency medical condition” is no longer defined in s. 395.0142, which was amended and transferred to s. 395.1041 by s. 24, ch. 92-289.

Note.—Former s. 455.2455; s. 455.691.

456.057 Ownership and control of patient records; report or copies of records to be furnished.—

(1) As used in this section, the term “records owner” means any health care practitioner who generates a medical record after making a physical or mental examination of, or administering

treatment or dispensing legend drugs to, any person; any health care practitioner to whom records are transferred by a previous records owner; or any health care practitioner's employer, including, but not limited to, group practices and staff-model health maintenance organizations, provided the employment contract or agreement between the employer and the health care practitioner designates the employer as the records owner.

(2)As used in this section, the terms "records owner," "health care practitioner," and "health care practitioner's employer" do not include any of the following persons or entities; furthermore, the following persons or entities are not authorized to acquire or own medical records, but are authorized under the confidentiality and disclosure requirements of this section to maintain those documents required by the part or chapter under which they are licensed or regulated:

- (a)Certified nursing assistants regulated under part II of chapter 464.
- (b)Pharmacists and pharmacies licensed under chapter 465.
- (c)Dental hygienists licensed under s. 466.023.
- (d)Nursing home administrators licensed under part II of chapter 468.
- (e)Respiratory therapists regulated under part V of chapter 468.
- (f)Athletic trainers licensed under part XIII of chapter 468.
- (g)Electrologists licensed under chapter 478.
- (h)Clinical laboratory personnel licensed under part III of chapter 483.
- (i)Medical physicists licensed under part IV of chapter 483.
- (j)Opticians and optical establishments licensed or permitted under part I of chapter 484.
- (k)Persons or entities practicing under s. 627.736(7).

(3)As used in this section, the term "records custodian" means any person or entity that:

- (a)Maintains documents that are authorized in subsection (2); or
- (b)Obtains medical records from a records owner.

(4)Any health care practitioner's employer who is a records owner and any records custodian shall maintain records or documents as provided under the confidentiality and disclosure requirements of this section.

(5)This section does not apply to facilities licensed under chapter 395.

(6)Any health care practitioner licensed by the department or a board within the department who makes a physical or mental examination of, or administers treatment or dispenses legend drugs to, any person shall, upon request of such person or the person's legal representative, furnish, in a timely manner, without delays for legal review, copies of all reports and records relating to such examination or treatment, including X rays and insurance information. However, when a patient's psychiatric, chapter 490 psychological, or chapter 491 psychotherapeutic records are requested by the patient or the patient's legal representative, the health care practitioner may provide a report of examination and treatment in lieu of copies of records. Upon a patient's written request, complete copies of the patient's psychiatric records shall be provided directly to a subsequent treating psychiatrist. The

furnishing of such report or copies shall not be conditioned upon payment of a fee for services rendered.

(7)(a) Except as otherwise provided in this section and in s. 440.13(4)(c), such records may not be furnished to, and the medical condition of a patient may not be discussed with, any person other than the patient or the patient's legal representative or other health care practitioners and providers involved in the care or treatment of the patient, except upon written authorization of the patient. However, such records may be furnished without written authorization under the following circumstances:

1. To any person, firm, or corporation that has procured or furnished such examination or treatment with the patient's consent.

2. When compulsory physical examination is made pursuant to Rule 1.360, Florida Rules of Civil Procedure, in which case copies of the medical records shall be furnished to both the defendant and the plaintiff.

3. In any civil or criminal action, unless otherwise prohibited by law, upon the issuance of a subpoena from a court of competent jurisdiction and proper notice to the patient or the patient's legal representative by the party seeking such records.

4. For statistical and scientific research, provided the information is abstracted in such a way as to protect the identity of the patient or provided written permission is received from the patient or the patient's legal representative.

5. To a regional poison control center for purposes of treating a poison episode under evaluation, case management of poison cases, or compliance with data collection and reporting requirements of s. 395.1027 and the professional organization that certifies poison control centers in accordance with federal law.

(b) Absent a specific written release or authorization permitting utilization of patient information for solicitation or marketing the sale of goods or services, any use of that information for those purposes is prohibited.

(8) Except in a medical negligence action or administrative proceeding when a health care practitioner or provider is or reasonably expects to be named as a defendant, information disclosed to a health care practitioner by a patient in the course of the care and treatment of such patient is confidential and may be disclosed only to other health care practitioners and providers involved in the care or treatment of the patient, or if permitted by written authorization from the patient or compelled by subpoena at a deposition, evidentiary hearing, or trial for which proper notice has been given.

(9)(a) 1. The department may obtain patient records pursuant to a subpoena without written authorization from the patient if the department and the probable cause panel of the appropriate board, if any, find reasonable cause to believe that a health care practitioner has excessively or inappropriately prescribed any controlled substance specified in chapter 893 in violation of this chapter

or any professional practice act or that a health care practitioner has practiced his or her profession below that level of care, skill, and treatment required as defined by this chapter or any professional practice act and also find that appropriate, reasonable attempts were made to obtain a patient release. Notwithstanding the foregoing, the department need not attempt to obtain a patient release when investigating an offense involving the inappropriate prescribing, overprescribing, or diversion of controlled substances and the offense involves a pain-management clinic. The department may obtain patient records without patient authorization or subpoena from any pain-management clinic required to be licensed if the department has probable cause to believe that a violation of any provision of s. 458.3265 or s. 459.0137 is occurring or has occurred and reasonably believes that obtaining such authorization is not feasible due to the volume of the dispensing and prescribing activity involving controlled substances and that obtaining patient authorization or the issuance of a subpoena would jeopardize the investigation.

2. The department may obtain patient records and insurance information pursuant to a subpoena without written authorization from the patient if the department and the probable cause panel of the appropriate board, if any, find reasonable cause to believe that a health care practitioner has provided inadequate medical care based on termination of insurance and also find that appropriate, reasonable attempts were made to obtain a patient release.

3. The department may obtain patient records, billing records, insurance information, provider contracts, and all attachments thereto pursuant to a subpoena without written authorization from the patient if the department and probable cause panel of the appropriate board, if any, find reasonable cause to believe that a health care practitioner has submitted a claim, statement, or bill using a billing code that would result in payment greater in amount than would be paid using a billing code that accurately describes the services performed, requested payment for services that were not performed by that health care practitioner, used information derived from a written report of an automobile accident generated pursuant to chapter 316 to solicit or obtain patients personally or through an agent regardless of whether the information is derived directly from the report or a summary of that report or from another person, solicited patients fraudulently, received a kickback as defined in s. 456.054, violated the patient brokering provisions of s. 817.505, or presented or caused to be presented a false or fraudulent insurance claim within the meaning of s. 817.234(1)(a), and also find that, within the meaning of s. 817.234(1)(a), patient authorization cannot be obtained because the patient cannot be located or is deceased, incapacitated, or suspected of being a participant in the fraud or scheme, and if the subpoena is issued for specific and relevant records.

4. Notwithstanding subparagraphs 1.-3., when the department investigates a professional liability claim or undertakes action pursuant to s. 456.049 or s. 627.912, the department may obtain patient records pursuant to a subpoena without written authorization from the patient if the patient refuses to cooperate or if the department attempts to obtain a patient release and the failure to obtain the patient records would be detrimental to the investigation.

(b) Patient records, billing records, insurance information, provider contracts, and all attachments thereto obtained by the department pursuant to this subsection shall be used solely for the purpose of the department and the appropriate regulatory board in disciplinary proceedings. This section does not limit the assertion of the psychotherapist-patient privilege under s. 90.503 in regard to records of treatment for mental or nervous disorders by a medical practitioner licensed pursuant to chapter 458 or chapter 459 who has primarily diagnosed and treated mental and nervous disorders for a period of not less than 3 years, inclusive of psychiatric residency. However, the health care practitioner shall release records of treatment for medical conditions even if the health care practitioner has also treated the patient for mental or nervous disorders. If the department has found reasonable cause under this section and the psychotherapist-patient privilege is asserted, the department may petition the circuit court for an in camera review of the records by expert medical practitioners appointed by the court to determine if the records or any part thereof are protected under the psychotherapist-patient privilege.

(10)(a) All patient records obtained by the department and any other documents maintained by the department which identify the patient by name are confidential and exempt from s. 119.07(1) and shall be used solely for the purpose of the department and the appropriate regulatory board in its investigation, prosecution, and appeal of disciplinary proceedings. The records shall not be available to the public as part of the record of investigation for and prosecution in disciplinary proceedings made available to the public by the department or the appropriate board.

(b) Notwithstanding paragraph (a), all patient records obtained by the department and any other documents maintained by the department which relate to a current or former Medicaid recipient shall be provided to the Medicaid Fraud Control Unit in the Department of Legal Affairs, upon request.

(11) All records owners shall develop and implement policies, standards, and procedures to protect the confidentiality and security of the medical record. Employees of records owners shall be trained in these policies, standards, and procedures.

(12) Records owners are responsible for maintaining a record of all disclosures of information contained in the medical record to a third party, including the purpose of the disclosure request. The record of disclosure may be maintained in the medical record. The third party to whom information is disclosed is prohibited from further disclosing any information in the medical record without the expressed written consent of the patient or the patient's legal representative.

(13) Notwithstanding the provisions of s. 456.058, records owners shall place an advertisement in the local newspaper or notify patients, in writing, when they are terminating practice, retiring, or relocating, and no longer available to patients, and offer patients the opportunity to obtain a copy of their medical record.

(14) Notwithstanding the provisions of s. 456.058, records owners shall notify the appropriate board office when they are terminating practice, retiring, or relocating, and no longer available to patients, specifying who the new records owner is and where medical records can be found.

(15) Whenever a records owner has turned records over to a new records owner, the new records owner shall be responsible for providing a copy of the complete medical record, upon written request, of the patient or the patient's legal representative.

(16) Licensees in violation of the provisions of this section shall be disciplined by the appropriate licensing authority.

(17) The Attorney General is authorized to enforce the provisions of this section for records owners not otherwise licensed by the state, through injunctive relief and fines not to exceed \$5,000 per violation.

(18) A health care practitioner or records owner furnishing copies of reports or records or making the reports or records available for digital scanning pursuant to this section shall charge no more than the actual cost of copying, including reasonable staff time, or the amount specified in administrative rule by the appropriate board, or the department when there is no board.

(19) Nothing in this section shall be construed to limit health care practitioner consultations, as necessary.

(20) A records owner shall release to a health care practitioner who, as an employee of the records owner, previously provided treatment to a patient, those records that the health care practitioner actually created or generated when the health care practitioner treated the patient. Records released pursuant to this subsection shall be released only upon written request of the health care practitioner and shall be limited to the notes, plans of care, and orders and summaries that were actually generated by the health care practitioner requesting the record.

(21) The board, or department when there is no board, may temporarily or permanently appoint a person or entity as a custodian of medical records in the event of the death of a practitioner, the mental or physical incapacitation of the practitioner, or the abandonment of medical records by a practitioner. The custodian appointed shall comply with all provisions of this section, including the release of patient records.

History.—s. 1, ch. 79-302; s. 1, ch. 82-22; s. 1, ch. 83-108; s. 81, ch. 83-218; ss. 14, 119, ch. 83-329; s. 2, ch. 84-15; s. 41, ch. 85-175; s. 4, ch. 87-333; s. 9, ch. 88-1; s. 2, ch. 88-208; s. 14, ch. 88-219; s. 6, ch. 88-277; s. 10, ch. 88-392; s. 2, ch. 89-85; s. 14, ch. 89-124; s. 28, ch. 89-289; s. 1, ch. 90-263; s. 11, ch. 91-137; s. 6, ch. 91-140; s. 12, ch. 91-176; s. 4, ch. 91-269; s. 62, ch. 92-33; s. 32, ch. 92-149; s. 23, ch. 93-129; s. 315, ch. 94-119; ss. 90, 91, ch. 94-218; s. 308, ch. 96-406; s. 1084, ch. 97-103; s. 82, ch. 97-261; s. 6, ch. 98-166; s. 12, ch. 99-349; s. 86, ch. 99-397; s. 79, ch. 2000-160; s. 9, ch. 2000-163; s. 114, ch. 2000-318; s. 9, ch. 2001-222; ss. 69, 140, ch. 2001-277; s. 18, ch. 2003-416; s. 4, ch. 2005-256; s. 1, ch. 2006-271; s. 2, ch. 2010-211.

Note.—Former s. 455.241; s. 455.667.

456.0575 Duty to notify patients.—Every licensed health care practitioner shall inform each patient, or an individual identified pursuant to s. 765.401(1), in person about adverse incidents that result in serious harm to the patient. Notification of outcomes of care that result in harm to the

patient under this section shall not constitute an acknowledgment of admission of liability, nor can such notifications be introduced as evidence.

History.—s. 8, ch. 2003-416.

456.058Disposition of records of deceased practitioners or practitioners relocating or terminating practice.—Each board created under the provisions of chapter 457, chapter 458, chapter 459, chapter 460, chapter 461, chapter 463, part I of chapter 464, chapter 465, chapter 466, part I of chapter 484, chapter 486, chapter 490, or chapter 491, and the department under the provisions of chapter 462, shall provide by rule for the disposition, under that chapter, of the medical records or records of a psychological nature of practitioners which are in existence at the time the practitioner dies, terminates practice, or relocates and is no longer available to patients and which records pertain to the practitioner's patients. The rules shall provide that the records be retained for at least 2 years after the practitioner's death, termination of practice, or relocation. In the case of the death of the practitioner, the rules shall provide for the disposition of such records by the estate of the practitioner.

History.—s. 85, ch. 97-261; s. 80, ch. 2000-160; s. 115, ch. 2000-318.

Note.—Former s. 455.677.

456.059Communications confidential; exceptions.—Communications between a patient and a psychiatrist, as defined in s. 394.455, shall be held confidential and shall not be disclosed except upon the request of the patient or the patient's legal representative. Provision of psychiatric records and reports shall be governed by s. 456.057. Notwithstanding any other provision of this section or s. 90.503, where:

- (1)A patient is engaged in a treatment relationship with a psychiatrist;
- (2)Such patient has made an actual threat to physically harm an identifiable victim or victims; and
- (3)The treating psychiatrist makes a clinical judgment that the patient has the apparent capability to commit such an act and that it is more likely than not that in the near future the patient will carry out that threat,

the psychiatrist may disclose patient communications to the extent necessary to warn any potential victim or to communicate the threat to a law enforcement agency. No civil or criminal action shall be instituted, and there shall be no liability on account of disclosure of otherwise confidential communications by a psychiatrist in disclosing a threat pursuant to this section.

History.—s. 10, ch. 88-1; s. 33, ch. 92-149; s. 43, ch. 96-169; s. 83, ch. 97-261; s. 81, ch. 2000-160.

Note.—Former s. 455.2415; s. 455.671.

456.061Practitioner disclosure of confidential information; immunity from civil or criminal liability.—

- (1)A practitioner regulated through the Division of Medical Quality Assurance of the department

shall not be civilly or criminally liable for the disclosure of otherwise confidential information to a sexual partner or a needle-sharing partner under the following circumstances:

(a) If a patient of the practitioner who has tested positive for human immunodeficiency virus discloses to the practitioner the identity of a sexual partner or a needle-sharing partner;

(b) The practitioner recommends the patient notify the sexual partner or the needle-sharing partner of the positive test and refrain from engaging in sexual or drug activity in a manner likely to transmit the virus and the patient refuses, and the practitioner informs the patient of his or her intent to inform the sexual partner or needle-sharing partner; and

(c) If pursuant to a perceived civil duty or the ethical guidelines of the profession, the practitioner reasonably and in good faith advises the sexual partner or the needle-sharing partner of the patient of the positive test and facts concerning the transmission of the virus.

However, any notification of a sexual partner or a needle-sharing partner pursuant to this section shall be done in accordance with protocols developed pursuant to rule of the Department of Health.

(2) Notwithstanding the foregoing, a practitioner regulated through the Division of Medical Quality Assurance of the department shall not be civilly or criminally liable for failure to disclose information relating to a positive test result for human immunodeficiency virus of a patient to a sexual partner or a needle-sharing partner.

History.—s. 43, ch. 88-380; s. 12, ch. 89-350; s. 191, ch. 97-103; s. 84, ch. 97-261; s. 220, ch. 99-8; s. 82, ch. 2000-160.

Note.—Former s. 455.2416; s. 455.674.

456.062 Advertisement by a health care practitioner of free or discounted services; required statement.—In any advertisement for a free, discounted fee, or reduced fee service, examination, or treatment by a health care practitioner licensed under chapter 458, chapter 459, chapter 460, chapter 461, chapter 462, chapter 463, chapter 464, chapter 465, chapter 466, chapter 467, chapter 478, chapter 483, part I of chapter 484, chapter 486, chapter 490, or chapter 491, the following statement shall appear in capital letters clearly distinguishable from the rest of the text: THE PATIENT AND ANY OTHER PERSON RESPONSIBLE FOR PAYMENT HAS A RIGHT TO REFUSE TO PAY, CANCEL PAYMENT, OR BE REIMBURSED FOR PAYMENT FOR ANY OTHER SERVICE, EXAMINATION, OR TREATMENT THAT IS PERFORMED AS A RESULT OF AND WITHIN 72 HOURS OF RESPONDING TO THE ADVERTISEMENT FOR THE FREE, DISCOUNTED FEE, OR REDUCED FEE SERVICE, EXAMINATION, OR TREATMENT. However, the required statement shall not be necessary as an accompaniment to an advertisement of a licensed health care practitioner defined by this section if the advertisement appears in a classified directory the primary purpose of which is to provide products and services at free, reduced, or discounted prices to consumers and in which the statement prominently appears in at least one place.

History.—s. 81, ch. 97-261; s. 85, ch. 99-397; s. 82, ch. 2000-160; s. 1, ch. 2006-215.

Note.—Former s. 455.664.

456.063 Sexual misconduct; disqualification for license, certificate, or registration.—

(1) Sexual misconduct in the practice of a health care profession means violation of the professional relationship through which the health care practitioner uses such relationship to engage or attempt to engage the patient or client, or an immediate family member, guardian, or representative of the patient or client in, or to induce or attempt to induce such person to engage in, verbal or physical sexual activity outside the scope of the professional practice of such health care profession. Sexual misconduct in the practice of a health care profession is prohibited.

(2) Each board within the jurisdiction of the department, or the department if there is no board, shall refuse to admit a candidate to any examination and refuse to issue a license, certificate, or registration to any applicant if the candidate or applicant has:

(a) Had any license, certificate, or registration to practice any profession or occupation revoked or surrendered based on a violation of sexual misconduct in the practice of that profession under the laws of any other state or any territory or possession of the United States and has not had that license, certificate, or registration reinstated by the licensing authority of the jurisdiction that revoked the license, certificate, or registration; or

(b) Committed any act in any other state or any territory or possession of the United States which if committed in this state would constitute sexual misconduct.

For purposes of this subsection, a licensing authority's acceptance of a candidate's relinquishment of a license which is offered in response to or in anticipation of the filing of administrative charges against the candidate's license constitutes the surrender of the license.

(3) Licensed health care practitioners shall report allegations of sexual misconduct to the department, regardless of the practice setting in which the alleged sexual misconduct occurred.

History.—s. 1, ch. 95-183; s. 52, ch. 97-261; s. 78, ch. 99-397; s. 82, ch. 2000-160; s. 25, ch. 2000-318; s. 70, ch. 2001-277.

Note.—Former s. 455.2142; s. 455.567.

456.0635 Health care fraud; disqualification for license, certificate, or registration.—

(1) Health care fraud in the practice of a health care profession is prohibited.

(2) Each board within the jurisdiction of the department, or the department if there is no board, shall refuse to admit a candidate to any examination and refuse to issue a license, certificate, or registration to any applicant if the candidate or applicant or any principal, officer, agent, managing employee, or affiliated person of the applicant:

(a) Has been convicted of, or entered a plea of guilty or nolo contendere to, regardless of adjudication, a felony under chapter 409, chapter 817, or chapter 893, or a similar felony offense committed in another state or jurisdiction, unless the candidate or applicant has successfully completed a drug court program for that felony and provides proof that the plea has been withdrawn or the charges have been dismissed. Any such conviction or plea shall exclude the applicant or

candidate from licensure, examination, certification, or registration unless the sentence and any subsequent period of probation for such conviction or plea ended:

1. For felonies of the first or second degree, more than 15 years before the date of application.

2. For felonies of the third degree, more than 10 years before the date of application, except for felonies of the third degree under s. 893.13(6)(a).

3. For felonies of the third degree under s. 893.13(6)(a), more than 5 years before the date of application;

(b) Has been convicted of, or entered a plea of guilty or nolo contendere to, regardless of adjudication, a felony under 21 U.S.C. ss. 801-970, or 42 U.S.C. ss. 1395-1396, unless the sentence and any subsequent period of probation for such conviction or plea ended more than 15 years before the date of the application;

(c) Has been terminated for cause from the Florida Medicaid program pursuant to s. 409.913, unless the candidate or applicant has been in good standing with the Florida Medicaid program for the most recent 5 years;

(d) Has been terminated for cause, pursuant to the appeals procedures established by the state, from any other state Medicaid program, unless the candidate or applicant has been in good standing with a state Medicaid program for the most recent 5 years and the termination occurred at least 20 years before the date of the application; or

(e) Is currently listed on the United States Department of Health and Human Services Office of Inspector General's List of Excluded Individuals and Entities.

This subsection does not apply to candidates or applicants for initial licensure or certification who were enrolled in an educational or training program on or before July 1, 2009, which was recognized by a board or, if there is no board, recognized by the department, and who applied for licensure after July 1, 2012.

(3) The department shall refuse to renew a license, certificate, or registration of any applicant if the applicant or any principal, officer, agent, managing employee, or affiliated person of the applicant:

(a) Has been convicted of, or entered a plea of guilty or nolo contendere to, regardless of adjudication, a felony under chapter 409, chapter 817, or chapter 893, or a similar felony offense committed in another state or jurisdiction, unless the applicant is currently enrolled in a drug court program that allows the withdrawal of the plea for that felony upon successful completion of that program. Any such conviction or plea excludes the applicant from licensure renewal unless the sentence and any subsequent period of probation for such conviction or plea ended:

1. For felonies of the first or second degree, more than 15 years before the date of application.

2. For felonies of the third degree, more than 10 years before the date of application, except for felonies of the third degree under s. 893.13(6)(a).

3. For felonies of the third degree under s. 893.13(6)(a), more than 5 years before the date of

application.

(b)Has been convicted of, or entered a plea of guilty or nolo contendere to, regardless of adjudication, a felony under 21 U.S.C. ss. 801-970, or 42 U.S.C. ss. 1395-1396 since July 1, 2009, unless the sentence and any subsequent period of probation for such conviction or plea ended more than 15 years before the date of the application.

(c)Has been terminated for cause from the Florida Medicaid program pursuant to s. 409.913, unless the applicant has been in good standing with the Florida Medicaid program for the most recent 5 years.

(d)Has been terminated for cause, pursuant to the appeals procedures established by the state, from any other state Medicaid program, unless the applicant has been in good standing with a state Medicaid program for the most recent 5 years and the termination occurred at least 20 years before the date of the application.

(e)Is currently listed on the United States Department of Health and Human Services Office of Inspector General's List of Excluded Individuals and Entities.

(4)Licensed health care practitioners shall report allegations of health care fraud to the department, regardless of the practice setting in which the alleged health care fraud occurred.

(5)The acceptance by a licensing authority of a licensee's relinquishment of a license which is offered in response to or anticipation of the filing of administrative charges alleging health care fraud or similar charges constitutes the permanent revocation of the license.

History.—s. 24, ch. 2009-223; s. 1, ch. 2012-64.

456.065Unlicensed practice of a health care profession; intent; cease and desist notice; penalties; enforcement; citations; fees; allocation and disposition of moneys collected.—

(1)It is the intent of the Legislature that vigorous enforcement of licensure regulation for all health care professions is a state priority in order to protect Florida residents and visitors from the potentially serious and dangerous consequences of receiving medical and health care services from unlicensed persons whose professional education and training and other relevant qualifications have not been approved through the issuance of a license by the appropriate regulatory board or the department when there is no board. The unlicensed practice of a health care profession or the performance or delivery of medical or health care services to patients in this state without a valid, active license to practice that profession, regardless of the means of the performance or delivery of such services, is strictly prohibited.

(2)The penalties for unlicensed practice of a health care profession shall include the following:

(a)When the department has probable cause to believe that any person not licensed by the department, or the appropriate regulatory board within the department, has violated any provision of this chapter or any statute that relates to the practice of a profession regulated by the department, or any rule adopted pursuant thereto, the department may issue and deliver to such person a notice to cease and desist from such violation. In addition, the department may issue and deliver a notice to

cease and desist to any person who aids and abets the unlicensed practice of a profession by employing such unlicensed person. The issuance of a notice to cease and desist shall not constitute agency action for which a hearing under ss. 120.569 and 120.57 may be sought. For the purpose of enforcing a cease and desist order, the department may file a proceeding in the name of the state seeking issuance of an injunction or a writ of mandamus against any person who violates any provisions of such order.

(b) In addition to the remedies under paragraph (a), the department may impose by citation an administrative penalty not to exceed \$5,000 per incident. The citation shall be issued to the subject and shall contain the subject's name and any other information the department determines to be necessary to identify the subject, a brief factual statement, the sections of the law allegedly violated, and the penalty imposed. If the subject does not dispute the matter in the citation with the department within 30 days after the citation is served, the citation shall become a final order of the department. The department may adopt rules to implement this section. The penalty shall be a fine of not less than \$500 nor more than \$5,000 as established by rule of the department. Each day that the unlicensed practice continues after issuance of a notice to cease and desist constitutes a separate violation. The department shall be entitled to recover the costs of investigation and prosecution in addition to the fine levied pursuant to the citation. Service of a citation may be made by personal service or by mail to the subject at the subject's last known address or place of practice. If the department is required to seek enforcement of the cease and desist or agency order, it shall be entitled to collect its attorney's fees and costs.

(c) In addition to or in lieu of any other administrative remedy, the department may seek the imposition of a civil penalty through the circuit court for any violation for which the department may issue a notice to cease and desist. The civil penalty shall be no less than \$500 and no more than \$5,000 for each offense. The court may also award to the prevailing party court costs and reasonable attorney fees and, in the event the department prevails, may also award reasonable costs of investigation and prosecution.

(d) In addition to the administrative and civil remedies under paragraphs (b) and (c) and in addition to the criminal violations and penalties listed in the individual health care practice acts:

1. It is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, to practice, attempt to practice, or offer to practice a health care profession without an active, valid Florida license to practice that profession. Practicing without an active, valid license also includes practicing on a suspended, revoked, or void license, but does not include practicing, attempting to practice, or offering to practice with an inactive or delinquent license for a period of up to 12 months which is addressed in subparagraph 3. Applying for employment for a position that requires a license without notifying the employer that the person does not currently possess a valid, active license to practice that profession shall be deemed to be an attempt or offer to practice that health care profession without a license. Holding oneself out, regardless of the means of communication, as able to practice a health care profession or as able to provide services that require a health care license shall

be deemed to be an attempt or offer to practice such profession without a license. The minimum penalty for violating this subparagraph shall be a fine of \$1,000 and a minimum mandatory period of incarceration of 1 year.

2.It is a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, to practice a health care profession without an active, valid Florida license to practice that profession when such practice results in serious bodily injury. For purposes of this section, “serious bodily injury” means death; brain or spinal damage; disfigurement; fracture or dislocation of bones or joints; limitation of neurological, physical, or sensory function; or any condition that required subsequent surgical repair. The minimum penalty for violating this subparagraph shall be a fine of \$1,000 and a minimum mandatory period of incarceration of 1 year.

3.It is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, to practice, attempt to practice, or offer to practice a health care profession with an inactive or delinquent license for any period of time up to 12 months. However, practicing, attempting to practice, or offering to practice a health care profession when that person’s license has been inactive or delinquent for a period of time of 12 months or more shall be a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. The minimum penalty for violating this subparagraph shall be a term of imprisonment of 30 days and a fine of \$500.

(3)Because all enforcement costs should be covered by professions regulated by the department, the department shall impose, upon initial licensure and each licensure renewal, a special fee of \$5 per licensee to fund efforts to combat unlicensed activity. Such fee shall be in addition to all other fees collected from each licensee. The department shall make direct charges to the Medical Quality Assurance Trust Fund by profession. The department shall seek board advice regarding enforcement methods and strategies. The department shall directly credit the Medical Quality Assurance Trust Fund, by profession, with the revenues received from the department’s efforts to enforce licensure provisions. The department shall include all financial and statistical data resulting from unlicensed activity enforcement as a separate category in the quarterly management report provided for in s. 456.025. For an unlicensed activity account, a balance which remains at the end of a renewal cycle may, with concurrence of the applicable board and the department, be transferred to the operating fund account of that profession. The department shall also use these funds to inform and educate consumers generally on the importance of using licensed health care practitioners.

(4)The provisions of this section apply only to health care professional practice acts administered by the department.

(5)Nothing herein shall be construed to limit or restrict the sale, use, or recommendation of the use of a dietary supplement, as defined by the Food, Drug, and Cosmetic Act, 21 U.S.C. s. 321, so long as the person selling, using, or recommending the dietary supplement does so in compliance with federal and state law.

History.—s. 73, ch. 97-261; s. 84, ch. 2000-160; s. 35, ch. 2000-318; s. 54, ch. 2001-277.

Note.—Former s. 455.637.

456.066 Prosecution of criminal violations.—The department or the appropriate board shall report any criminal violation of any statute relating to the practice of a profession regulated by the department or appropriate board to the proper prosecuting authority for prompt prosecution.

History.—s. 72, ch. 97-261; s. 85, ch. 2000-160.

Note.—Former s. 455.634.

456.067 Penalty for giving false information.—In addition to, or in lieu of, any other discipline imposed pursuant to s. 456.072, the act of knowingly giving false information in the course of applying for or obtaining a license from the department, or any board thereunder, with intent to mislead a public servant in the performance of his or her official duties, or the act of attempting to obtain or obtaining a license from the department, or any board thereunder, to practice a profession by knowingly misleading statements or knowing misrepresentations constitutes a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

History.—s. 71, ch. 97-261; s. 24, ch. 99-7; s. 86, ch. 2000-160; s. 27, ch. 2000-318.

Note.—Former s. 455.631.

456.068 Toll-free telephone number for reporting of complaints.—The Agency for Health Care Administration shall establish a toll-free telephone number for public reporting of complaints relating to medical treatment or services provided by health care professionals.

History.—s. 148, ch. 97-237; s. 24, ch. 97-273; s. 87, ch. 2000-160.

Note.—Former s. 455.699.

456.069 Authority to inspect.—In addition to the authority specified in s. 465.017, duly authorized agents and employees of the department shall have the power to inspect in a lawful manner at all reasonable hours:

(1) Any pharmacy; or

(2) Any establishment at which the services of a licensee authorized to prescribe controlled substances specified in chapter 893 are offered,

for the purpose of determining if any of the provisions of this chapter or any practice act of a profession or any rule adopted thereunder is being violated; or for the purpose of securing such other evidence as may be needed for prosecution.

History.—s. 86, ch. 97-261; s. 88, ch. 2000-160.

Note.—Former s. 455.681.

456.071 Power to administer oaths, take depositions, and issue subpoenas.—For the purpose of any investigation or proceeding conducted by the department, the department shall have the power to administer oaths, take depositions, make inspections when authorized by statute, issue subpoenas

which shall be supported by affidavit, serve subpoenas and other process, and compel the attendance of witnesses and the production of books, papers, documents, and other evidence. The department shall exercise this power on its own initiative or whenever requested by a board or the probable cause panel of any board. Challenges to, and enforcement of, the subpoenas and orders shall be handled as provided in s. 120.569.

History.—s. 65, ch. 97-261; s. 89, ch. 2000-160.

Note.—Former s. 455.611.

456.072 Grounds for discipline; penalties; enforcement.—

(1) The following acts shall constitute grounds for which the disciplinary actions specified in subsection (2) may be taken:

(a) Making misleading, deceptive, or fraudulent representations in or related to the practice of the licensee's profession.

(b) Intentionally violating any rule adopted by the board or the department, as appropriate.

(c) Being convicted or found guilty of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the practice of, or the ability to practice, a licensee's profession.

(d) Using a Class III or a Class IV laser device or product, as defined by federal regulations, without having complied with the rules adopted under s. 501.122(2) governing the registration of the devices.

(e) Failing to comply with the educational course requirements for human immunodeficiency virus and acquired immune deficiency syndrome.

(f) Having a license or the authority to practice any regulated profession revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of any jurisdiction, including its agencies or subdivisions, for a violation that would constitute a violation under Florida law. The licensing authority's acceptance of a relinquishment of licensure, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of charges against the license, shall be construed as action against the license.

(g) Having been found liable in a civil proceeding for knowingly filing a false report or complaint with the department against another licensee.

(h) Attempting to obtain, obtaining, or renewing a license to practice a profession by bribery, by fraudulent misrepresentation, or through an error of the department or the board.

(i) Except as provided in s. 465.016, failing to report to the department any person who the licensee knows is in violation of this chapter, the chapter regulating the alleged violator, or the rules of the department or the board.

(j) Aiding, assisting, procuring, employing, or advising any unlicensed person or entity to practice a profession contrary to this chapter, the chapter regulating the profession, or the rules of the department or the board.

(k) Failing to perform any statutory or legal obligation placed upon a licensee. For purposes of this section, failing to repay a student loan issued or guaranteed by the state or the Federal Government in accordance with the terms of the loan or failing to comply with service scholarship obligations shall be considered a failure to perform a statutory or legal obligation, and the minimum disciplinary action imposed shall be a suspension of the license until new payment terms are agreed upon or the scholarship obligation is resumed, followed by probation for the duration of the student loan or remaining scholarship obligation period, and a fine equal to 10 percent of the defaulted loan amount. Fines collected shall be deposited into the Medical Quality Assurance Trust Fund.

(l) Making or filing a report which the licensee knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, or willfully impeding or obstructing another person to do so. Such reports or records shall include only those that are signed in the capacity of a licensee.

(m) Making deceptive, untrue, or fraudulent representations in or related to the practice of a profession or employing a trick or scheme in or related to the practice of a profession.

(n) Exercising influence on the patient or client for the purpose of financial gain of the licensee or a third party.

(o) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities the licensee knows, or has reason to know, the licensee is not competent to perform.

(p) Delegating or contracting for the performance of professional responsibilities by a person when the licensee delegating or contracting for performance of the responsibilities knows, or has reason to know, the person is not qualified by training, experience, and authorization when required to perform them.

(q) Violating a lawful order of the department or the board, or failing to comply with a lawfully issued subpoena of the department.

(r) Improperly interfering with an investigation or inspection authorized by statute, or with any disciplinary proceeding.

(s) Failing to comply with the educational course requirements for domestic violence.

(t) Failing to identify through written notice, which may include the wearing of a name tag, or orally to a patient the type of license under which the practitioner is practicing. Any advertisement for health care services naming the practitioner must identify the type of license the practitioner holds. This paragraph does not apply to a practitioner while the practitioner is providing services in a facility licensed under chapter 394, chapter 395, chapter 400, or chapter 429. Each board, or the department where there is no board, is authorized by rule to determine how its practitioners may comply with this disclosure requirement.

(u) Failing to comply with the requirements of ss. 381.026 and 381.0261 to provide patients with information about their patient rights and how to file a patient complaint.

(v)Engaging or attempting to engage in sexual misconduct as defined and prohibited in s. 456.063(1).

(w)Failing to comply with the requirements for profiling and credentialing, including, but not limited to, failing to provide initial information, failing to timely provide updated information, or making misleading, untrue, deceptive, or fraudulent representations on a profile, credentialing, or initial or renewal licensure application.

(x)Failing to report to the board, or the department if there is no board, in writing within 30 days after the licensee has been convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction. Convictions, findings, adjudications, and pleas entered into prior to the enactment of this paragraph must be reported in writing to the board, or department if there is no board, on or before October 1, 1999.

(y)Using information about people involved in motor vehicle accidents which has been derived from accident reports made by law enforcement officers or persons involved in accidents under s. 316.066, or using information published in a newspaper or other news publication or through a radio or television broadcast that has used information gained from such reports, for the purposes of commercial or any other solicitation whatsoever of the people involved in the accidents.

(z)Being unable to practice with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. In enforcing this paragraph, the department shall have, upon a finding of the State Surgeon General or the State Surgeon General's designee that probable cause exists to believe that the licensee is unable to practice because of the reasons stated in this paragraph, the authority to issue an order to compel a licensee to submit to a mental or physical examination by physicians designated by the department. If the licensee refuses to comply with the order, the department's order directing the examination may be enforced by filing a petition for enforcement in the circuit court where the licensee resides or does business. The department shall be entitled to the summary procedure provided in s. 51.011. A licensee or certificateholder affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that he or she can resume the competent practice of his or her profession with reasonable skill and safety to patients.

(aa)Testing positive for any drug, as defined in s. 112.0455, on any confirmed preemployment or employer-ordered drug screening when the practitioner does not have a lawful prescription and legitimate medical reason for using the drug.

(bb)Performing or attempting to perform health care services on the wrong patient, a wrong-site procedure, a wrong procedure, or an unauthorized procedure or a procedure that is medically unnecessary or otherwise unrelated to the patient's diagnosis or medical condition. For the purposes of this paragraph, performing or attempting to perform health care services includes the preparation of the patient.

(cc)Leaving a foreign body in a patient, such as a sponge, clamp, forceps, surgical needle, or other

paraphernalia commonly used in surgical, examination, or other diagnostic procedures. For the purposes of this paragraph, it shall be legally presumed that retention of a foreign body is not in the best interest of the patient and is not within the standard of care of the profession, regardless of the intent of the professional.

(dd)Violating any provision of this chapter, the applicable practice act, or any rules adopted pursuant thereto.

(ee)With respect to making a personal injury protection claim as required by s. 627.736, intentionally submitting a claim, statement, or bill that has been “upcoded” as defined in s. 627.732.

(ff)With respect to making a personal injury protection claim as required by s. 627.736, intentionally submitting a claim, statement, or bill for payment of services that were not rendered.

(gg)Engaging in a pattern of practice when prescribing medicinal drugs or controlled substances which demonstrates a lack of reasonable skill or safety to patients, a violation of any provision of this chapter, a violation of the applicable practice act, or a violation of any rules adopted under this chapter or the applicable practice act of the prescribing practitioner. Notwithstanding s. 456.073(13), the department may initiate an investigation and establish such a pattern from billing records, data, or any other information obtained by the department.

(hh)Being terminated from a treatment program for impaired practitioners, which is overseen by an impaired practitioner consultant as described in s. 456.076, for failure to comply, without good cause, with the terms of the monitoring or treatment contract entered into by the licensee, or for not successfully completing any drug treatment or alcohol treatment program.

(ii)Being convicted of, or entering a plea of guilty or nolo contendere to, any misdemeanor or felony, regardless of adjudication, under 18 U.S.C. s. 669, ss. 285-287, s. 371, s. 1001, s. 1035, s. 1341, s. 1343, s. 1347, s. 1349, or s. 1518, or 42 U.S.C. ss. 1320a-7b, relating to the Medicaid program.

(jj)Failing to remit the sum owed to the state for an overpayment from the Medicaid program pursuant to a final order, judgment, or stipulation or settlement.

(kk)Being terminated from the state Medicaid program pursuant to s. 409.913, any other state Medicaid program, or the federal Medicare program, unless eligibility to participate in the program from which the practitioner was terminated has been restored.

(ll)Being convicted of, or entering a plea of guilty or nolo contendere to, any misdemeanor or felony, regardless of adjudication, a crime in any jurisdiction which relates to health care fraud.

(mm)Failure to comply with controlled substance prescribing requirements of s. 456.44.

(nn)Violating any of the provisions of s. 790.338.

(2)When the board, or the department when there is no board, finds any person guilty of the grounds set forth in subsection (1) or of any grounds set forth in the applicable practice act, including conduct constituting a substantial violation of subsection (1) or a violation of the applicable practice act which occurred prior to obtaining a license, it may enter an order imposing one or more of the following penalties:

(a)Refusal to certify, or to certify with restrictions, an application for a license.

(b)Suspension or permanent revocation of a license.

(c)Restriction of practice or license, including, but not limited to, restricting the licensee from practicing in certain settings, restricting the licensee to work only under designated conditions or in certain settings, restricting the licensee from performing or providing designated clinical and administrative services, restricting the licensee from practicing more than a designated number of hours, or any other restriction found to be necessary for the protection of the public health, safety, and welfare.

(d)Imposition of an administrative fine not to exceed \$10,000 for each count or separate offense. If the violation is for fraud or making a false or fraudulent representation, the board, or the department if there is no board, must impose a fine of \$10,000 per count or offense.

(e)Issuance of a reprimand or letter of concern.

(f)Placement of the licensee on probation for a period of time and subject to such conditions as the board, or the department when there is no board, may specify. Those conditions may include, but are not limited to, requiring the licensee to undergo treatment, attend continuing education courses, submit to be reexamined, work under the supervision of another licensee, or satisfy any terms which are reasonably tailored to the violations found.

(g)Corrective action.

(h)Imposition of an administrative fine in accordance with s. 381.0261 for violations regarding patient rights.

(i)Refund of fees billed and collected from the patient or a third party on behalf of the patient.

(j)Requirement that the practitioner undergo remedial education.

In determining what action is appropriate, the board, or department when there is no board, must first consider what sanctions are necessary to protect the public or to compensate the patient. Only after those sanctions have been imposed may the disciplining authority consider and include in the order requirements designed to rehabilitate the practitioner. All costs associated with compliance with orders issued under this subsection are the obligation of the practitioner.

(3)(a)Notwithstanding subsection (2), if the ground for disciplinary action is the first-time failure of the licensee to satisfy continuing education requirements established by the board, or by the department if there is no board, the board or department, as applicable, shall issue a citation in accordance with s. 456.077 and assess a fine, as determined by the board or department by rule. In addition, for each hour of continuing education not completed or completed late, the board or department, as applicable, may require the licensee to take 1 additional hour of continuing education for each hour not completed or completed late.

(b)Notwithstanding subsection (2), if the ground for disciplinary action is the first-time violation of a practice act for unprofessional conduct, as used in ss. 464.018(1)(h), 467.203(1)(f), 468.365(1)(f), and 478.52(1)(f), and no actual harm to the patient occurred, the board or department, as applicable, shall

issue a citation in accordance with s. 456.077 and assess a penalty as determined by rule of the board or department.

(4) In addition to any other discipline imposed through final order, or citation, entered on or after July 1, 2001, under this section or discipline imposed through final order, or citation, entered on or after July 1, 2001, for a violation of any practice act, the board, or the department when there is no board, shall assess costs related to the investigation and prosecution of the case. The costs related to the investigation and prosecution include, but are not limited to, salaries and benefits of personnel, costs related to the time spent by the attorney and other personnel working on the case, and any other expenses incurred by the department for the case. The board, or the department when there is no board, shall determine the amount of costs to be assessed after its consideration of an affidavit of itemized costs and any written objections thereto. In any case where the board or the department imposes a fine or assessment and the fine or assessment is not paid within a reasonable time, the reasonable time to be prescribed in the rules of the board, or the department when there is no board, or in the order assessing the fines or costs, the department or the Department of Legal Affairs may contract for the collection of, or bring a civil action to recover, the fine or assessment.

(5) In addition to, or in lieu of, any other remedy or criminal prosecution, the department may file a proceeding in the name of the state seeking issuance of an injunction or a writ of mandamus against any person who violates any of the provisions of this chapter, or any provision of law with respect to professions regulated by the department, or any board therein, or the rules adopted pursuant thereto.

(6) If the board, or the department when there is no board, determines that revocation of a license is the appropriate penalty, the revocation shall be permanent. However, the board may establish by rule requirements for reapplication by applicants whose licenses have been permanently revoked. The requirements may include, but are not limited to, satisfying current requirements for an initial license.

(7) Notwithstanding subsection (2), upon a finding that a physician has prescribed or dispensed a controlled substance, or caused a controlled substance to be prescribed or dispensed, in a manner that violates the standard of practice set forth in s. 458.331(1)(q) or (t), s. 459.015(1)(t) or (x), s. 461.013(1)(o) or (s), or s. 466.028(1)(p) or (x), the physician shall be suspended for a period of not less than 6 months and pay a fine of not less than \$10,000 per count. Repeated violations shall result in increased penalties.

(8) The purpose of this section is to facilitate uniform discipline for those actions made punishable under this section and, to this end, a reference to this section constitutes a general reference under the doctrine of incorporation by reference.

History.—s. 69, ch. 97-261; s. 84, ch. 99-397; s. 90, ch. 2000-160; s. 26, ch. 2000-318; s. 71, ch. 2001-277; s. 2, ch. 2002-254; s. 6, ch. 2003-411; s. 19, ch. 2003-416; s. 10, ch. 2004-344; s. 1, ch. 2005-240; s. 2, ch. 2006-207; s. 111, ch. 2007-5; s. 64, ch. 2008-6; s. 25, ch. 2009-223; s. 3, ch. 2011-112; s. 1, ch. 2011-141.

Note.—Former s. 455.624.

456.0721 Practitioners in default on student loan or scholarship obligations; investigation; report.—The Department of Health shall obtain from the United States Department of Health and Human Services information necessary to investigate and prosecute health care practitioners for failing to repay a student loan or comply with scholarship service obligations pursuant to s. 456.072(1)(k). The department shall obtain from the United States Department of Health and Human Services a list of default health care practitioners each month, along with the information necessary to investigate a complaint in accordance with s. 456.073. The department may obtain evidence to support the investigation and prosecution from any financial institution or educational institution involved in providing the loan or education to the practitioner. The department shall report to the Legislature as part of the annual report required by s. 456.026, the number of practitioners in default, along with the results of the department's investigations and prosecutions, and the amount of fines collected from practitioners prosecuted for violating s. 456.072(1)(k).

History.—s. 3, ch. 2002-254.

456.073 Disciplinary proceedings.—Disciplinary proceedings for each board shall be within the jurisdiction of the department.

(1)The department, for the boards under its jurisdiction, shall cause to be investigated any complaint that is filed before it if the complaint is in writing, signed by the complainant, and legally sufficient. A complaint filed by a state prisoner against a health care practitioner employed by or otherwise providing health care services within a facility of the Department of Corrections is not legally sufficient unless there is a showing that the prisoner complainant has exhausted all available administrative remedies within the state correctional system before filing the complaint. However, if the Department of Health determines after a preliminary inquiry of a state prisoner's complaint that the practitioner may present a serious threat to the health and safety of any individual who is not a state prisoner, the Department of Health may determine legal sufficiency and proceed with discipline. The Department of Health shall be notified within 15 days after the Department of Corrections disciplines or allows a health care practitioner to resign for an offense related to the practice of his or her profession. A complaint is legally sufficient if it contains ultimate facts that show that a violation of this chapter, of any of the practice acts relating to the professions regulated by the department, or of any rule adopted by the department or a regulatory board in the department has occurred. In order to determine legal sufficiency, the department may require supporting information or documentation. The department may investigate, and the department or the appropriate board may take appropriate final action on, a complaint even though the original complainant withdraws it or otherwise indicates a desire not to cause the complaint to be investigated or prosecuted to completion. The department may investigate an anonymous complaint if the complaint is in writing and is legally sufficient, if the alleged violation of law or rules is substantial, and if the department has reason to believe, after preliminary inquiry, that the violations alleged in the complaint are true. The department may

investigate a complaint made by a confidential informant if the complaint is legally sufficient, if the alleged violation of law or rule is substantial, and if the department has reason to believe, after preliminary inquiry, that the allegations of the complainant are true. The department may initiate an investigation if it has reasonable cause to believe that a licensee or a group of licensees has violated a Florida statute, a rule of the department, or a rule of a board. Notwithstanding subsection (13), the department may investigate information filed pursuant to s. 456.041(4) relating to liability actions with respect to practitioners licensed under chapter 458 or chapter 459 which have been reported under s. 456.049 or s. 627.912 within the previous 6 years for any paid claim that exceeds \$50,000. Except as provided in ss. 458.331(9), 459.015(9), 460.413(5), and 461.013(6), when an investigation of any subject is undertaken, the department shall promptly furnish to the subject or the subject's attorney a copy of the complaint or document that resulted in the initiation of the investigation. The subject may submit a written response to the information contained in such complaint or document within 20 days after service to the subject of the complaint or document. The subject's written response shall be considered by the probable cause panel. The right to respond does not prohibit the issuance of a summary emergency order if necessary to protect the public. However, if the State Surgeon General, or the State Surgeon General's designee, and the chair of the respective board or the chair of its probable cause panel agree in writing that such notification would be detrimental to the investigation, the department may withhold notification. The department may conduct an investigation without notification to any subject if the act under investigation is a criminal offense.

(2)The department shall allocate sufficient and adequately trained staff to expeditiously and thoroughly determine legal sufficiency and investigate all legally sufficient complaints. For purposes of this section, it is the intent of the Legislature that the term "expeditiously" means that the department complete the report of its initial investigative findings and recommendations concerning the existence of probable cause within 6 months after its receipt of the complaint. The failure of the department, for disciplinary cases under its jurisdiction, to comply with the time limits of this section while investigating a complaint against a licensee constitutes harmless error in any subsequent disciplinary action unless a court finds that either the fairness of the proceeding or the correctness of the action may have been impaired by a material error in procedure or a failure to follow prescribed procedure. When its investigation is complete and legally sufficient, the department shall prepare and submit to the probable cause panel of the appropriate regulatory board the investigative report of the department. The report shall contain the investigative findings and the recommendations of the department concerning the existence of probable cause. The department shall not recommend a letter of guidance in lieu of finding probable cause if the subject has already been issued a letter of guidance for a related offense. At any time after legal sufficiency is found, the department may dismiss any case, or any part thereof, if the department determines that there is insufficient evidence to support the prosecution of allegations contained therein. The department shall provide a detailed report to the appropriate probable cause panel prior to dismissal of any case or part thereof, and to the subject of

the complaint after dismissal of any case or part thereof, under this section. For cases dismissed prior to a finding of probable cause, such report is confidential and exempt from s. 119.07(1). The probable cause panel shall have access, upon request, to the investigative files pertaining to a case prior to dismissal of such case. If the department dismisses a case, the probable cause panel may retain independent legal counsel, employ investigators, and continue the investigation and prosecution of the case as it deems necessary.

(3)As an alternative to the provisions of subsections (1) and (2), when a complaint is received, the department may provide a licensee with a notice of noncompliance for an initial offense of a minor violation. Each board, or the department if there is no board, shall establish by rule those minor violations under this provision which do not endanger the public health, safety, and welfare and which do not demonstrate a serious inability to practice the profession. Failure of a licensee to take action in correcting the violation within 15 days after notice may result in the institution of regular disciplinary proceedings.

(4)The determination as to whether probable cause exists shall be made by majority vote of a probable cause panel of the board, or by the department, as appropriate. Each regulatory board shall provide by rule that the determination of probable cause shall be made by a panel of its members or by the department. Each board may provide by rule for multiple probable cause panels composed of at least two members. Each board may provide by rule that one or more members of the panel or panels may be a former board member. The length of term or repetition of service of any such former board member on a probable cause panel may vary according to the direction of the board when authorized by board rule. Any probable cause panel must include one of the board's former or present consumer members, if one is available, is willing to serve, and is authorized to do so by the board chair. Any probable cause panel must include a present board member. Any probable cause panel must include a former or present professional board member. However, any former professional board member serving on the probable cause panel must hold an active valid license for that profession. All proceedings of the panel are exempt from s. 286.011 until 10 days after probable cause has been found to exist by the panel or until the subject of the investigation waives his or her privilege of confidentiality. The probable cause panel may make a reasonable request, and upon such request the department shall provide such additional investigative information as is necessary to the determination of probable cause. A request for additional investigative information shall be made within 15 days from the date of receipt by the probable cause panel of the investigative report of the department or the agency. The probable cause panel or the department, as may be appropriate, shall make its determination of probable cause within 30 days after receipt by it of the final investigative report of the department. The State Surgeon General may grant extensions of the 15-day and the 30-day time limits. In lieu of a finding of probable cause, the probable cause panel, or the department if there is no board, may issue a letter of guidance to the subject. If, within the 30-day time limit, as may be extended, the probable cause panel does not make a determination regarding the existence of probable cause or does not issue

a letter of guidance in lieu of a finding of probable cause, the department must make a determination regarding the existence of probable cause within 10 days after the expiration of the time limit. If the probable cause panel finds that probable cause exists, it shall direct the department to file a formal complaint against the licensee. The department shall follow the directions of the probable cause panel regarding the filing of a formal complaint. If directed to do so, the department shall file a formal complaint against the subject of the investigation and prosecute that complaint pursuant to chapter 120. However, the department may decide not to prosecute the complaint if it finds that probable cause has been improvidently found by the panel. In such cases, the department shall refer the matter to the board. The board may then file a formal complaint and prosecute the complaint pursuant to chapter 120. The department shall also refer to the board any investigation or disciplinary proceeding not before the Division of Administrative Hearings pursuant to chapter 120 or otherwise completed by the department within 1 year after the filing of a complaint. The department, for disciplinary cases under its jurisdiction, must establish a uniform reporting system to quarterly refer to each board the status of any investigation or disciplinary proceeding that is not before the Division of Administrative Hearings or otherwise completed by the department within 1 year after the filing of the complaint. Annually, the department, in consultation with the applicable probable cause panel, must establish a plan to expedite or otherwise close any investigation or disciplinary proceeding that is not before the Division of Administrative Hearings or otherwise completed by the department within 1 year after the filing of the complaint. A probable cause panel or a board may retain independent legal counsel, employ investigators, and continue the investigation as it deems necessary; all costs thereof shall be paid from a trust fund used by the department to implement this chapter. All proceedings of the probable cause panel are exempt from s. 120.525.

(5)A formal hearing before an administrative law judge from the Division of Administrative Hearings shall be held pursuant to chapter 120 if there are any disputed issues of material fact. The determination of whether or not a licensee has violated the laws and rules regulating the profession, including a determination of the reasonable standard of care, is a conclusion of law to be determined by the board, or department when there is no board, and is not a finding of fact to be determined by an administrative law judge. The administrative law judge shall issue a recommended order pursuant to chapter 120. Notwithstanding s. 120.569(2), the department shall notify the division within 45 days after receipt of a petition or request for a formal hearing.

(6)The appropriate board, with those members of the panel, if any, who reviewed the investigation pursuant to subsection (4) being excused, or the department when there is no board, shall determine and issue the final order in each disciplinary case. Such order shall constitute final agency action. Any consent order or agreed-upon settlement shall be subject to the approval of the department.

(7)The department shall have standing to seek judicial review of any final order of the board, pursuant to s. 120.68.

(8)Any proceeding for the purpose of summary suspension of a license, or for the restriction of the

license, of a licensee pursuant to s. 120.60(6) shall be conducted by the State Surgeon General or his or her designee, as appropriate, who shall issue the final summary order.

(9)(a)The department shall periodically notify the person who filed the complaint, as well as the patient or the patient's legal representative, of the status of the investigation, indicating whether probable cause has been found and the status of any civil action or administrative proceeding or appeal.

(b)In any disciplinary case for which probable cause has been found, the department shall provide to the person who filed the complaint a copy of the administrative complaint and:

- 1.A written explanation of how an administrative complaint is resolved by the disciplinary process.
- 2.A written explanation of how and when the person may participate in the disciplinary process.
- 3.A written notice of any hearing before the Division of Administrative Hearings or the regulatory board at which final agency action may be taken.

(c)In any disciplinary case for which probable cause is not found, the department shall so inform the person who filed the complaint and notify that person that he or she may, within 60 days, provide any additional information to the department which may be relevant to the decision. To facilitate the provision of additional information, the person who filed the complaint may receive, upon request, a copy of the department's expert report that supported the recommendation for closure, if such a report was relied upon by the department. In no way does this require the department to procure an expert opinion or report if none was used. Additionally, the identity of the expert shall remain confidential. In any administrative proceeding under s. 120.57, the person who filed the disciplinary complaint shall have the right to present oral or written communication relating to the alleged disciplinary violations or to the appropriate penalty.

(10)The complaint and all information obtained pursuant to the investigation by the department are confidential and exempt from s. 119.07(1) until 10 days after probable cause has been found to exist by the probable cause panel or by the department, or until the regulated professional or subject of the investigation waives his or her privilege of confidentiality, whichever occurs first. Upon completion of the investigation and a recommendation by the department to find probable cause, and pursuant to a written request by the subject or the subject's attorney, the department shall provide the subject an opportunity to inspect the investigative file or, at the subject's expense, forward to the subject a copy of the investigative file. Notwithstanding s. 456.057, the subject may inspect or receive a copy of any expert witness report or patient record connected with the investigation if the subject agrees in writing to maintain the confidentiality of any information received under this subsection until 10 days after probable cause is found and to maintain the confidentiality of patient records pursuant to s. 456.057. The subject may file a written response to the information contained in the investigative file. Such response must be filed within 20 days of mailing by the department, unless an extension of time has been granted by the department. This subsection does not prohibit the department from providing such information to any law enforcement agency or to any other regulatory agency.

(11) A privilege against civil liability is hereby granted to any complainant or any witness with regard to information furnished with respect to any investigation or proceeding pursuant to this section, unless the complainant or witness acted in bad faith or with malice in providing such information.

(12)(a) No person who reports in any capacity, whether or not required by law, information to the department with regard to the incompetence, impairment, or unprofessional conduct of any health care provider licensed under chapter 458, chapter 459, chapter 460, chapter 461, chapter 462, chapter 463, chapter 464, chapter 465, or chapter 466 shall be held liable in any civil action for reporting against such health care provider if such person acts without intentional fraud or malice.

(b) No facility licensed under chapter 395, health maintenance organization certificated under part I of chapter 641, physician licensed under chapter 458, or osteopathic physician licensed under chapter 459 shall discharge, threaten to discharge, intimidate, or coerce any employee or staff member by reason of such employee's or staff member's report to the department about a physician licensed under chapter 458, chapter 459, chapter 460, chapter 461, or chapter 466 who may be guilty of incompetence, impairment, or unprofessional conduct so long as such report is given without intentional fraud or malice.

(c) In any civil suit brought outside the protections of paragraphs (a) and (b) in which intentional fraud or malice is alleged, the person alleging intentional fraud or malice shall be liable for all court costs and for the other party's reasonable attorney's fees if intentional fraud or malice is not proved.

(13) Notwithstanding any provision of law to the contrary, an administrative complaint against a licensee shall be filed within 6 years after the time of the incident or occurrence giving rise to the complaint against the licensee. If such incident or occurrence involved criminal actions, diversion of controlled substances, sexual misconduct, or impairment by the licensee, this subsection does not apply to bar initiation of an investigation or filing of an administrative complaint beyond the 6-year timeframe. In those cases covered by this subsection in which it can be shown that fraud, concealment, or intentional misrepresentation of fact prevented the discovery of the violation of law, the period of limitations is extended forward, but in no event to exceed 12 years after the time of the incident or occurrence.

History.—s. 68, ch. 97-261; s. 23, ch. 99-7; s. 114, ch. 2000-153; s. 91, ch. 2000-160; ss. 14, 72, ch. 2001-277; s. 5, ch. 2002-254; s. 1, ch. 2003-27; s. 20, ch. 2003-416; s. 65, ch. 2008-6.

Note.—Former s. 455.621.

456.074 Certain health care practitioners; immediate suspension of license.—

(1) The department shall issue an emergency order suspending the license of any person licensed under chapter 458, chapter 459, chapter 460, chapter 461, chapter 462, chapter 463, chapter 464, chapter 465, chapter 466, or chapter 484 who pleads guilty to, is convicted or found guilty of, or who enters a plea of nolo contendere to, regardless of adjudication, to:

(a) A felony under chapter 409, chapter 817, or chapter 893 or under 21 U.S.C. ss. 801-970 or under 42 U.S.C. ss. 1395-1396; or

(b) A misdemeanor or felony under 18 U.S.C. s. 669, ss. 285-287, s. 371, s. 1001, s. 1035, s. 1341, s. 1343, s. 1347, s. 1349, or s. 1518 or 42 U.S.C. ss. 1320a-7b, relating to the Medicaid program.

(2) If the board has previously found any physician or osteopathic physician in violation of the provisions of s. 458.331(1)(t) or s. 459.015(1)(x), in regard to her or his treatment of three or more patients, and the probable cause panel of the board finds probable cause of an additional violation of that section, then the State Surgeon General shall review the matter to determine if an emergency suspension or restriction order is warranted. Nothing in this section shall be construed so as to limit the authority of the State Surgeon General to issue an emergency order.

(3) The department may issue an emergency order suspending or restricting the license of any health care practitioner as defined in s. 456.001(4) who tests positive for any drug on any government or private sector preemployment or employer-ordered confirmed drug test, as defined in s. 112.0455, when the practitioner does not have a lawful prescription and legitimate medical reason for using such drug. The practitioner shall be given 48 hours from the time of notification to the practitioner of the confirmed test result to produce a lawful prescription for the drug before an emergency order is issued.

(4) Upon receipt of information that a Florida-licensed health care practitioner has defaulted on a student loan issued or guaranteed by the state or the Federal Government, the department shall notify the licensee by certified mail that he or she shall be subject to immediate suspension of license unless, within 45 days after the date of mailing, the licensee provides proof that new payment terms have been agreed upon by all parties to the loan. The department shall issue an emergency order suspending the license of any licensee who, after 45 days following the date of mailing from the department, has failed to provide such proof. Production of such proof shall not prohibit the department from proceeding with disciplinary action against the licensee pursuant to s. 456.073.

History.—s. 88, ch. 97-261; s. 25, ch. 99-7; s. 87, ch. 99-397; s. 92, ch. 2000-160; s. 73, ch. 2001-277; s. 1, ch. 2002-254; s. 66, ch. 2008-6; s. 26, ch. 2009-223.

Note.—Former s. 455.687.

456.075 Criminal proceedings against licensees; appearances by department representatives.— In any criminal proceeding against a person licensed by the department to practice a health care profession in this state, a representative of the department may voluntarily appear and furnish pertinent information, make recommendations regarding specific conditions of probation, or provide any other assistance necessary to promote justice or protect the public. The court may order a representative of the department to appear in any criminal proceeding if the crime charged is substantially related to the qualifications, functions, or duties of a health care professional licensed by the department.

History.—s. 1, ch. 2002-81.

456.076 Treatment programs for impaired practitioners.—

(1) For professions that do not have impaired practitioner programs provided for in their practice acts, the department shall, by rule, designate approved impaired practitioner programs under this section. The department may adopt rules setting forth appropriate criteria for approval of treatment providers. The rules may specify the manner in which the consultant, retained as set forth in subsection (2), works with the department in intervention, requirements for evaluating and treating a professional, requirements for continued care of impaired professionals by approved treatment providers, continued monitoring by the consultant of the care provided by approved treatment providers regarding the professionals under their care, and requirements related to the consultant's expulsion of professionals from the program.

(2) The department shall retain one or more impaired practitioner consultants. The consultant shall be a licensee under the jurisdiction of the Division of Medical Quality Assurance within the department who must be a practitioner or recovered practitioner licensed under chapter 458, chapter 459, or part I of chapter 464, or an entity employing a medical director who must be a practitioner or recovered practitioner licensed under chapter 458, chapter 459, or part I of chapter 464. The consultant shall assist the probable cause panel and department in carrying out the responsibilities of this section. This shall include working with department investigators to determine whether a practitioner is, in fact, impaired. The consultant may contract for services to be provided, for appropriate compensation, if requested by the school, for students enrolled in schools for licensure as allopathic physicians or physician assistants under chapter 458, osteopathic physicians or physician assistants under chapter 459, nurses under chapter 464, or pharmacists under chapter 465 who are alleged to be impaired as a result of the misuse or abuse of alcohol or drugs, or both, or due to a mental or physical condition. The department is not responsible under any circumstances for paying the costs of care provided by approved treatment providers, and the department is not responsible for paying the costs of consultants' services provided for students. A medical school accredited by the Liaison Committee on Medical Education of the Commission on Osteopathic College Accreditation, or other school providing for the education of students enrolled in preparation for licensure as allopathic physicians under chapter 458 or osteopathic physicians under chapter 459, which is governed by accreditation standards requiring notice and the provision of due process procedures to students, is not liable in any civil action for referring a student to the consultant retained by the department or for disciplinary actions that adversely affect the status of a student when the disciplinary actions are instituted in reasonable reliance on the recommendations, reports, or conclusions provided by such consultant, if the school, in referring the student or taking disciplinary action, adheres to the due process procedures adopted by the applicable accreditation entities and if the school committed no intentional fraud in carrying out the provisions of this section.

(3)(a)Whenever the department receives a written or oral legally sufficient complaint alleging that a licensee under the jurisdiction of the Division of Medical Quality Assurance within the department is impaired as a result of the misuse or abuse of alcohol or drugs, or both, or due to a mental or physical condition which could affect the licensee's ability to practice with skill and safety, and no complaint against the licensee other than impairment exists, the reporting of such information shall not constitute grounds for discipline pursuant to s. 456.072 or the corresponding grounds for discipline within the applicable practice act if the probable cause panel of the appropriate board, or the department when there is no board, finds:

1.The licensee has acknowledged the impairment problem.

2.The licensee has voluntarily enrolled in an appropriate, approved treatment program.

3.The licensee has voluntarily withdrawn from practice or limited the scope of practice as required by the consultant, in each case, until such time as the panel, or the department when there is no board, is satisfied the licensee has successfully completed an approved treatment program.

4.The licensee has executed releases for medical records, authorizing the release of all records of evaluations, diagnoses, and treatment of the licensee, including records of treatment for emotional or mental conditions, to the consultant. The consultant shall make no copies or reports of records that do not regard the issue of the licensee's impairment and his or her participation in a treatment program.

(b)If, however, the department has not received a legally sufficient complaint and the licensee agrees to withdraw from practice until such time as the consultant determines the licensee has satisfactorily completed an approved treatment program or evaluation, the probable cause panel, or the department when there is no board, shall not become involved in the licensee's case.

(c)Inquiries related to impairment treatment programs designed to provide information to the licensee and others and which do not indicate that the licensee presents a danger to the public shall not constitute a complaint within the meaning of s. 456.073 and shall be exempt from the provisions of this subsection.

(d)Whenever the department receives a legally sufficient complaint alleging that a licensee is impaired as described in paragraph (a) and no complaint against the licensee other than impairment exists, the department shall forward all information in its possession regarding the impaired licensee to the consultant. For the purposes of this section, a suspension from hospital staff privileges due to the impairment does not constitute a complaint.

(e)The probable cause panel, or the department when there is no board, shall work directly with the consultant, and all information concerning a practitioner obtained from the consultant by the panel, or the department when there is no board, shall remain confidential and exempt from the provisions of s. 119.07(1), subject to the provisions of subsections (5) and (6).

(f)A finding of probable cause shall not be made as long as the panel, or the department when there is no board, is satisfied, based upon information it receives from the consultant and the department, that the licensee is progressing satisfactorily in an approved impaired practitioner

program and no other complaint against the licensee exists.

(4) In any disciplinary action for a violation other than impairment in which a licensee establishes the violation for which the licensee is being prosecuted was due to or connected with impairment and further establishes the licensee is satisfactorily progressing through or has successfully completed an approved treatment program pursuant to this section, such information may be considered by the board, or the department when there is no board, as a mitigating factor in determining the appropriate penalty. This subsection does not limit mitigating factors the board may consider.

(5)(a) An approved treatment provider shall, upon request, disclose to the consultant all information in its possession regarding the issue of a licensee's impairment and participation in the treatment program. All information obtained by the consultant and department pursuant to this section is confidential and exempt from the provisions of s. 119.07(1), subject to the provisions of this subsection and subsection (6). Failure to provide such information to the consultant is grounds for withdrawal of approval of such program or provider.

(b) If in the opinion of the consultant, after consultation with the treatment provider, an impaired licensee has not progressed satisfactorily in a treatment program, all information regarding the issue of a licensee's impairment and participation in a treatment program in the consultant's possession shall be disclosed to the department. Such disclosure shall constitute a complaint pursuant to the general provisions of s. 456.073. Whenever the consultant concludes that impairment affects a licensee's practice and constitutes an immediate, serious danger to the public health, safety, or welfare, that conclusion shall be communicated to the State Surgeon General.

(6) A consultant, licensee, or approved treatment provider who makes a disclosure pursuant to this section is not subject to civil liability for such disclosure or its consequences. The provisions of s. 766.101 apply to any officer, employee, or agent of the department or the board and to any officer, employee, or agent of any entity with which the department has contracted pursuant to this section.

(7)(a) A consultant retained pursuant to subsection (2), a consultant's officers and employees, and those acting at the direction of the consultant for the limited purpose of an emergency intervention on behalf of a licensee or student as described in subsection (2) when the consultant is unable to perform such intervention shall be considered agents of the department for purposes of s. 768.28 while acting within the scope of the consultant's duties under the contract with the department if the contract complies with the requirements of this section. The contract must require that:

1. The consultant indemnify the state for any liabilities incurred up to the limits set out in chapter 768.

2. The consultant establish a quality assurance program to monitor services delivered under the contract.

3. The consultant's quality assurance program, treatment, and monitoring records be evaluated quarterly.

4. The consultant's quality assurance program be subject to review and approval by the

department.

5. The consultant operate under policies and procedures approved by the department.

6. The consultant provide to the department for approval a policy and procedure manual that comports with all statutes, rules, and contract provisions approved by the department.

7. The department be entitled to review the records relating to the consultant's performance under the contract for the purpose of management audits, financial audits, or program evaluation.

8. All performance measures and standards be subject to verification and approval by the department.

9. The department be entitled to terminate the contract with the consultant for noncompliance with the contract.

(b) In accordance with s. 284.385, the Department of Financial Services shall defend any claim, suit, action, or proceeding against the consultant, the consultant's officers or employees, or those acting at the direction of the consultant for the limited purpose of an emergency intervention on behalf of a licensee or student as described in subsection (2) when the consultant is unable to perform such intervention which is brought as a result of any act or omission by any of the consultant's officers and employees and those acting under the direction of the consultant for the limited purpose of an emergency intervention on behalf of a licensee or student as described in subsection (2) when the consultant is unable to perform such intervention when such act or omission arises out of and in the scope of the consultant's duties under its contract with the department.

(c) If the consultant retained pursuant to subsection (2) is retained by any other state agency, and if the contract between such state agency and the consultant complies with the requirements of this section, the consultant, the consultant's officers and employees, and those acting under the direction of the consultant for the limited purpose of an emergency intervention on behalf of a licensee or student as described in subsection (2) when the consultant is unable to perform such intervention shall be considered agents of the state for the purposes of this section while acting within the scope of and pursuant to guidelines established in the contract between such state agency and the consultant.

History.—s. 38, ch. 92-149; s. 1, ch. 95-139; s. 310, ch. 96-406; s. 1085, ch. 97-103; s. 3, ch. 97-209; s. 94, ch. 97-261; s. 2, ch. 98-130; s. 94, ch. 2000-160; ss. 29, 117, ch. 2000-318; s. 67, ch. 2008-6; s. 1, ch. 2008-63.

Note.—Former s. 455.261; s. 455.707.

456.077 Authority to issue citations.—

(1) Notwithstanding s. 456.073, the board, or the department if there is no board, shall adopt rules to permit the issuance of citations. The citation shall be issued to the subject and shall contain the subject's name and address, the subject's license number if applicable, a brief factual statement, the sections of the law allegedly violated, and the penalty imposed. The citation must clearly state that the subject may choose, in lieu of accepting the citation, to follow the procedure under s. 456.073. If the subject disputes the matter in the citation, the procedures set forth in s. 456.073 must be

followed. However, if the subject does not dispute the matter in the citation with the department within 30 days after the citation is served, the citation becomes a public final order and does not constitute discipline for a first offense, but does constitute discipline for a second or subsequent offense. The penalty shall be a fine or other conditions as established by rule.

(2)The board, or the department if there is no board, shall adopt rules designating violations for which a citation may be issued. Such rules shall designate as citation violations those violations for which there is no substantial threat to the public health, safety, and welfare or no violation of standard of care involving injury to a patient. Violations for which a citation may be issued shall include violations of continuing education requirements; failure to timely pay required fees and fines; failure to comply with the requirements of ss. 381.026 and 381.0261 regarding the dissemination of information regarding patient rights; failure to comply with advertising requirements; failure to timely update practitioner profile and credentialing files; failure to display signs, licenses, and permits; failure to have required reference books available; and all other violations that do not pose a direct and serious threat to the health and safety of the patient or involve a violation of standard of care that has resulted in injury to a patient.

(3)The department shall be entitled to recover the costs of investigation, in addition to any penalty provided according to board or department rule, as part of the penalty levied pursuant to the citation.

(4)A citation must be issued within 6 months after the filing of the complaint that is the basis for the citation.

(5)Service of a citation may be made by personal service or certified mail, restricted delivery, to the subject at the subject's last known address.

(6)A board has 6 months in which to enact rules designating violations and penalties appropriate for citation offenses. Failure to enact such rules gives the department exclusive authority to adopt rules as required for implementing this section. A board has continuous authority to amend its rules adopted pursuant to this section.

History.—s. 67, ch. 97-261; s. 95, ch. 2000-160; s. 74, ch. 2001-277; s. 21, ch. 2003-416.

Note.—Former s. 455.617.

456.078Mediation.—

(1)Notwithstanding the provisions of s. 456.073, the board, or the department when there is no board, shall adopt rules to designate which violations of the applicable professional practice act are appropriate for mediation. The board, or the department when there is no board, shall designate as mediation offenses those complaints where harm caused by the licensee:

- (a)Is economic in nature except any act or omission involving intentional misconduct;
- (b)Can be remedied by the licensee;
- (c)Is not a standard of care violation involving any type of injury to a patient; or

(d) Does not result in an adverse incident.

(2) For the purposes of this section, an “adverse incident” means an event that results in:

(a) The death of a patient;

(b) Brain or spinal damage to a patient;

(c) The performance of a surgical procedure on the wrong patient;

(d) The performance of a wrong-site surgical procedure;

(e) The performance of a surgical procedure that is medically unnecessary or otherwise unrelated to the patient’s diagnosis or medical condition;

(f) The surgical repair of damage to a patient resulting from a planned surgical procedure, which damage is not a recognized specific risk as disclosed to the patient and documented through the informed-consent process;

(g) The performance of a procedure to remove unplanned foreign objects remaining from a surgical procedure; or

(h) The performance of any other surgical procedure that breached the standard of care.

(3) After the department determines a complaint is legally sufficient and the alleged violations are defined as mediation offenses, the department or any agent of the department may conduct informal mediation to resolve the complaint. If the complainant and the subject of the complaint agree to a resolution of a complaint within 14 days after contact by the mediator, the mediator shall notify the department of the terms of the resolution. The department or board shall take no further action unless the complainant and the subject each fail to record with the department an acknowledgment of satisfaction of the terms of mediation within 60 days of the mediator’s notification to the department. A successful mediation shall not constitute discipline. In the event the complainant and subject fail to reach settlement terms or to record the required acknowledgment, the department shall process the complaint according to the provisions of s. 456.073.

(4) Conduct or statements made during mediation are inadmissible in any proceeding pursuant to s. 456.073. Further, any information relating to the mediation of a case shall be subject to the confidentiality provisions of s. 456.073.

(5) No licensee shall go through the mediation process more than three times without approval of the department. The department may consider the subject and dates of the earlier complaints in rendering its decision. Such decision shall not be considered a final agency action for purposes of chapter 120.

(6) Any board created on or after January 1, 1995, shall have 6 months to adopt rules designating which violations are appropriate for mediation, after which time the department shall have exclusive authority to adopt rules pursuant to this section. A board shall have continuing authority to amend its rules adopted pursuant to this section.

History.—s. 66, ch. 97-261; s. 96, ch. 2000-160; s. 22, ch. 2003-416.

Note.—Former s. 455.614.

456.079 Disciplinary guidelines.—

(1) Each board, or the department if there is no board, shall adopt by rule and periodically review the disciplinary guidelines applicable to each ground for disciplinary action which may be imposed by the board, or the department if there is no board, pursuant to this chapter, the respective practice acts, and any rule of the board or department.

(2) The disciplinary guidelines shall specify a meaningful range of designated penalties based upon the severity and repetition of specific offenses, it being the legislative intent that minor violations be distinguished from those which endanger the public health, safety, or welfare; that such guidelines provide reasonable and meaningful notice to the public of likely penalties which may be imposed for proscribed conduct; and that such penalties be consistently applied by the board.

(3) A specific finding in the final order of mitigating or aggravating circumstances shall allow the board to impose a penalty other than that provided for in such guidelines. If applicable, the board, or the department if there is no board, shall adopt by rule disciplinary guidelines to designate possible mitigating and aggravating circumstances and the variation and range of penalties permitted for such circumstances.

(4) The department must review such disciplinary guidelines for compliance with the legislative intent as set forth herein to determine whether the guidelines establish a meaningful range of penalties and may also challenge such rules pursuant to s. 120.56.

(5) The administrative law judge, in recommending penalties in any recommended order, must follow the penalty guidelines established by the board or department and must state in writing the mitigating or aggravating circumstances upon which the recommended penalty is based.

History.—s. 70, ch. 97-261; s. 97, ch. 2000-160; s. 16, ch. 2001-277.

Note.—Former s. 455.627.

456.081 Publication of information.—The department and the boards shall have the authority to advise licensees periodically, through the publication of a newsletter on the department's website, about information that the department or the board determines is of interest to the industry. The department and the boards shall maintain a website which contains copies of the newsletter; information relating to adverse incident reports without identifying the patient, practitioner, or facility in which the adverse incident occurred until 10 days after probable cause is found, at which time the name of the practitioner and facility shall become public as part of the investigative file; information about error prevention and safety strategies; and information concerning best practices. Unless otherwise prohibited by law, the department and the boards shall publish on the website a summary of final orders entered after July 1, 2001, resulting in disciplinary action, and any other information the department or the board determines is of interest to the public. In order to provide useful and timely information at minimal cost, the department and boards may consult with, and include information provided by, professional associations and national organizations.

History.—s. 44, ch. 97-261; s. 98, ch. 2000-160; ss. 15, 75, ch. 2001-277.

Note.—Former s. 455.537.

456.082 Disclosure of confidential information.—

(1) No officer, employee, or person under contract with the department, or any board therein, or any subject of an investigation shall convey knowledge or information to any person who is not lawfully entitled to such knowledge or information about any public meeting or public record, which at the time such knowledge or information is conveyed is exempt from the provisions of s. 119.01, s. 119.07(1), or s. 286.011.

(2) Any person who willfully violates any provision of this section is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, and may be subject to discipline pursuant to s. 456.072, and, if applicable, shall be removed from office, employment, or the contractual relationship.

(3) Any person injured as a result of a willful violation of this section shall have a civil cause of action for treble damages, reasonable attorney fees, and costs.

History.—s. 77, ch. 97-261; s. 37, ch. 98-166; s. 7, ch. 99-356; s. 188, ch. 99-397; s. 99, ch. 2000-160; s. 27, ch. 2000-318.

Note.—Former s. 455.651.

456.36 Health care professionals; exemption from disqualification from employment or contracting.—Any other provision of law to the contrary notwithstanding, only the appropriate regulatory board, or the department when there is no board, may grant an exemption from disqualification from employment or contracting as provided in s. 435.07 to a person under the licensing jurisdiction of that board or the department, as applicable.

History.—s. 34, ch. 2000-318.

456.38 Practitioner registry for disasters and emergencies.—The Department of Health may include on its forms for the licensure or certification of health care practitioners, as defined in s. 456.001, who could assist the department in the event of a disaster a question asking if the practitioner would be available to provide health care services in special needs shelters or to help staff disaster medical assistance teams during times of emergency or major disaster. The names of practitioners who answer affirmatively shall be maintained by the department as a health care practitioner registry for disasters and emergencies.

History.—s. 20, ch. 2000-140.

456.41 Complementary or alternative health care treatments.—

(1) LEGISLATIVE INTENT.—It is the intent of the Legislature that citizens be able to make informed choices for any type of health care they deem to be an effective option for treating human disease,

pain, injury, deformity, or other physical or mental condition. It is the intent of the Legislature that citizens be able to choose from all health care options, including the prevailing or conventional treatment methods as well as other treatments designed to complement or substitute for the prevailing or conventional treatment methods. It is the intent of the Legislature that health care practitioners be able to offer complementary or alternative health care treatments with the same requirements, provisions, and liabilities as those associated with the prevailing or conventional treatment methods.

(2)DEFINITIONS.—As used in this section, the term:

(a)“Complementary or alternative health care treatment” means any treatment that is designed to provide patients with an effective option to the prevailing or conventional treatment methods associated with the services provided by a health care practitioner. Such a treatment may be provided in addition to or in place of other treatment options.

(b)“Health care practitioner” means any health care practitioner as defined in s. 456.001(4).

(3)COMMUNICATION OF TREATMENT ALTERNATIVES.—A health care practitioner who offers to provide a patient with a complementary or alternative health care treatment must inform the patient of the nature of the treatment and must explain the benefits and risks associated with the treatment to the extent necessary for the patient to make an informed and prudent decision regarding such treatment option. In compliance with this subsection:

(a)The health care practitioner must inform the patient of the practitioner’s education, experience, and credentials in relation to the complementary or alternative health care treatment option.

(b)The health care practitioner may, in his or her discretion, communicate the information orally or in written form directly to the patient or to the patient’s legal representative.

(c)The health care practitioner may, in his or her discretion and without restriction, recommend any mode of treatment that is, in his or her judgment, in the best interests of the patient, including complementary or alternative health care treatments, in accordance with the provisions of his or her license.

(4)RECORDS.—Every health care practitioner providing a patient with a complementary or alternative health care treatment must indicate in the patient’s care record the method by which the requirements of subsection (3) were met.

(5)EFFECT.—This section does not modify or change the scope of practice of any licensees of the department, nor does it alter in any way the provisions of the individual practice acts for those licensees, which require licensees to practice within their respective standards of care and which prohibit fraud and exploitation of patients.

History.—s. 1, ch. 2001-116.

456.42Written prescriptions for medicinal drugs.—

(1)A written prescription for a medicinal drug issued by a health care practitioner licensed by law

to prescribe such drug must be legibly printed or typed so as to be capable of being understood by the pharmacist filling the prescription; must contain the name of the prescribing practitioner, the name and strength of the drug prescribed, the quantity of the drug prescribed, and the directions for use of the drug; must be dated; and must be signed by the prescribing practitioner on the day when issued. However, a prescription that is electronically generated and transmitted must contain the name of the prescribing practitioner, the name and strength of the drug prescribed, the quantity of the drug prescribed in numerical format, and the directions for use of the drug and must be dated and signed by the prescribing practitioner only on the day issued, which signature may be in an electronic format as defined in s. 668.003(4).

(2)A written prescription for a controlled substance listed in chapter 893 must have the quantity of the drug prescribed in both textual and numerical formats, must be dated with the abbreviated month written out on the face of the prescription, and must be either written on a standardized counterfeit-proof prescription pad produced by a vendor approved by the department or electronically prescribed as that term is used in s. 408.0611. As a condition of being an approved vendor, a prescription pad vendor must submit a monthly report to the department which, at a minimum, documents the number of prescription pads sold and identifies the purchasers. The department may, by rule, require the reporting of additional information.

History.—s. 1, ch. 2003-41; s. 2, ch. 2006-271; s. 2, ch. 2009-202; s. 2, ch. 2011-141.

456.43Electronic prescribing for medicinal drugs.—

(1)Electronic prescribing shall not interfere with a patient’s freedom to choose a pharmacy.

(2)Electronic prescribing software shall not use any means or permit any other person to use any means, including, but not limited to, advertising, instant messaging, and pop-up ads, to influence or attempt to influence, through economic incentives or otherwise, the prescribing decision of a prescribing practitioner at the point of care. Such means shall not be triggered or in specific response to the input, selection, or act of a prescribing practitioner or his or her agent in prescribing a certain pharmaceutical or directing a patient to a certain pharmacy.

(a)The term “prescribing decision” means a prescribing practitioner’s decision to prescribe a certain pharmaceutical.

(b)The term “point of care” means the time that a prescribing practitioner or his or her agent is in the act of prescribing a certain pharmaceutical.

(3)Electronic prescribing software may show information regarding a payor’s formulary as long as nothing is designed to preclude or make more difficult the act of a prescribing practitioner or patient selecting any particular pharmacy or pharmaceutical.

History.—s. 3, ch. 2006-271.

456.44Controlled substance prescribing.—

(1)DEFINITIONS.—

(a)“Addiction medicine specialist” means a board-certified psychiatrist with a subspecialty certification in addiction medicine or who is eligible for such subspecialty certification in addiction medicine, an addiction medicine physician certified or eligible for certification by the American Society of Addiction Medicine, or an osteopathic physician who holds a certificate of added qualification in Addiction Medicine through the American Osteopathic Association.

(b)“Adverse incident” means any incident set forth in s. 458.351(4)(a)-(e) or s. 459.026(4)(a)-(e).

(c)“Board-certified pain management physician” means a physician who possesses board certification in pain medicine by the American Board of Pain Medicine, board certification by the American Board of Interventional Pain Physicians, or board certification or subcertification in pain management or pain medicine by a specialty board recognized by the American Association of Physician Specialists or the American Board of Medical Specialties or an osteopathic physician who holds a certificate in Pain Management by the American Osteopathic Association.

(d)“Board eligible” means successful completion of an anesthesia, physical medicine and rehabilitation, rheumatology, or neurology residency program approved by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association for a period of 6 years from successful completion of such residency program.

(e)“Chronic nonmalignant pain” means pain unrelated to cancer which persists beyond the usual course of disease or the injury that is the cause of the pain or more than 90 days after surgery.

(f)“Mental health addiction facility” means a facility licensed under chapter 394 or chapter 397.

(2)REGISTRATION.—Effective January 1, 2012, a physician licensed under chapter 458, chapter 459, chapter 461, or chapter 466 who prescribes any controlled substance, listed in Schedule II, Schedule III, or Schedule IV as defined in s. 893.03, for the treatment of chronic nonmalignant pain, must:

(a)Designate himself or herself as a controlled substance prescribing practitioner on the physician’s practitioner profile.

(b)Comply with the requirements of this section and applicable board rules.

(3)STANDARDS OF PRACTICE.—The standards of practice in this section do not supersede the level of care, skill, and treatment recognized in general law related to health care licensure.

(a)A complete medical history and a physical examination must be conducted before beginning any treatment and must be documented in the medical record. The exact components of the physical examination shall be left to the judgment of the clinician who is expected to perform a physical examination proportionate to the diagnosis that justifies a treatment. The medical record must, at a minimum, document the nature and intensity of the pain, current and past treatments for pain, underlying or coexisting diseases or conditions, the effect of the pain on physical and psychological function, a review of previous medical records, previous diagnostic studies, and history of alcohol and substance abuse. The medical record shall also document the presence of one or more recognized medical indications for the use of a controlled substance. Each registrant must develop a written plan for assessing each patient’s risk of aberrant drug-related behavior, which may include patient drug

testing. Registrants must assess each patient's risk for aberrant drug-related behavior and monitor that risk on an ongoing basis in accordance with the plan.

(b) Each registrant must develop a written individualized treatment plan for each patient. The treatment plan shall state objectives that will be used to determine treatment success, such as pain relief and improved physical and psychosocial function, and shall indicate if any further diagnostic evaluations or other treatments are planned. After treatment begins, the physician shall adjust drug therapy to the individual medical needs of each patient. Other treatment modalities, including a rehabilitation program, shall be considered depending on the etiology of the pain and the extent to which the pain is associated with physical and psychosocial impairment. The interdisciplinary nature of the treatment plan shall be documented.

(c) The physician shall discuss the risks and benefits of the use of controlled substances, including the risks of abuse and addiction, as well as physical dependence and its consequences, with the patient, persons designated by the patient, or the patient's surrogate or guardian if the patient is incompetent. The physician shall use a written controlled substance agreement between the physician and the patient outlining the patient's responsibilities, including, but not limited to:

1. Number and frequency of controlled substance prescriptions and refills.
2. Patient compliance and reasons for which drug therapy may be discontinued, such as a violation of the agreement.
3. An agreement that controlled substances for the treatment of chronic nonmalignant pain shall be prescribed by a single treating physician unless otherwise authorized by the treating physician and documented in the medical record.

(d) The patient shall be seen by the physician at regular intervals, not to exceed 3 months, to assess the efficacy of treatment, ensure that controlled substance therapy remains indicated, evaluate the patient's progress toward treatment objectives, consider adverse drug effects, and review the etiology of the pain. Continuation or modification of therapy shall depend on the physician's evaluation of the patient's progress. If treatment goals are not being achieved, despite medication adjustments, the physician shall reevaluate the appropriateness of continued treatment. The physician shall monitor patient compliance in medication usage, related treatment plans, controlled substance agreements, and indications of substance abuse or diversion at a minimum of 3-month intervals.

(e) The physician shall refer the patient as necessary for additional evaluation and treatment in order to achieve treatment objectives. Special attention shall be given to those patients who are at risk for misusing their medications and those whose living arrangements pose a risk for medication misuse or diversion. The management of pain in patients with a history of substance abuse or with a comorbid psychiatric disorder requires extra care, monitoring, and documentation and requires consultation with or referral to an addiction medicine specialist or psychiatrist.

(f) A physician registered under this section must maintain accurate, current, and complete records that are accessible and readily available for review and comply with the requirements of this section,

the applicable practice act, and applicable board rules. The medical records must include, but are not limited to:

- 1.The complete medical history and a physical examination, including history of drug abuse or dependence.

- 2.Diagnostic, therapeutic, and laboratory results.

- 3.Evaluations and consultations.

- 4.Treatment objectives.

- 5.Discussion of risks and benefits.

- 6.Treatments.

- 7.Medications, including date, type, dosage, and quantity prescribed.

- 8.Instructions and agreements.

- 9.Periodic reviews.

- 10.Results of any drug testing.

- 11.A photocopy of the patient's government-issued photo identification.

- 12.If a written prescription for a controlled substance is given to the patient, a duplicate of the prescription.

- 13.The physician's full name presented in a legible manner.

(g)Patients with signs or symptoms of substance abuse shall be immediately referred to a board-certified pain management physician, an addiction medicine specialist, or a mental health addiction facility as it pertains to drug abuse or addiction unless the physician is board-certified or board-eligible in pain management. Throughout the period of time before receiving the consultant's report, a prescribing physician shall clearly and completely document medical justification for continued treatment with controlled substances and those steps taken to ensure medically appropriate use of controlled substances by the patient. Upon receipt of the consultant's written report, the prescribing physician shall incorporate the consultant's recommendations for continuing, modifying, or discontinuing controlled substance therapy. The resulting changes in treatment shall be specifically documented in the patient's medical record. Evidence or behavioral indications of diversion shall be followed by discontinuation of controlled substance therapy, and the patient shall be discharged, and all results of testing and actions taken by the physician shall be documented in the patient's medical record.

This subsection does not apply to a board-eligible or board-certified anesthesiologist, physiatrist, rheumatologist, or neurologist, or to a board-certified physician who has surgical privileges at a hospital or ambulatory surgery center and primarily provides surgical services. This subsection does not apply to a board-eligible or board-certified medical specialist who has also completed a fellowship in pain medicine approved by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association, or who is board eligible or board certified in pain medicine by the American Board of Pain Medicine or a board approved by the American Board of Medical Specialties or the

American Osteopathic Association and performs interventional pain procedures of the type routinely billed using surgical codes. This subsection does not apply to a physician who prescribes medically necessary controlled substances for a patient during an inpatient stay in a hospital licensed under chapter 395.

History.—s. 3, ch. 2011-141; s. 31, ch. 2012-160.

456.50 Repeated medical malpractice.—

(1) For purposes of s. 26, Art. X of the State Constitution and ss. 458.331(1)(t), (4), and (5) and 459.015(1)(x), (4), and (5):

(a) “Board” means the Board of Medicine, in the case of a physician licensed pursuant to chapter 458, or the Board of Osteopathic Medicine, in the case of an osteopathic physician licensed pursuant to chapter 459.

(b) “Final administrative agency decision” means a final order of the licensing board following a hearing as provided in s. 120.57(1) or (2) or s. 120.574 finding that the licensee has violated s. 458.331(1)(t) or s. 459.015(1)(x).

(c) “Found to have committed” means the malpractice has been found in a final judgment of a court of law, final administrative agency decision, or decision of binding arbitration.

(d) “Incident” means the wrongful act or occurrence from which the medical malpractice arises, regardless of the number of claimants or findings. For purposes of this section:

1. A single act of medical malpractice, regardless of the number of claimants, shall count as only one incident.

2. Multiple findings of medical malpractice arising from the same wrongful act or series of wrongful acts associated with the treatment of the same patient shall count as only one incident.

(e) “Level of care, skill, and treatment recognized in general law related to health care licensure” means the standard of care specified in s. 766.102.

(f) “Medical doctor” means a physician licensed pursuant to chapter 458 or chapter 459.

(g) “Medical malpractice” means the failure to practice medicine in accordance with the level of care, skill, and treatment recognized in general law related to health care licensure. Only for the purpose of finding repeated medical malpractice pursuant to this section, any similar wrongful act, neglect, or default committed in another state or country which, if committed in this state, would have been considered medical malpractice as defined in this paragraph, shall be considered medical malpractice if the standard of care and burden of proof applied in the other state or country equaled or exceeded that used in this state.

(h) “Repeated medical malpractice” means three or more incidents of medical malpractice found to have been committed by a medical doctor. Only an incident occurring on or after November 2, 2004, shall be considered an incident for purposes of finding repeated medical malpractice under this section.

(2) For purposes of implementing s. 26, Art. X of the State Constitution, the board shall not license or continue to license a medical doctor found to have committed repeated medical malpractice, the finding of which was based upon clear and convincing evidence. In order to rely on an incident of medical malpractice to determine whether a license must be denied or revoked under this section, if the facts supporting the finding of the incident of medical malpractice were determined on a standard less stringent than clear and convincing evidence, the board shall review the record of the case and determine whether the finding would be supported under a standard of clear and convincing evidence. Section 456.073 applies. The board may verify on a biennial basis an out-of-state licensee's medical malpractice history using federal, state, or other databases. The board may require licensees and applicants for licensure to provide a copy of the record of the trial of any medical malpractice judgment, which may be required to be in an electronic format, involving an incident that occurred on or after November 2, 2004. For purposes of implementing s. 26, Art. X of the State Constitution, the 90-day requirement for granting or denying a complete allopathic or osteopathic licensure application in s. 120.60(1) is extended to 180 days.

History.—s. 2, ch. 2005-266

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Chapter 499

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499.001 Florida Drug and Cosmetic Act; short title.—Sections 499.001-499.081 may be cited as the "Florida Drug and Cosmetic Act."

History.—s. 34, ch. 82-225; s. 1, ch. 83-265; s. 1, ch. 86-133; ss. 1, 52, ch. 92-69.

499.002 Purpose, administration, and enforcement of and exemption from this part.—

(1) This part is intended to:

(a) Safeguard the public health and promote the public welfare by protecting the public from injury by product use and by merchandising deceit involving drugs, devices, and cosmetics.

(b) Provide uniform legislation to be administered so far as practicable in conformity with the provisions of, and regulations issued under the authority of, the Federal Food, Drug, and Cosmetic Act and that portion of the Federal Trade Commission Act which expressly prohibits the false advertisement of drugs, devices, and cosmetics.

(c) Promote thereby uniformity of such state and federal laws, and their administration and enforcement, throughout the United States.

(2) The department shall administer and enforce this part to prevent fraud, adulteration, misbranding, or false advertising in the preparation, manufacture, repackaging, or distribution of drugs, devices, and cosmetics.

(3) For the purpose of any investigation or proceeding conducted by the department under this part, the department may administer oaths, take depositions, issue and serve subpoenas, and compel the attendance of witnesses and the production of books, papers, documents, or other evidence. The department shall exercise this power on its own initiative. Challenges to, and enforcement of, the subpoenas and orders shall be handled as provided in s. 120.569.

(4) Each state attorney, county attorney, or municipal attorney to whom the department or its designated agent reports any violation of this part shall cause appropriate proceedings to be instituted in the proper courts without delay and to be prosecuted in the manner required by law.

(5) This part does not require the department to report, for the institution of proceedings under this part, minor violations of this part when it believes that the public interest will be adequately served in the circumstances by a suitable written notice or warning.

(6) Common carriers engaged in interstate commerce are not subject to this part if they are engaged in the usual course of business as common carriers.

History.—s. 34, ch. 82-225; s. 1, ch. 83-265; ss. 2, 3, ch. 86-133; s. 2, ch. 87-50; ss. 2, 4, 6, 48, 49, 50, 52, ch. 92-69; s. 240, ch. 96-410; s. 236, ch. 99-8; s. 1, ch. 2008-207.

Note.—Subsection (2) former s. 499.004; subsection (3) former s. 499.0053; subsection (4) former s. 499.07; subsection (5) former s. 499.071; subsection (6) former s. 499.081.

499.003 Definitions of terms used in this part.—As used in this part, the term:

(1) "Advertisement" means any representation disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase of drugs, devices, or cosmetics.

(2) "Affiliated group" means an affiliated group as defined by s. 1504 of the Internal Revenue Code of 1986, as amended, which is composed of chain drug entities, including at least 50 retail pharmacies, warehouses, or repackagers, which are members of the same affiliated group. The affiliated group must disclose the names of all its members to the department.

(3) "Affiliated party" means:

(a) A director, officer, trustee, partner, or committee member of a permittee or applicant or a subsidiary or service corporation of the permittee or applicant;

(b) A person who, directly or indirectly, manages, controls, or oversees the operation of a permittee or applicant, regardless of whether such person is a partner, shareholder, manager, member, officer, director, independent contractor, or employee of the permittee or applicant;

(c) A person who has filed or is required to file a personal information statement pursuant to s. 499.012(9) or is required to be identified in an application for a permit or to renew a permit pursuant to s. 499.012(8); or

(d) The five largest natural shareholders that own at least 5 percent of the permittee or applicant.

(4) "Applicant" means a person applying for a permit or certification under this part.

(5) "Authenticate" means to affirmatively verify upon receipt of a prescription drug that each transaction listed on the pedigree paper has occurred.

(a) A wholesale distributor is not required to open a sealed, medical convenience kit to authenticate a pedigree paper for a prescription drug contained within the kit.

(b) Authentication of a prescription drug included in a sealed, medical convenience kit shall be limited to verifying the transaction and pedigree information received.

(6) "Certificate of free sale" means a document prepared by the department which certifies a drug, device, or cosmetic, that is registered with the department, as one that can be legally sold in the state.

(7) "Chain pharmacy warehouse" means a wholesale distributor permitted pursuant to s. 499.01 that maintains a physical location for prescription drugs that functions solely as a central warehouse to perform intracompany transfers of such drugs to a member of its affiliated group.

(8) "Closed pharmacy" means a pharmacy that is licensed under chapter 465 and purchases prescription drugs for use by a limited patient population and not for wholesale distribution or sale to the public. The term does not include retail pharmacies.

(9) "Color" includes black, white, and intermediate grays.

(10) "Color additive" means, with the exception of any material that has been or hereafter is exempt under the federal act, a material that:

(a) Is a dye pigment, or other substance, made by a process of synthesis or similar artifice, or extracted, isolated, or otherwise derived, with or without intermediate or final change of identity from a vegetable, animal, mineral, or other source; or

(b) When added or applied to a drug or cosmetic or to the human body, or any part thereof, is capable alone, or through reaction with other substances, of imparting color thereto.

(11) "Compressed medical gas" means any liquefied or vaporized gas that is a prescription drug, whether it is alone or in combination with other gases.

(12) "Contraband prescription drug" means any adulterated drug, as defined in s. 499.006, any counterfeit drug, as defined in this section, and also means any prescription drug for which a pedigree paper does not exist, or for which the pedigree paper in existence has been forged, counterfeited, falsely created, or contains any altered, false, or misrepresented matter.

(13) "Cosmetic" means an article, with the exception of soap, that is:

(a) Intended to be rubbed, poured, sprinkled, or sprayed on; introduced into; or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance; or

(b) Intended for use as a component of any such article.

(14) "Counterfeit drug," "counterfeit device," or "counterfeit cosmetic" means a drug, device, or cosmetic which, or the container, seal, or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint,

or device, or any likeness thereof, of a drug, device, or cosmetic manufacturer, processor, packer, or distributor other than the person that in fact manufactured, processed, packed, or distributed that drug, device, or cosmetic and which thereby falsely purports or is represented to be the product of, or to have been packed or distributed by, that other drug, device, or cosmetic manufacturer, processor, packer, or distributor.

(15) "Department" means the Department of Business and Professional Regulation.

(16) "Device" means any instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, including its components, parts, or accessories, which is:

(a) Recognized in the current edition of the United States Pharmacopoeia and National Formulary, or any supplement thereof,

(b) Intended for use in the diagnosis, cure, mitigation, treatment, therapy, or prevention of disease in humans or other animals, or

(c) Intended to affect the structure or any function of the body of humans or other animals,

and that does not achieve any of its principal intended purposes through chemical action within or on the body of humans or other animals and which is not dependent upon being metabolized for the achievement of any of its principal intended purposes.

(17) "Distribute" or "distribution" means to sell; offer to sell; give away; transfer, whether by passage of title, physical movement, or both; deliver; or offer to deliver. The term does not mean to administer or dispense and does not include the billing and invoicing activities that commonly follow a wholesale distribution transaction.

(18) "Drop shipment" means the sale of a prescription drug from a manufacturer to a wholesale distributor, where the wholesale distributor takes title to, but not possession of, the prescription drug, and the manufacturer of the prescription drug ships the prescription drug directly to a chain pharmacy warehouse or a person authorized by law to purchase prescription drugs for the purpose of administering or dispensing the drug, as defined in s. 465.003.

(19) "Drug" means an article that is:

(a) Recognized in the current edition of the United States Pharmacopoeia and National Formulary, official Homeopathic Pharmacopoeia of the United States, or any supplement to any of those publications;

(b) Intended for use in the diagnosis, cure, mitigation, treatment, therapy, or prevention of disease in humans or other animals;

(c) Intended to affect the structure or any function of the body of humans or other animals; or

(d) Intended for use as a component of any article specified in paragraph (a), paragraph (b), or paragraph (c), and includes active pharmaceutical ingredients, but does not include devices or their nondrug components, parts, or accessories. For purposes of this paragraph, an "active pharmaceutical ingredient" includes any substance or mixture of substances intended, represented, or labeled for use in drug manufacturing that furnishes or is intended to furnish, in a finished dosage form, any pharmacological activity or other direct effect in the diagnosis, cure, mitigation, treatment, therapy, or prevention of disease in humans or other animals, or to affect the structure or any function of the body of humans or other animals.

(20) "Establishment" means a place of business which is at one general physical location and may extend to one or more contiguous suites, units, floors, or buildings operated and controlled exclusively by entities under common operation and control. Where multiple buildings are under common exclusive ownership, operation, and control, an intervening thoroughfare does not affect the contiguous nature of the

buildings. For purposes of permitting, each suite, unit, floor, or building must be identified in the most recent permit application.

(21) "Federal act" means the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. ss. 301 et seq.; 52 Stat. 1040 et seq.

(22) "Freight forwarder" means a person who receives prescription drugs which are owned by another person and designated by that person for export, and exports those prescription drugs.

(23) "Health care entity" means a closed pharmacy or any person, organization, or business entity that provides diagnostic, medical, surgical, or dental treatment or care, or chronic or rehabilitative care, but does not include any wholesale distributor or retail pharmacy licensed under state law to deal in prescription drugs. However, a blood establishment is a health care entity that may engage in the wholesale distribution of prescription drugs under s. 499.01(2)(g)1.c.

(24) "Health care facility" means a health care facility licensed under chapter 395.

(25) "Hospice" means a corporation licensed under part IV of chapter 400.

(26) "Hospital" means a facility as defined in s. 395.002 and licensed under chapter 395.

(27) "Immediate container" does not include package liners.

(28) "Label" means a display of written, printed, or graphic matter upon the immediate container of any drug, device, or cosmetic. A requirement made by or under authority of this part or rules adopted under this part that any word, statement, or other information appear on the label is not complied with unless such word, statement, or other information also appears on the outside container or wrapper, if any, of the retail package of such drug, device, or cosmetic or is easily legible through the outside container or wrapper.

(29) "Labeling" means all labels and other written, printed, or graphic matters:

(a) Upon a drug, device, or cosmetic, or any of its containers or wrappers; or

(b) Accompanying or related to such drug, device, or cosmetic.

(30) "Manufacture" means the preparation, deriving, compounding, propagation, processing, producing, or fabrication of any drug, device, or cosmetic.

(31) "Manufacturer" means:

(a) A person who prepares, derives, manufactures, or produces a drug, device, or cosmetic;

(b) The holder or holders of a New Drug Application (NDA), an Abbreviated New Drug Application (ANDA), a Biologics License Application (BLA), or a New Animal Drug Application (NADA), provided such application has become effective or is otherwise approved consistent with s. 499.023;

(c) A private label distributor for whom the private label distributor's prescription drugs are originally manufactured and labeled for the distributor and have not been repackaged;

(d) A person registered under the federal act as a manufacturer of a prescription drug, who is described in paragraph (a), paragraph (b), or paragraph (c), who has entered into a written agreement with another prescription drug manufacturer that authorizes either manufacturer to distribute the prescription drug identified in the agreement as the manufacturer of that drug consistent with the federal act and its implementing regulations;

(e) A member of an affiliated group that includes, but is not limited to, persons described in paragraph (a), paragraph (b), paragraph (c), or paragraph (d), which member distributes prescription drugs, whether or not obtaining title to the drugs, only for the manufacturer of the drugs who is also a member of the affiliated group. As used in this paragraph, the term "affiliated group" means an affiliated group as defined in s. 1504 of the Internal Revenue Code of 1986, as amended. The

manufacturer must disclose the names of all of its affiliated group members to the department; or

(f) A person permitted as a third party logistics provider, only while providing warehousing, distribution, or other logistics services on behalf of a person described in paragraph (a), paragraph (b), paragraph (c), paragraph (d), or paragraph (e).

The term does not include a pharmacy that is operating in compliance with pharmacy practice standards as defined in chapter 465 and rules adopted under that chapter.

(32) "Medical convenience kit" means packages or units that contain combination products as defined in 21 C.F.R. s. 3.2(e)(2).

(33) "New drug" means:

(a) Any drug the composition of which is such that the drug is not generally recognized, among experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs, as safe and effective for use under the conditions prescribed, recommended, or suggested in the labeling of that drug; or

(b) Any drug the composition of which is such that the drug, as a result of investigations to determine its safety and effectiveness for use under certain conditions, has been recognized for use under such conditions, but which drug has not, other than in those investigations, been used to a material extent or for a material time under such conditions.

(34) "Normal distribution chain" means a wholesale distribution of a prescription drug in which the wholesale distributor or its wholly owned subsidiary purchases and receives the specific unit of the prescription drug directly from the manufacturer and distributes the prescription drug directly, or through up to two intracompany transfers, to a chain pharmacy warehouse or a person authorized by law to purchase prescription drugs for the purpose of administering or dispensing the drug, as defined in s. 465.003. For purposes of this subsection, the term "intracompany" means any transaction or transfer between any parent, division, or subsidiary wholly owned by a corporate entity.

(35) "Nursing home" means a facility licensed under part II of chapter 400.

(36) "Official compendium" means the current edition of the official United States Pharmacopoeia and National Formulary, or any supplement thereto.

(37) "Pedigree paper" means a document in written or electronic form approved by the department which contains information required by s. 499.01212 regarding the sale and distribution of any given prescription drug.

(38) "Permittee" means any person holding a permit issued pursuant to s. 499.012.

(39) "Person" means any individual, child, joint venture, syndicate, fiduciary, partnership, corporation, division of a corporation, firm, trust, business trust, company, estate, public or private institution, association, organization, group, city, county, city and county, political subdivision of this state, other governmental agency within this state, and any representative, agent, or agency of any of the foregoing, or any other group or combination of the foregoing.

(40) "Pharmacist" means a person licensed under chapter 465.

(41) "Pharmacy" means an entity licensed under chapter 465.

(42) "Prepackaged drug product" means a drug that originally was in finished packaged form sealed by a manufacturer and that is placed in a properly labeled container by a pharmacy or practitioner authorized to dispense pursuant to chapter 465 for the purpose of dispensing in the establishment in which the prepackaging occurred.

(43) "Prescription drug" means a prescription, medicinal, or legend drug, including, but not limited to, finished dosage forms or active pharmaceutical ingredients subject to, defined by, or described by s. 503(b) of the Federal Food, Drug, and Cosmetic Act

or s. 465.003(8), s. 499.007(13), or subsection (11), subsection (46), or subsection (53), except that an active pharmaceutical ingredient is a prescription drug only if substantially all finished dosage forms in which it may be lawfully dispensed or administered in this state are also prescription drugs.

(44) "Prescription drug label" means any display of written, printed, or graphic matter upon the immediate container of any prescription drug prior to its dispensing to an individual patient pursuant to a prescription of a practitioner authorized by law to prescribe.

(45) "Prescription label" means any display of written, printed, or graphic matter upon the immediate container of any prescription drug dispensed pursuant to a prescription of a practitioner authorized by law to prescribe.

(46) "Prescription medical oxygen" means oxygen USP which is a drug that can only be sold on the order or prescription of a practitioner authorized by law to prescribe. The label of prescription medical oxygen must comply with current labeling requirements for oxygen under the Federal Food, Drug, and Cosmetic Act.

(47) "Primary wholesale distributor" means any wholesale distributor that:

(a) Purchased 90 percent or more of the total dollar volume of its purchases of prescription drugs directly from manufacturers in the previous year; and

(b) 1. Directly purchased prescription drugs from not fewer than 50 different prescription drug manufacturers in the previous year; or

2. Has, or the affiliated group, as defined in s. 1504 of the Internal Revenue Code, of which the wholesale distributor is a member has, not fewer than 250 employees.

(c) For purposes of this subsection, "directly from manufacturers" means:

1. Purchases made by the wholesale distributor directly from the manufacturer of prescription drugs; and

2. Transfers from a member of an affiliated group, as defined in s. 1504 of the Internal Revenue Code, of which the wholesale distributor is a member, if:

a. The affiliated group purchases 90 percent or more of the total dollar volume of its purchases of prescription drugs from the manufacturer in the previous year; and

b. The wholesale distributor discloses to the department the names of all members of the affiliated group of which the wholesale distributor is a member and the affiliated group agrees in writing to provide records on prescription drug purchases by the members of the affiliated group not later than 48 hours after the department requests access to such records, regardless of the location where the records are stored.

(48) "Proprietary drug," or "OTC drug," means a patent or over-the-counter drug in its unbroken, original package, which drug is sold to the public by, or under the authority of, the manufacturer or primary distributor thereof, is not misbranded under the provisions of this part, and can be purchased without a prescription.

(49) "Repackage" includes repacking or otherwise changing the container, wrapper, or labeling to further the distribution of the drug, device, or cosmetic.

(50) "Repackager" means a person who repackages. The term excludes pharmacies that are operating in compliance with pharmacy practice standards as defined in chapter 465 and rules adopted under that chapter.

(51) "Retail pharmacy" means a community pharmacy licensed under chapter 465 that purchases prescription drugs at fair market prices and provides prescription services to the public.

(52) "Secondary wholesale distributor" means a wholesale distributor that is not a primary wholesale distributor.

(53) "Veterinary prescription drug" means a prescription drug intended solely for veterinary use. The label of the drug must bear the statement, "Caution: Federal law restricts this drug to sale by or on the order of a licensed veterinarian."

(54) "Wholesale distribution" means distribution of prescription drugs to persons other than a consumer or patient, but does not include:

(a) Any of the following activities, which is not a violation of s. 499.005(21) if such activity is conducted in accordance with s. 499.01(2)(g):

1. The purchase or other acquisition by a hospital or other health care entity that is a member of a group purchasing organization of a prescription drug for its own use from the group purchasing organization or from other hospitals or health care entities that are members of that organization.

2. The sale, purchase, or trade of a prescription drug or an offer to sell, purchase, or trade a prescription drug by a charitable organization described in s. 501(c)(3) of the Internal Revenue Code of 1986, as amended and revised, to a nonprofit affiliate of the organization to the extent otherwise permitted by law.

3. The sale, purchase, or trade of a prescription drug or an offer to sell, purchase, or trade a prescription drug among hospitals or other health care entities that are under common control. For purposes of this subparagraph, "common control" means the power to direct or cause the direction of the management and policies of a person or an organization, whether by ownership of stock, by voting rights, by contract, or otherwise.

4. The sale, purchase, trade, or other transfer of a prescription drug from or for any federal, state, or local government agency or any entity eligible to purchase prescription drugs at public health services prices pursuant to Pub. L. No. 102-585, s. 602 to a contract provider or its subcontractor for eligible patients of the agency or entity under the following conditions:

a. The agency or entity must obtain written authorization for the sale, purchase, trade, or other transfer of a prescription drug under this subparagraph from the Secretary of Business and Professional Regulation or his or her designee.

b. The contract provider or subcontractor must be authorized by law to administer or dispense prescription drugs.

c. In the case of a subcontractor, the agency or entity must be a party to and execute the subcontract.

d. The contract provider and subcontractor must maintain and produce immediately for inspection all records of movement or transfer of all the prescription drugs belonging to the agency or entity, including, but not limited to, the records of receipt and disposition of prescription drugs. Each contractor and subcontractor dispensing or administering these drugs must maintain and produce records documenting the dispensing or administration. Records that are required to be maintained include, but are not limited to, a perpetual inventory itemizing drugs received and drugs dispensed by prescription number or administered by patient identifier, which must be submitted to the agency or entity quarterly.

e. The contract provider or subcontractor may administer or dispense the prescription drugs only to the eligible patients of the agency or entity or must return the prescription drugs for or to the agency or entity. The contract provider or subcontractor must require proof from each person seeking to fill a prescription or obtain treatment that the person is an eligible patient of the agency or entity and must, at a minimum, maintain a copy of this proof as part of the records of the contractor or subcontractor required under sub-subparagraph d.

f. In addition to the departmental inspection authority set forth in s. 499.051, the establishment of the contract provider and subcontractor and all records pertaining to prescription drugs subject to this subparagraph shall be subject to inspection by the agency or entity. All records relating to prescription drugs of a manufacturer under this subparagraph shall be subject to audit by the manufacturer of those drugs, without identifying individual patient information.

(b) Any of the following activities, which is not a violation of s. 499.005(21) if such activity is conducted in accordance with rules established by the department:

1. The sale, purchase, or trade of a prescription drug among federal, state, or local government health care entities that are under common control and are authorized to purchase such prescription drug.

2. The sale, purchase, or trade of a prescription drug or an offer to sell, purchase, or trade a prescription drug for emergency medical reasons. For purposes of this subparagraph, the term "emergency medical reasons" includes transfers of prescription drugs by a retail pharmacy to another retail pharmacy to alleviate a temporary shortage.

3. The transfer of a prescription drug acquired by a medical director on behalf of a licensed emergency medical services provider to that emergency medical services provider and its transport vehicles for use in accordance with the provider's license under chapter 401.

4. The revocation of a sale or the return of a prescription drug to the person's prescription drug wholesale supplier.

5. The donation of a prescription drug by a health care entity to a charitable organization that has been granted an exemption under s. 501(c)(3) of the Internal Revenue Code of 1986, as amended, and that is authorized to possess prescription drugs.

6. The transfer of a prescription drug by a person authorized to purchase or receive prescription drugs to a person licensed or permitted to handle reverse distributions or destruction under the laws of the jurisdiction in which the person handling the reverse distribution or destruction receives the drug.

7. The transfer of a prescription drug by a hospital or other health care entity to a person licensed under this part to repackaging prescription drugs for the purpose of repackaging the prescription drug for use by that hospital, or other health care entity and other health care entities that are under common control, if ownership of the prescription drugs remains with the hospital or other health care entity at all times. In addition to the recordkeeping requirements of s. 499.0121(6), the hospital or health care entity that transfers prescription drugs pursuant to this subparagraph must reconcile all drugs transferred and returned and resolve any discrepancies in a timely manner.

(c) The distribution of prescription drug samples by manufacturers' representatives or distributors' representatives conducted in accordance with s. 499.028.

(d) The sale, purchase, or trade of blood and blood components intended for transfusion. As used in this paragraph, the term "blood" means whole blood collected from a single donor and processed for transfusion or further manufacturing, and the term "blood components" means that part of the blood separated by physical or mechanical means.

(e) The lawful dispensing of a prescription drug in accordance with chapter 465.

(f) The sale, purchase, or trade of a prescription drug between pharmacies as a result of a sale, transfer, merger, or consolidation of all or part of the business of the pharmacies from or with another pharmacy, whether accomplished as a purchase and sale of stock or of business assets.

(55) "Wholesale distributor" means any person engaged in wholesale distribution of prescription drugs in or into this state, including, but not limited to, manufacturers; repackagers; own-label distributors; jobbers; private-label distributors; brokers; warehouses, including manufacturers' and distributors' warehouses, chain drug warehouses, and wholesale drug warehouses; independent wholesale drug traders; exporters; retail pharmacies; and the agents thereof that conduct wholesale distributions.

History.—s. 34, ch. 82-225; s. 105, ch. 83-218; s. 1, ch. 83-265; s. 1, ch. 84-115; s. 1, ch. 87-57; s. 3, ch. 88-159; ss. 3, 15, 52, ch. 92-69; s. 584, ch. 97-103; s. 31, ch. 98-151; s. 235, ch. 99-8; ss. 124, 172, ch. 99-397; s. 34, ch. 2000-242; s. 10, ch. 2000-326; s. 38, ch. 2002-400; ss. 3, 13, 14, 25, ch. 2003-155; s. 1, ch. 2004-328; ss. 1, 2, ch. 2005-248; ss. 1, 3, ch. 2006-310; s. 122, ch. 2007-5; s. 20, ch. 2007-6; s. 104, ch. 2008-6; s. 2, ch. 2008-207; s. 60, ch. 2009-21; s. 1, ch. 2009-221; s. 22, ch. 2010-161; s. 2, ch. 2012-37; s. 33, ch. 2012-61; s. 3, ch. 2012-143; s. 122, ch. 2012-184.

Note.—Subsection (24) former s. 499.029(3)(f); subsection (25) former s. 499.029(3)(h); subsection (26) former s. 499.029(3)(i); subsection (34) former s. 499.029(3)(j); subsection (37) former s. 499.0661(1); subsection (39) former s. 499.029(3)(l); subsection (40) former s. 499.029(3)(m); subsection (46) intro., paragraphs (a), (b) former s. 499.012(1)(d); paragraph (46)(c) former s. 499.012(1)(e); subsection (50) former s. 499.012(1)(c); subsection (51) former s. 499.012(1)(f); subsection (53) former s. 499.012(1)(a); subsection (54) former s. 499.012(1)(b).

499.005 Prohibited acts.—It is unlawful for a person to perform or cause the performance of any of the following acts in this state:

(1) The manufacture, repackaging, sale, delivery, or holding or offering for sale of any drug, device, or cosmetic that is adulterated or misbranded or has otherwise been rendered unfit for human or animal use.

(2) The adulteration or misbranding of any drug, device, or cosmetic.

(3) The receipt of any drug, device, or cosmetic that is adulterated or misbranded, and the delivery or proffered delivery of such drug, device, or cosmetic, for pay or otherwise.

(4) The sale, distribution, purchase, trade, holding, or offering of any drug, device, or cosmetic in violation of this part.

(5) The dissemination of any false or misleading advertisement of a drug, device, or cosmetic.

(6) The refusal or constructive refusal:

(a) To allow the department to enter or inspect an establishment in which drugs, devices, or cosmetics are manufactured, processed, repackaged, sold, brokered, or held;

(b) To allow inspection of any record of that establishment;

(c) To allow the department to enter and inspect any vehicle that is being used to transport drugs, devices, or cosmetics; or

(d) To allow the department to take samples of any drug, device, or cosmetic.

(7) The purchase or sale of prescription drugs for wholesale distribution in exchange for currency, as defined in s. 560.103.

(8) Committing any act that causes a drug, device, or cosmetic to be a counterfeit drug, device, or cosmetic; or selling, dispensing, or holding for sale a counterfeit drug, device, or cosmetic.

(9) The alteration, mutilation, destruction, obliteration, or removal of the whole or any part of the labeling of a drug, device, or cosmetic, or the doing of any other act with respect to a drug, device, or cosmetic, if the act is done while the drug, device, or cosmetic is held for sale and the act results in the drug, device, or cosmetic being misbranded.

(10) Forging; counterfeiting; simulating; falsely representing any drug, device, or cosmetic; or, without the authority of the manufacturer, using any mark, stamp, tag, label, or other identification device authorized or required by rules adopted under this part.

(11)The use, on the labeling of any drug or in any advertisement relating to such drug, of any representation or suggestion that an application of the drug is effective when it is not or that the drug complies with this part when it does not.

(12)The possession of any drug in violation of this part.

(13)The sale, delivery, holding, or offering for sale of any self-testing kits designed to tell persons their status concerning human immunodeficiency virus or acquired immune deficiency syndrome or related disorders or conditions. This prohibition shall not apply to home access HIV test kits approved for distribution and sale by the United States Food and Drug Administration.

(14)The purchase or receipt of a prescription drug from a person that is not authorized under this chapter to distribute prescription drugs to that purchaser or recipient.

(15)The sale or transfer of a prescription drug to a person that is not authorized under the law of the jurisdiction in which the person receives the drug to purchase or possess prescription drugs from the person selling or transferring the prescription drug.

(16)The purchase or receipt of a compressed medical gas from a person that is not authorized under this chapter to distribute compressed medical gases.

(17)The sale, purchase, or trade, or the offer to sell, purchase, or trade, a drug sample as defined in s. 499.028; the distribution of a drug sample in violation of s. 499.028; or the failure to otherwise comply with s. 499.028.

(18)Failure to maintain records as required by this part and rules adopted under this part.

(19)Providing the department with false or fraudulent records, or making false or fraudulent statements, regarding any matter within the provisions of this part.

(20)The importation of a prescription drug except as provided by s. 801(d) of the Federal Food, Drug, and Cosmetic Act.

(21)The wholesale distribution of any prescription drug that was:

- (a)Purchased by a public or private hospital or other health care entity; or
- (b)Donated or supplied at a reduced price to a charitable organization,

unless the wholesale distribution of the prescription drug is authorized in s. 499.01(2)(g)1.c.

(22)Failure to obtain a permit or registration, or operating without a valid permit when a permit or registration is required by this part for that activity.

(23)Obtaining or attempting to obtain a prescription drug or device by fraud, deceit, misrepresentation or subterfuge, or engaging in misrepresentation or fraud in the distribution of a drug or device.

(24)The distribution of a prescription device to the patient or ultimate consumer without a prescription or order from a practitioner licensed by law to use or prescribe the device.

(25)Charging a dispensing fee for dispensing, administering, or distributing a prescription drug sample.

(26)Removing a pharmacy's dispensing label from a dispensed prescription drug with the intent to further distribute the prescription drug.

(27)Distributing a prescription drug that was previously dispensed by a licensed pharmacy, unless such distribution was authorized in chapter 465 or the rules adopted under chapter 465.

(28)Failure to acquire or deliver a pedigree paper as required under this part.

(29)The receipt of a prescription drug pursuant to a wholesale distribution without having previously received or simultaneously receiving a pedigree paper that was attested to as accurate and complete by the wholesale distributor as required under this part.

History.—s. 34, ch. 82-225; s. 106, ch. 83-218; s. 1, ch. 83-265; s. 24, ch. 88-380; ss. 5, 52, ch. 92-69; s. 3, ch. 95-308; s. 585, ch. 97-103; s. 29, ch. 98-151; s. 37, ch. 99-397; s. 35, ch. 2000-242; s. 17, ch. 2001-63; s. 32, ch. 2001-89; s. 4, ch. 2003-155; s. 4, ch. 2006-310; s. 21, ch. 2007-6; s. 48, ch. 2008-177; s. 3, ch. 2008-207; s. 3, ch. 2012-37.

499.0051Criminal acts.—

(1)FAILURE TO MAINTAIN OR DELIVER PEDIGREE PAPERS.—

(a)A person, other than a manufacturer, engaged in the wholesale distribution of prescription drugs who fails to deliver to another person complete and accurate pedigree papers concerning a prescription drug or contraband prescription drug prior to, or simultaneous with, the transfer of the prescription drug or contraband prescription drug to another person commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b)A person engaged in the wholesale distribution of prescription drugs who fails to acquire complete and accurate pedigree papers concerning a prescription drug or contraband prescription drug prior to, or simultaneous with, the receipt of the prescription drug or contraband prescription drug from another person commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c)Any person who knowingly destroys, alters, conceals, or fails to maintain complete and accurate pedigree papers concerning any prescription drug or contraband prescription drug in his or her possession commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2)FAILURE TO AUTHENTICATE PEDIGREE PAPERS.—Effective July 1, 2006:

(a)A person engaged in the wholesale distribution of prescription drugs who is in possession of pedigree papers concerning prescription drugs or contraband prescription drugs and who fails to authenticate the matters contained in the pedigree papers and who nevertheless attempts to further distribute prescription drugs or contraband prescription drugs commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b)A person in possession of pedigree papers concerning prescription drugs or contraband prescription drugs who falsely swears or certifies that he or she has authenticated the matters contained in the pedigree papers commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3)KNOWING FORGERY OF PEDIGREE PAPERS.—A person who knowingly forges, counterfeits, or falsely creates any pedigree paper; who falsely represents any factual matter contained on any pedigree paper; or who knowingly omits to record material information required to be recorded in a pedigree paper, commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(4)KNOWING PURCHASE OR RECEIPT OF PRESCRIPTION DRUG FROM UNAUTHORIZED PERSON.—A person who knowingly purchases or receives from a person not authorized to distribute prescription drugs under this chapter a prescription drug in a wholesale distribution transaction commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(5)KNOWING SALE OR TRANSFER OF PRESCRIPTION DRUG TO UNAUTHORIZED PERSON.—A person who knowingly sells or transfers to a person not authorized to purchase or possess prescription drugs, under the law of the jurisdiction in which the person receives the drug, a prescription drug in a wholesale distribution transaction commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(6)KNOWING SALE OR DELIVERY, OR POSSESSION WITH INTENT TO SELL, CONTRABAND PRESCRIPTION DRUGS.—A person who is knowingly in actual or

constructive possession of any amount of contraband prescription drugs, who knowingly sells or delivers, or who possesses with intent to sell or deliver any amount of contraband prescription drugs, commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(7)KNOWING TRAFFICKING IN CONTRABAND PRESCRIPTION DRUGS.—A person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of any amount of contraband prescription drugs valued at \$25,000 or more commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(a)Upon conviction, each defendant shall be ordered to pay a mandatory fine according to the following schedule:

1.If the value of contraband prescription drugs involved is \$25,000 or more, but less than \$100,000, the defendant shall pay a mandatory fine of \$25,000. If the defendant is a corporation or other person that is not a natural person, it shall pay a mandatory fine of \$75,000.

2.If the value of contraband prescription drugs involved is \$100,000 or more, but less than \$250,000, the defendant shall pay a mandatory fine of \$100,000. If the defendant is a corporation or other person that is not a natural person, it shall pay a mandatory fine of \$300,000.

3.If the value of contraband prescription drugs involved is \$250,000 or more, the defendant shall pay a mandatory fine of \$200,000. If the defendant is a corporation or other person that is not a natural person, it shall pay a mandatory fine of \$600,000.

(b)As used in this subsection, the term “value” means the market value of the property at the time and place of the offense or, if such cannot be satisfactorily ascertained, the cost of replacement of the property within a reasonable time after the offense. Amounts of value of separate contraband prescription drugs involved in distinct transactions for the distribution of the contraband prescription drugs committed pursuant to one scheme or course of conduct, whether involving the same person or several persons, may be aggregated in determining the punishment of the offense.

(8)KNOWING FORGERY OF PRESCRIPTION OR PRESCRIPTION DRUG LABELS.—A person who knowingly forges, counterfeits, or falsely creates any prescription label or prescription drug label, or who falsely represents any factual matter contained on any prescription label or prescription drug label, commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(9)KNOWING SALE OR PURCHASE OF CONTRABAND PRESCRIPTION DRUGS RESULTING IN GREAT BODILY HARM.—A person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of any amount of contraband prescription drugs, and whose acts in violation of this subsection result in great bodily harm to a person, commits a felony of the first degree, as provided in s. 775.082, s. 775.083, or s. 775.084.

(10)KNOWING SALE OR PURCHASE OF CONTRABAND PRESCRIPTION DRUGS RESULTING IN DEATH.—A person who knowingly manufactures, sells, purchases, delivers, or brings into this state, or who is knowingly in actual or constructive possession of any amount of contraband prescription drugs, and whose acts in violation of this subsection result in the death of a person, commits a felony of the first degree, punishable by a term of years not exceeding life, as provided in s. 775.082, s. 775.083, or s. 775.084.

(11)VIOLATIONS OF S. 499.005 RELATED TO DEVICES AND COSMETICS; DISSEMINATION OF FALSE ADVERTISEMENT.—

(a)Any person who violates any of the provisions of s. 499.005 with respect to a device or cosmetic commits a misdemeanor of the second degree, punishable as

provided in s. 775.082 or s. 775.083; but, if the violation is committed after a conviction of such person under this subsection has become final, such person is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083 or as otherwise provided in this part, except that any person who violates s. 499.005(8) or (10) with respect to a device or cosmetic commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, or as otherwise provided in this part.

(b) A publisher, radio broadcast licensee, or agency or medium for the dissemination of an advertisement, except the manufacturer, wholesaler, or seller of the article to which a false advertisement relates, is not liable under this subsection by reason of the dissemination by him or her of such false advertisement, unless he or she has refused, on the request of the department, to furnish to the department the name and post office address of the manufacturer, wholesaler, seller, or advertising agency that asked him or her to disseminate such advertisement.

(12) ADULTERATED AND MISBRANDED DRUGS; FALSE ADVERTISEMENT; FAILURE TO MAINTAIN RECORDS RELATING TO DRUGS.—Any person who violates any of the following provisions commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083; but, if the violation is committed after a conviction of such person under this subsection has become final, such person commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, or as otherwise provided in this part:

(a) The manufacture, repackaging, sale, delivery, or holding or offering for sale of any drug that is adulterated or misbranded or has otherwise been rendered unfit for human or animal use.

(b) The adulteration or misbranding of any drug intended for further distribution.

(c) The receipt of any drug that is adulterated or misbranded, and the delivery or proffered delivery of such drug, for pay or otherwise.

(d) The dissemination of any false or misleading advertisement of a drug.

(e) The use, on the labeling of any drug or in any advertisement relating to such drug, of any representation or suggestion that an application of the drug is effective when it is not or that the drug complies with this part when it does not.

(f) The purchase or receipt of a compressed medical gas from a person that is not authorized under this chapter to distribute compressed medical gases.

(g) Charging a dispensing fee for dispensing, administering, or distributing a prescription drug sample.

(h) The failure to maintain records related to a drug as required by this part and rules adopted under this part, except for pedigree papers, invoices, or shipping documents related to prescription drugs.

(i) The possession of any drug in violation of this part, except if the violation relates to a deficiency in pedigree papers.

(13) REFUSAL TO ALLOW INSPECTION; SELLING, PURCHASING, OR TRADING DRUG SAMPLES; FAILURE TO MAINTAIN RECORDS RELATING TO PRESCRIPTION DRUGS.—Any person who violates any of the following provisions commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, or as otherwise provided in this part:

(a) The refusal or constructive refusal to allow:

1. The department to enter or inspect an establishment in which drugs are manufactured, processed, repackaged, sold, brokered, or held;

2. Inspection of any record of that establishment;

3. The department to enter and inspect any vehicle that is being used to transport drugs; or

4. The department to take samples of any drug.

(b)The sale, purchase, or trade, or the offer to sell, purchase, or trade, a drug sample as defined in s. 499.028; the distribution of a drug sample in violation of s. 499.028; or the failure to otherwise comply with s. 499.028.

(c)Providing the department with false or fraudulent records, or making false or fraudulent statements, regarding any matter within the provisions of this part related to a drug.

(d)The failure to receive, maintain, or provide invoices and shipping documents, other than pedigree papers, if applicable, related to the distribution of a prescription drug.

(e)The importation of a prescription drug for wholesale distribution, except as provided by s. 801(d) of the Federal Food, Drug, and Cosmetic Act.

(f)The wholesale distribution of a prescription drug that was:

- 1.Purchased by a public or private hospital or other health care entity; or
- 2.Donated or supplied at a reduced price to a charitable organization.

(g)The failure to obtain a permit as a prescription drug wholesale distributor when a permit is required by this part for that activity.

(h)Knowingly possessing any adulterated or misbranded prescription drug outside of a designated quarantine area.

(i)The purchase or sale of a prescription drug for wholesale distribution in exchange for currency, as defined in s. 560.103.

(14)OTHER VIOLATIONS.—Any person who violates any of the following provisions commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, or as otherwise provided in this part:

(a)Knowingly manufacturing, repackaging, selling, delivering, or holding or offering for sale any drug that is adulterated or misbranded or has otherwise been rendered unfit for human or animal use.

(b)Knowingly adulterating a drug that is intended for further distribution.

(c)Knowingly receiving a drug that is adulterated and delivering or proffering delivery of such drug for pay or otherwise.

(d)Committing any act that causes a drug to be a counterfeit drug, or selling, dispensing, or knowingly holding for sale a counterfeit drug.

(e)Forging, counterfeiting, simulating, or falsely representing any drug, or, without the authority of the manufacturer, using any mark, stamp, tag, label, or other identification device authorized or required by rules adopted under this part.

(f)Knowingly obtaining or attempting to obtain a prescription drug for wholesale distribution by fraud, deceit, misrepresentation, or subterfuge, or engaging in misrepresentation or fraud in the distribution of a drug.

(g)Removing a pharmacy's dispensing label from a dispensed prescription drug with the intent to further distribute the prescription drug.

(h)Knowingly distributing a prescription drug that was previously dispensed by a licensed pharmacy, unless such distribution was authorized in chapter 465 or the rules adopted under chapter 465.

(15)FALSE ADVERTISEMENT.—A publisher, radio broadcast licensee, or agency or medium for the dissemination of an advertisement, except the manufacturer, repackager, wholesale distributor, or seller of the article to which a false advertisement relates, is not liable under subsection (12), subsection (13), or subsection (14) by reason of the dissemination by him or her of such false advertisement, unless he or she has refused, on the request of the department, to furnish to the department the name and post office address of the manufacturer, repackager, wholesale distributor, seller, or advertising agency that asked him or her to disseminate such advertisement.

(16)FALSE REPORT.—Any person who submits a report required by s. 499.0121(14) knowing that such report contains a false statement commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(17)CONTROLLED SUBSTANCE DISTRIBUTION.—Any person who engages in the wholesale distribution of prescription drugs and who knowingly distributes controlled substances in violation of s. 499.0121(14) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. In addition to any other fine that may be imposed, a person convicted of such a violation may be sentenced to pay a fine that does not exceed three times the gross monetary value gained from such violation, plus court costs and the reasonable costs of investigation and prosecution.

History.—s. 34, ch. 82-225; s. 118, ch. 83-218; s. 1, ch. 83-265; ss. 47, 52, ch. 92-69; s. 595, ch. 97-103; s. 40, ch. 99-397; ss. 5, 6, 7, 8, 27, 28, ch. 2003-155; s. 16, ch. 2007-6; s. 49, ch. 2008-177; s. 4, ch. 2008-207; s. 16, ch. 2011-141.

Note.—Subsection (7) former s. 499.0052; subsection (9) former s. 499.00535; subsection (10) former s. 499.00545; subsection (11) former s. 499.069; subsections (12)-(15) former s. 499.0691.

499.0054Advertising and labeling of drugs, devices, and cosmetics; exemptions.—

(1)It is a violation of the Florida Drug and Cosmetic Act to perform or cause the performance of any of the following acts:

(a)The dissemination of any false advertisement of any drug, device, or cosmetic. An advertisement is false if it is false or misleading in any way.

(b)The distribution in commerce of any drug, device, or cosmetic, if its labeling or advertising is in violation of this part.

(c)The manufacturing, repackaging, packaging, selling, delivery, holding, or offering for sale of any drug, device, or cosmetic for which the advertising or labeling is false or misleading.

(d)The advertising of any drug, device, or cosmetic that is adulterated or misbranded.

(e)The receiving in commerce of any drug, device, or cosmetic that is falsely advertised or labeled or the delivering or proffering for delivery of any such drug, device, or cosmetic.

(f)The advertising or labeling of any product containing ephedrine, a salt of ephedrine, an isomer of ephedrine, or a salt of an isomer of ephedrine, for the indication of stimulation, mental alertness, weight loss, appetite control, energy, or other indications not approved by the pertinent United States Food and Drug Administration Over-the-Counter Final or Tentative Final Monograph or approved new drug application under the federal act. In determining compliance with this requirement, the department may consider the following factors:

1.The packaging of the product.

2.The name and labeling of the product.

3.The manner of distribution, advertising, and promotion of the product, including verbal representations at the point of sale.

4.The duration, scope, and significance of abuse of the particular product.

(g)The advertising of any drug or device represented to have any effect in any of the following conditions, disorders, diseases, or processes:

1.Blood disorders.

2.Bone or joint diseases.

3.Kidney diseases or disorders.

4.Cancer.

5.Diabetes.

6.Gall bladder diseases or disorders.

7.Heart and vascular diseases.

8. High blood pressure.
9. Diseases or disorders of the ear or auditory apparatus, including hearing loss or deafness.
10. Mental disease or mental retardation.
11. Paralysis.
12. Prostate gland disorders.
13. Conditions of the scalp affecting hair loss.
14. Baldness.
15. Endocrine disorders.
16. Sexual impotence.
17. Tumors.
18. Venereal diseases.
19. Varicose ulcers.
20. Breast enlargement.
21. Purifying blood.
22. Metabolic disorders.
23. Immune system disorders or conditions affecting the immune system.
24. Extension of life expectancy.
25. Stress and tension.
26. Brain stimulation or performance.
27. The body's natural defense mechanisms.
28. Blood flow.
29. Depression.
30. Human immunodeficiency virus or acquired immune deficiency syndrome or related disorders or conditions.

(h) The representation or suggestion in labeling or advertising that an article is approved under this part, when such is not the case.

(2) In determining whether an advertisement is false or misleading, the department shall review the representations made or suggested by statement, word, design, device, sound, or any combination thereof within the advertisement and the extent to which the advertisement fails to reveal material facts with respect to consequences that can result from the use of the drug, device, or cosmetic to which the advertisement relates under the conditions of use prescribed in the labeling or advertisement.

(3)(a) An advertisement that is not prohibited under paragraph (1)(a) is not prohibited under paragraph (1)(g) if it is disseminated:

1. To the public solely to advertise the product for those indications that are safe and effective indications and the product is safe and effective for self-medication, as established by the United States Food and Drug Administration; or

2. Only to members of the medical, dental, pharmaceutical, or veterinary professions or appears only in the scientific periodicals of these professions.

(b) Compliance with this part and the rules adopted under this part creates no legal presumption that a drug or device is safe or effective.

History.—s. 34, ch. 82-225; s. 1, ch. 83-265; ss. 1, 2, 4, ch. 86-271; s. 5, ch. 88-172; s. 25, ch. 88-380; ss. 7, 8, 9, 52, ch. 92-69; ss. 2, 3, ch. 95-415; s. 36, ch. 2000-242; s. 5, ch. 2008-207.

Note.—Subsection (2) former s. 499.0055; subsection (3) former s. 499.0057.

499.006 Adulterated drug or device.—A drug or device is adulterated:

- (1) If it consists in whole or in part of any filthy, putrid, or decomposed substance;

- (2) If it has been produced, prepared, packed, or held under conditions whereby it could have been contaminated with filth or rendered injurious to health;

- (3) If it is a drug and the methods used in, or the facilities or controls used for, its manufacture, processing, packing, or holding do not conform to, or are not operated

or administered in conformity with, current good manufacturing practices to assure that the drug meets the requirements of this part and that the drug has the identity and strength, and meets the standard of quality and purity, which it purports or is represented to possess;

(4) If it is a drug and its container is composed, in whole or in part, of any poisonous or deleterious substance which could render the contents injurious to health;

(5) If it is a drug and it bears or contains, for the purpose of coloring only, a color additive that is unsafe within the meaning of the federal act; or, if it is a color additive, the intended use of which in or on drugs is for the purpose of coloring only, and it is unsafe within the meaning of the federal act;

(6) If it purports to be, or is represented as, a drug the name of which is recognized in the official compendium, and its strength differs from, or its quality or purity falls below, the standard set forth in such compendium. The determination as to strength, quality, or purity must be made in accordance with the tests or methods of assay set forth in such compendium, or, when such tests or methods of assay are absent or inadequate, in accordance with those tests or methods of assay prescribed under authority of the federal act. A drug defined in the official compendium is not adulterated under this subsection merely because it differs from the standard of strength, quality, or purity set forth for that drug in such compendium if its difference in strength, quality, or purity from such standard is plainly stated on its label;

(7) If it is not subject to subsection (6) and its strength differs from, or its purity or quality falls below the standard of, that which it purports or is represented to possess;

(8) If it is a drug:

(a) With which any substance has been mixed or packed so as to reduce the quality or strength of the drug; or

(b) For which any substance has been substituted wholly or in part;

(9) If it is a drug or device for which the expiration date has passed;

(10) If it is a prescription drug for which the required pedigree paper is nonexistent, fraudulent, or incomplete under the requirements of this part or applicable rules, or that has been purchased, held, sold, or distributed at any time by a person not authorized under federal or state law to do so; or

(11) If it is a prescription drug subject to, defined by, or described by s. 503(b) of the Federal Food, Drug, and Cosmetic Act which has been returned by a veterinarian to a limited prescription drug veterinary wholesale distributor.

History.—s. 34, ch. 82-225; s. 1, ch. 83-265; ss. 10, 52, ch. 92-69; s. 9, ch. 2003-155; s. 1, ch. 2006-92; s. 6, ch. 2008-207.

499.007 Misbranded drug or device.—A drug or device is misbranded:

(1) If its labeling is in any way false or misleading.

(2) If in package form, it does not bear a label containing:

(a) The name and place of business of the manufacturer, repackager, or distributor of the finished dosage form of the drug. For the purpose of this paragraph, the finished dosage form of a prescription drug is that form of the drug which is, or is intended to be, dispensed or administered to the patient and requires no further manufacturing or processing other than packaging, reconstitution, and labeling; and

(b) An accurate statement of the quantity of the contents in terms of weight, measure, or numerical count. However, under this section, reasonable variations are permitted, and the department shall establish by rule exemptions for small packages.

(3) If it is an active pharmaceutical ingredient in bulk form and does not bear a label containing:

(a)The name and place of business of the manufacturer, repackager, or distributor;
and

(b)An accurate statement of the quantity of the contents in terms of weight, measure, or numerical count.

(4)If any word, statement, or other information required by or under this part to appear on the label or labeling is not prominently placed thereon with such conspicuousness as compared with other words, statements, designs, or devices in the labeling, and in such terms, as to render the word, statement, or other information likely to be read and understood under customary conditions of purchase and use.

(5)If it is a drug and is not designated solely by a name recognized in an official compendium and its label does not bear:

(a)The common or usual name of the drug, if any; and

(b)In case it is fabricated from two or more ingredients, the common or usual name and quantity of each active ingredient.

(6)If its labeling does not bear:

(a)Adequate directions for use; and

(b)Adequate warnings against use in those pathological conditions in which its use may be dangerous to health or against use by children if its use may be dangerous to health, or against unsafe dosage or methods or duration of administration or application, in such manner and form as are necessary for the protection of users.

(7)If it purports to be a drug the name of which is recognized in the official compendium and it is not packaged and labeled as prescribed therein. However, the method of packaging may be modified with the consent of the department.

(8)If it has been found by the department to be a drug liable to deterioration and it is not packaged in such form and manner, and its label bears a statement of such precautions, as the department by rule requires as necessary to protect the public health. Such rule may not be established for any drug recognized in an official compendium until the department has informed the appropriate body charged with the revision of such compendium of the need for such packaging or labeling requirements and that body has failed within a reasonable time to prescribe such requirements.

(9)If it is:

(a)A drug and its container or finished dosage form is so made, formed, or filled as to be misleading;

(b)An imitation of another drug; or

(c)Offered for sale under the name of another drug.

(10)If it is dangerous to health when used in the dosage or with the frequency or duration prescribed, recommended, or suggested in the labeling of the drug.

(11)If it is, purports to be, or is represented as a drug composed wholly or partly of insulin and it is not from a batch with respect to which a certificate has been issued pursuant to s. 506 of the federal act, which certificate is in effect with respect to the drug.

(12)If it is, purports to be, or is represented as a drug composed wholly or partly of any kind of antibiotic requiring certification under the federal act and it is not from a batch with respect to which a certificate has been issued pursuant to s. 507 of the federal act, which certificate is in effect with respect to the drug. However, this subsection does not apply to any drug or class of drugs exempted by regulations adopted under s. 507(c) or (d) of the federal act.

(13)If it is a drug intended for use by humans which is a habit-forming drug or which, because of its toxicity or other potentiality for harmful effect, or the method of its use, or the collateral measures necessary to its use, is not safe for use except under the supervision of a practitioner licensed by law to administer such drugs, or

which is limited by an effective application under s. 505 of the federal act to use under the professional supervision of a practitioner licensed by law to prescribe such drug, if it is not dispensed only:

(a) Upon the written prescription of a practitioner licensed by law to prescribe such drug;

(b) Upon an oral prescription of such practitioner, which is reduced promptly to writing and filled by the pharmacist; or

(c) By refilling any such written or oral prescription, if such refilling is authorized by the prescriber in the original prescription or by oral order which is reduced promptly to writing and filled by the pharmacist.

This subsection does not relieve any person from any requirement prescribed by law with respect to controlled substances as defined in the applicable federal and state laws.

(14) If it is a drug that is subject to paragraph (13)(a), and if, at any time before it is dispensed, its label does not bear the statement:

(a) "Caution: Federal Law Prohibits Dispensing Without Prescription";

(b) "Rx Only";

(c) The prescription symbol followed by the word "Only"; or

(d) "Caution: State Law Prohibits Dispensing Without Prescription."

(15) If it is a drug that is not subject to paragraph (13)(a), if at any time before it is dispensed its label bears the statement of caution required in subsection (14).

(16) If it is a color additive, the intended use of which in or on drugs is for the purpose of coloring only and its packaging and labeling are not in conformity with the packaging and labeling requirements that apply to such color additive and are prescribed under the federal act.

(17) A drug dispensed by filling or refilling a written or oral prescription of a practitioner licensed by law to prescribe such drug is exempt from the requirements of this section, except subsections (1), (9), (11), and (12) and the packaging requirements of subsections (7) and (8), if the drug bears a label that contains the name and address of the dispenser or seller, the prescription number and the date the prescription was written or filled, the name of the prescriber and the name of the patient, and the directions for use and cautionary statements. This exemption does not apply to any drug dispensed in the course of the conduct of a business of dispensing drugs pursuant to diagnosis by mail or to any drug dispensed in violation of subsection (13). The department may, by rule, exempt drugs subject to s. 499.062 from subsection (13) if compliance with that subsection is not necessary to protect the public health, safety, and welfare.

History.—s. 34, ch. 82-225; s. 107, ch. 83-218; s. 1, ch. 83-265; s. 2, ch. 84-115; ss. 11, 52, ch. 92-69; s. 586, ch. 97-103; s. 38, ch. 99-397; s. 10, ch. 2003-155; s. 84, ch. 2004-5; s. 7, ch. 2008-207.

499.008 Adulterated cosmetics.—A cosmetic is adulterated:

(1) If it bears or contains any poisonous or deleterious substance that is injurious to users under the conditions of use prescribed in the labeling or advertisement thereof or under such conditions of use as are customary or usual; however, this subsection does not apply to coal-tar hair dye:

(a) The label of which bears the following legend conspicuously displayed thereon: "Caution: This product contains ingredients which may cause skin irritation on certain individuals, and a preliminary test according to accompanying directions should first be made. This product must not be used for dyeing the eyelashes or eyebrows; to do so may cause blindness"; and

(b) The labeling of which bears adequate directions for such preliminary testing.

(2) If it consists in whole or in part of any filthy, putrid, or decomposed substance.

(3) If it has been produced, prepared, packed, or held under conditions whereby it could have become contaminated with filth or whereby it could have been rendered injurious to health.

(4) If it is not a hair dye and it is, or it bears or contains, a color additive that is unsafe within the meaning of the federal act.

(5) For the purposes of subsections (1) and (4), the term "hair dye" does not include eyelash dyes or eyebrow dyes.

History.—s. 34, ch. 82-225; s. 1, ch. 83-265; ss. 12, 52, ch. 92-69; s. 8, ch. 2008-207.

499.009 Misbranded cosmetics.—A cosmetic is misbranded:

(1) If its labeling is false or misleading in any particular.

(2) If in package form, it does not bear a label containing:

(a) The name and place of business of the manufacturer, packer, or distributor;

(b) An accurate statement of the quantity of the contents in terms of weight, measure, or numerical count; however, under this paragraph reasonable variations are permitted, and the department shall establish by rule exemptions for small packages; and

(c) A declaration of ingredients in descending order of predominance, or as otherwise required by federal law.

(3) If any word, statement, or other information required by or under authority of this part to appear on the label or labeling is not prominently placed thereon with such conspicuousness as compared with other words, statements, designs, or devices in the labeling, and in such terms, as to render the word, statement, or other information likely to be read and understood by an individual under customary conditions of purchase and use.

(4) If its container is so made, formed, or filled as to be misleading.

(5) If it is a color additive, its packaging and labeling are not in conformity with the packaging and labeling requirements applicable to that color additive prescribed under the federal act. This subsection does not apply to packages of color additives that, with respect to their use for cosmetics, are marketed and intended for use only in or on hair dyes.

History.—s. 34, ch. 82-225; s. 1, ch. 83-265; ss. 13, 52, ch. 92-69; s. 9, ch. 2008-207.

499.01 Permits.—

(1) Prior to operating, a permit is required for each person and establishment that intends to operate as:

(a) A prescription drug manufacturer;

(b) A prescription drug repackager;

(c) A nonresident prescription drug manufacturer;

(d) A prescription drug wholesale distributor;

(e) An out-of-state prescription drug wholesale distributor;

(f) A retail pharmacy drug wholesale distributor;

(g) A restricted prescription drug distributor;

(h) A complimentary drug distributor;

(i) A freight forwarder;

(j) A veterinary prescription drug retail establishment;

(k) A veterinary prescription drug wholesale distributor;

(l) A limited prescription drug veterinary wholesale distributor;

(m) A medical oxygen retail establishment;

(n) A compressed medical gas wholesale distributor;

(o) A compressed medical gas manufacturer;

(p) An over-the-counter drug manufacturer;

(q) A device manufacturer;

- (r) A cosmetic manufacturer;
- (s) A third party logistics provider; or
- (t) A health care clinic establishment.

(2) The following permits are established:

(a) Prescription drug manufacturer permit.—A prescription drug manufacturer permit is required for any person that is a manufacturer of a prescription drug and that manufactures or distributes such prescription drugs in this state.

1. A person that operates an establishment permitted as a prescription drug manufacturer may engage in wholesale distribution of prescription drugs manufactured at that establishment and must comply with all of the provisions of this part, except s. 499.01212, and the rules adopted under this part, except s. 499.01212, which apply to a wholesale distributor.

2. A prescription drug manufacturer must comply with all appropriate state and federal good manufacturing practices.

3. A blood establishment, as defined in s. 381.06014, operating in a manner consistent with the provisions of 21 C.F.R. parts 211 and 600-640, and manufacturing only the prescription drugs described in s. 499.003(54)(d) is not required to be permitted as a prescription drug manufacturer under this paragraph or to register products under s. 499.015.

(b) Prescription drug repackager permit.—A prescription drug repackager permit is required for any person that repackages a prescription drug in this state.

1. A person that operates an establishment permitted as a prescription drug repackager may engage in wholesale distribution of prescription drugs repackaged at that establishment and must comply with all the provisions of this part and the rules adopted under this part that apply to a wholesale distributor.

2. A prescription drug repackager must comply with all appropriate state and federal good manufacturing practices.

(c) Nonresident prescription drug manufacturer permit.—A nonresident prescription drug manufacturer permit is required for any person that is a manufacturer of prescription drugs, unless permitted as a third party logistics provider, located outside of this state or outside the United States and that engages in the wholesale distribution in this state of such prescription drugs. Each such manufacturer must be permitted by the department and comply with all of the provisions required of a wholesale distributor under this part, except s. 499.01212.

1. A person that distributes prescription drugs for which the person is not the manufacturer must also obtain an out-of-state prescription drug wholesale distributor permit or third party logistics provider permit pursuant to this section to engage in the wholesale distribution of such prescription drugs. This subparagraph does not apply to a manufacturer as defined in s. 499.003(31)(e).

2. Any such person must comply with the licensing or permitting requirements of the jurisdiction in which the establishment is located and the federal act, and any product wholesaled into this state must comply with this part. If a person intends to import prescription drugs from a foreign country into this state, the nonresident prescription drug manufacturer must provide to the department a list identifying each prescription drug it intends to import and document approval by the United States Food and Drug Administration for such importation.

(d) Prescription drug wholesale distributor permit.—A prescription drug wholesale distributor is a wholesale distributor that may engage in the wholesale distribution of prescription drugs. A prescription drug wholesale distributor that applies to the department for a new permit or the renewal of a permit must submit a bond of \$100,000, or other equivalent means of security acceptable to the department, such as an irrevocable letter of credit or a deposit in a trust account or financial institution, payable to the Professional Regulation Trust Fund. The purpose of the

bond is to secure payment of any administrative penalties imposed by the department and any fees and costs incurred by the department regarding that permit which are authorized under state law and which the permittee fails to pay 30 days after the fine or costs become final. The department may make a claim against such bond or security until 1 year after the permittee's license ceases to be valid or until 60 days after any administrative or legal proceeding authorized in this part which involves the permittee is concluded, including any appeal, whichever occurs later. The department may adopt rules for issuing a prescription drug wholesale distributor-broker permit to a person who engages in the wholesale distribution of prescription drugs and does not take physical possession of any prescription drugs.

(e)Out-of-state prescription drug wholesale distributor permit.—An out-of-state prescription drug wholesale distributor is a wholesale distributor located outside this state which engages in the wholesale distribution of prescription drugs into this state and which must be permitted by the department and comply with all the provisions required of a wholesale distributor under this part. An out-of-state prescription drug wholesale distributor that applies to the department for a new permit or the renewal of a permit must submit a bond of \$100,000, or other equivalent means of security acceptable to the department, such as an irrevocable letter of credit or a deposit in a trust account or financial institution, payable to the Professional Regulation Trust Fund. The purpose of the bond is to secure payment of any administrative penalties imposed by the department and any fees and costs incurred by the department regarding that permit which are authorized under state law and which the permittee fails to pay 30 days after the fine or costs become final. The department may make a claim against such bond or security until 1 year after the permittee's license ceases to be valid or until 60 days after any administrative or legal proceeding authorized in this part which involves the permittee is concluded, including any appeal, whichever occurs later. The out-of-state prescription drug wholesale distributor must maintain at all times a license or permit to engage in the wholesale distribution of prescription drugs in compliance with laws of the state in which it is a resident.

(f)Retail pharmacy drug wholesale distributor permit.—A retail pharmacy drug wholesale distributor is a retail pharmacy engaged in wholesale distribution of prescription drugs within this state under the following conditions:

1.The pharmacy must obtain a retail pharmacy drug wholesale distributor permit pursuant to this part and the rules adopted under this part.

2.The wholesale distribution activity does not exceed 30 percent of the total annual purchases of prescription drugs. If the wholesale distribution activity exceeds the 30-percent maximum, the pharmacy must obtain a prescription drug wholesale distributor permit.

3.The transfer of prescription drugs that appear in any schedule contained in chapter 893 is subject to chapter 893 and the federal Comprehensive Drug Abuse Prevention and Control Act of 1970.

4.The transfer is between a retail pharmacy and another retail pharmacy, or a Modified Class II institutional pharmacy, or a health care practitioner licensed in this state and authorized by law to dispense or prescribe prescription drugs.

5.All records of sales of prescription drugs subject to this section must be maintained separate and distinct from other records and comply with the recordkeeping requirements of this part.

(g)Restricted prescription drug distributor permit.—

1.A restricted prescription drug distributor permit is required for:

a.Any person located in this state who engages in the distribution of a prescription drug, which distribution is not considered "wholesale distribution" under s. 499.003(54)(a).

b. Any person located in this state who engages in the receipt or distribution of a prescription drug in this state for the purpose of processing its return or its destruction if such person is not the person initiating the return, the prescription drug wholesale supplier of the person initiating the return, or the manufacturer of the drug.

c. A blood establishment located in this state which collects blood and blood components only from volunteer donors as defined in s. 381.06014 or pursuant to an authorized practitioner's order for medical treatment or therapy and engages in the wholesale distribution of a prescription drug not described in s. 499.003(54)(d) to a health care entity. A mobile blood unit operated by a blood establishment permitted under this sub-subparagraph is not required to be separately permitted. The health care entity receiving a prescription drug distributed under this sub-subparagraph must be licensed as a closed pharmacy or provide health care services at that establishment. The blood establishment must operate in accordance with s. 381.06014 and may distribute only:

- (I) Prescription drugs indicated for a bleeding or clotting disorder or anemia;
- (II) Blood-collection containers approved under s. 505 of the federal act;
- (III) Drugs that are blood derivatives, or a recombinant or synthetic form of a blood derivative;
- (IV) Prescription drugs that are identified in rules adopted by the department and that are essential to services performed or provided by blood establishments and authorized for distribution by blood establishments under federal law; or
- (V) To the extent authorized by federal law, drugs necessary to collect blood or blood components from volunteer blood donors; for blood establishment personnel to perform therapeutic procedures under the direction and supervision of a licensed physician; and to diagnose, treat, manage, and prevent any reaction of a volunteer blood donor or a patient undergoing a therapeutic procedure performed under the direction and supervision of a licensed physician,

as long as all of the health care services provided by the blood establishment are related to its activities as a registered blood establishment or the health care services consist of collecting, processing, storing, or administering human hematopoietic stem cells or progenitor cells or performing diagnostic testing of specimens if such specimens are tested together with specimens undergoing routine donor testing. The blood establishment may purchase and possess the drugs described in this sub-subparagraph without a health care clinic establishment permit.

2. Storage, handling, and recordkeeping of these distributions by a person required to be permitted as a restricted prescription drug distributor must be in accordance with the requirements for wholesale distributors under s. 499.0121, but not those set forth in s. 499.01212 if the distribution occurs pursuant to sub-subparagraph 1.a. or sub-subparagraph 1.b.

3. A person who applies for a permit as a restricted prescription drug distributor, or for the renewal of such a permit, must provide to the department the information required under s. 499.012.

4. The department may adopt rules regarding the distribution of prescription drugs by hospitals, health care entities, charitable organizations, other persons not involved in wholesale distribution, and blood establishments, which rules are necessary for the protection of the public health, safety, and welfare.

(h) Complimentary drug distributor permit.—A complimentary drug distributor permit is required for any person that engages in the distribution of a complimentary drug, subject to the requirements of s. 499.028.

(i) Freight forwarder permit.—A freight forwarder permit is required for any person that engages in the distribution of a prescription drug as a freight forwarder unless the person is a common carrier. The storage, handling, and recordkeeping of such distributions must comply with the requirements for wholesale distributors under s. 499.0121, but not those set forth in s. 499.01212. A freight forwarder must provide the source of the prescription drugs with a validated airway bill, bill of lading, or other appropriate documentation to evidence the exportation of the product.

(j) Veterinary prescription drug retail establishment permit.—A veterinary prescription drug retail establishment permit is required for any person that sells veterinary prescription drugs to the public but does not include a pharmacy licensed under chapter 465.

1. The sale to the public must be based on a valid written order from a veterinarian licensed in this state who has a valid client-veterinarian relationship with the purchaser's animal.

2. Veterinary prescription drugs may not be sold in excess of the amount clearly indicated on the order or beyond the date indicated on the order.

3. An order may not be valid for more than 1 year.

4. A veterinary prescription drug retail establishment may not purchase, sell, trade, or possess human prescription drugs or any controlled substance as defined in chapter 893.

5. A veterinary prescription drug retail establishment must sell a veterinary prescription drug in the original, sealed manufacturer's container with all labeling intact and legible. The department may adopt by rule additional labeling requirements for the sale of a veterinary prescription drug.

6. A veterinary prescription drug retail establishment must comply with all of the wholesale distribution requirements of s. 499.0121.

7. Prescription drugs sold by a veterinary prescription drug retail establishment pursuant to a practitioner's order may not be returned into the retail establishment's inventory.

(k) Veterinary prescription drug wholesale distributor permit.—A veterinary prescription drug wholesale distributor permit is required for any person that engages in the distribution of veterinary prescription drugs in or into this state. A veterinary prescription drug wholesale distributor that also distributes prescription drugs subject to, defined by, or described by s. 503(b) of the Federal Food, Drug, and Cosmetic Act which it did not manufacture must obtain a permit as a prescription drug wholesale distributor, an out-of-state prescription drug wholesale distributor, or a limited prescription drug veterinary wholesale distributor in lieu of the veterinary prescription drug wholesale distributor permit. A veterinary prescription drug wholesale distributor must comply with the requirements for wholesale distributors under s. 499.0121, but not those set forth in s. 499.01212.

(l) Limited prescription drug veterinary wholesale distributor permit.—Unless engaging in the activities of and permitted as a prescription drug manufacturer, nonresident prescription drug manufacturer, prescription drug wholesale distributor, or out-of-state prescription drug wholesale distributor, a limited prescription drug veterinary wholesale distributor permit is required for any person that engages in the distribution in or into this state of veterinary prescription drugs and prescription drugs subject to, defined by, or described by s. 503(b) of the Federal Food, Drug, and Cosmetic Act under the following conditions:

1. The person is engaged in the business of wholesaling prescription and veterinary prescription drugs to persons:

a. Licensed as veterinarians practicing on a full-time basis;

b. Regularly and lawfully engaged in instruction in veterinary medicine;

c. Regularly and lawfully engaged in law enforcement activities;

d. For use in research not involving clinical use; or
e. For use in chemical analysis or physical testing or for purposes of instruction in law enforcement activities, research, or testing.

2. No more than 30 percent of total annual prescription drug sales may be prescription drugs approved for human use which are subject to, defined by, or described by s. 503(b) of the Federal Food, Drug, and Cosmetic Act.

3. The person does not distribute in any jurisdiction prescription drugs subject to, defined by, or described by s. 503(b) of the Federal Food, Drug, and Cosmetic Act to any person who is authorized to sell, distribute, purchase, trade, or use these drugs on or for humans.

4. A limited prescription drug veterinary wholesale distributor that applies to the department for a new permit or the renewal of a permit must submit a bond of \$20,000, or other equivalent means of security acceptable to the department, such as an irrevocable letter of credit or a deposit in a trust account or financial institution, payable to the Professional Regulation Trust Fund. The purpose of the bond is to secure payment of any administrative penalties imposed by the department and any fees and costs incurred by the department regarding that permit which are authorized under state law and which the permittee fails to pay 30 days after the fine or costs become final. The department may make a claim against such bond or security until 1 year after the permittee's license ceases to be valid or until 60 days after any administrative or legal proceeding authorized in this part which involves the permittee is concluded, including any appeal, whichever occurs later.

5. A limited prescription drug veterinary wholesale distributor must maintain at all times a license or permit to engage in the wholesale distribution of prescription drugs in compliance with laws of the state in which it is a resident.

6. A limited prescription drug veterinary wholesale distributor must comply with the requirements for wholesale distributors under ss. 499.0121 and 499.01212, except that a limited prescription drug veterinary wholesale distributor is not required to provide a pedigree paper as required by s. 499.01212 upon the wholesale distribution of a prescription drug to a veterinarian.

7. A limited prescription drug veterinary wholesale distributor may not return to inventory for subsequent wholesale distribution any prescription drug subject to, defined by, or described by s. 503(b) of the Federal Food, Drug, and Cosmetic Act which has been returned by a veterinarian.

8. A limited prescription drug veterinary wholesale distributor permit is not required for an intracompany sale or transfer of a prescription drug from an out-of-state establishment that is duly licensed to engage in the wholesale distribution of prescription drugs in its state of residence to a licensed limited prescription drug veterinary wholesale distributor in this state if both wholesale distributors conduct wholesale distributions of prescription drugs under the same business name. The recordkeeping requirements of ss. 499.0121(6) and 499.01212 must be followed for this transaction.

(m) Medical oxygen retail establishment permit.—A medical oxygen retail establishment permit is required for any person that sells medical oxygen to patients only. The sale must be based on an order from a practitioner authorized by law to prescribe. The term does not include a pharmacy licensed under chapter 465.

1. A medical oxygen retail establishment may not possess, purchase, sell, or trade any prescription drug other than medical oxygen.

2. A medical oxygen retail establishment may refill medical oxygen for an individual patient based on an order from a practitioner authorized by law to prescribe. A medical oxygen retail establishment that refills medical oxygen must comply with all appropriate state and federal good manufacturing practices.

3. A medical oxygen retail establishment must comply with all of the wholesale distribution requirements of s. 499.0121.

4. Prescription medical oxygen sold by a medical oxygen retail establishment pursuant to a practitioner's order may not be returned into the retail establishment's inventory.

(n) Compressed medical gas wholesale distributor permit.—A compressed medical gas wholesale distributor is a wholesale distributor that is limited to the wholesale distribution of compressed medical gases to other than the consumer or patient. The compressed medical gas must be in the original sealed container that was purchased by that wholesale distributor. A compressed medical gas wholesale distributor may not possess or engage in the wholesale distribution of any prescription drug other than compressed medical gases. The department shall adopt rules that govern the wholesale distribution of prescription medical oxygen for emergency use. With respect to the emergency use of prescription medical oxygen, those rules may not be inconsistent with rules and regulations of federal agencies unless the Legislature specifically directs otherwise.

(o) Compressed medical gas manufacturer permit.—A compressed medical gas manufacturer permit is required for any person that engages in the manufacture of compressed medical gases or repackages compressed medical gases from one container to another.

1. A compressed medical gas manufacturer may not manufacture or possess any prescription drug other than compressed medical gases.

2. A compressed medical gas manufacturer may engage in wholesale distribution of compressed medical gases manufactured at that establishment and must comply with all the provisions of this part and the rules adopted under this part that apply to a wholesale distributor.

3. A compressed medical gas manufacturer must comply with all appropriate state and federal good manufacturing practices.

(p) Over-the-counter drug manufacturer permit.—An over-the-counter drug manufacturer permit is required for any person that engages in the manufacture or repackaging of an over-the-counter drug.

1. An over-the-counter drug manufacturer may not possess or purchase prescription drugs.

2. A pharmacy is exempt from obtaining an over-the-counter drug manufacturer permit if it is operating in compliance with pharmacy practice standards as defined in chapter 465 and the rules adopted under that chapter.

3. An over-the-counter drug manufacturer must comply with all appropriate state and federal good manufacturing practices.

(q) Device manufacturer permit.—

1. A device manufacturer permit is required for any person that engages in the manufacture, repackaging, or assembly of medical devices for human use in this state, except that a permit is not required if:

a. The person is engaged only in manufacturing, repackaging, or assembling a medical device pursuant to a practitioner's order for a specific patient; or

b. The person does not manufacture, repackage, or assemble any medical devices or components for such devices, except those devices or components which are exempt from registration pursuant to s. 499.015(8).

2. A manufacturer or repackager of medical devices in this state must comply with all appropriate state and federal good manufacturing practices and quality system rules.

3. The department shall adopt rules related to storage, handling, and recordkeeping requirements for manufacturers of medical devices for human use.

(r)Cosmetic manufacturer permit.—A cosmetic manufacturer permit is required for any person that manufactures or repackages cosmetics in this state. A person that only labels or changes the labeling of a cosmetic but does not open the container sealed by the manufacturer of the product is exempt from obtaining a permit under this paragraph.

(s)Third party logistics provider permit.—A third party logistics provider permit is required for any person that contracts with a prescription drug wholesale distributor or prescription drug manufacturer to provide warehousing, distribution, or other logistics services on behalf of a manufacturer or wholesale distributor, but who does not take title to the prescription drug or have responsibility to direct the sale or disposition of the prescription drug. Each third party logistics provider permittee shall comply with the requirements for wholesale distributors under ss. 499.0121 and 499.01212, with the exception of those wholesale distributions described in s. 499.01212(3)(a), and other rules that the department requires.

(t)Health care clinic establishment permit.—Effective January 1, 2009, a health care clinic establishment permit is required for the purchase of a prescription drug by a place of business at one general physical location that provides health care or veterinary services, which is owned and operated by a business entity that has been issued a federal employer tax identification number. For the purpose of this paragraph, the term “qualifying practitioner” means a licensed health care practitioner defined in s. 456.001, or a veterinarian licensed under chapter 474, who is authorized under the appropriate practice act to prescribe and administer a prescription drug.

1.An establishment must provide, as part of the application required under s. 499.012, designation of a qualifying practitioner who will be responsible for complying with all legal and regulatory requirements related to the purchase, recordkeeping, storage, and handling of the prescription drugs. In addition, the designated qualifying practitioner shall be the practitioner whose name, establishment address, and license number is used on all distribution documents for prescription drugs purchased or returned by the health care clinic establishment. Upon initial appointment of a qualifying practitioner, the qualifying practitioner and the health care clinic establishment shall notify the department on a form furnished by the department within 10 days after such employment. In addition, the qualifying practitioner and health care clinic establishment shall notify the department within 10 days after any subsequent change.

2.The health care clinic establishment must employ a qualifying practitioner at each establishment.

3.In addition to the remedies and penalties provided in this part, a violation of this chapter by the health care clinic establishment or qualifying practitioner constitutes grounds for discipline of the qualifying practitioner by the appropriate regulatory board.

4.The purchase of prescription drugs by the health care clinic establishment is prohibited during any period of time when the establishment does not comply with this paragraph.

5.A health care clinic establishment permit is not a pharmacy permit or otherwise subject to chapter 465. A health care clinic establishment that meets the criteria of a modified Class II institutional pharmacy under s. 465.019 is not eligible to be permitted under this paragraph.

6.This paragraph does not apply to the purchase of a prescription drug by a licensed practitioner under his or her license.

(3)A nonresident prescription drug manufacturer permit is not required for a manufacturer to distribute a prescription drug active pharmaceutical ingredient that it manufactures to a prescription drug manufacturer permitted in this state in limited

quantities intended for research and development and not for resale or human use other than lawful clinical trials and biostudies authorized and regulated by federal law. A manufacturer claiming to be exempt from the permit requirements of this subsection and the prescription drug manufacturer purchasing and receiving the active pharmaceutical ingredient shall comply with the recordkeeping requirements of s. 499.0121(6), but not the requirements of s. 499.01212. The prescription drug manufacturer purchasing and receiving the active pharmaceutical ingredient shall maintain on file a record of the FDA registration number; if available, the out-of-state license, permit, or registration number; and, if available, a copy of the most current FDA inspection report, for all manufacturers from whom they purchase active pharmaceutical ingredients under this section. The department shall define the term "limited quantities" by rule, and may include the allowable number of transactions within a given period of time and the amount of prescription drugs distributed into the state for purposes of this exemption. The failure to comply with the requirements of this subsection, or rules adopted by the department to administer this subsection, for the purchase of prescription drug active pharmaceutical ingredients is a violation of s. 499.005(14), and a knowing failure is a violation of s. 499.0051(4).

(4)(a) A permit issued under this part is not required to distribute a prescription drug active pharmaceutical ingredient from an establishment located in the United States to an establishment located in this state permitted as a prescription drug manufacturer under this part for use by the recipient in preparing, deriving, processing, producing, or fabricating a prescription drug finished dosage form at the establishment in this state where the product is received under an approved and otherwise valid New Drug Approval Application, Abbreviated New Drug Application, New Animal Drug Application, or Therapeutic Biologic Application, provided that the application, active pharmaceutical ingredient, or finished dosage form has not been withdrawn or removed from the market in this country for public health reasons.

1. Any distributor claiming exemption from permitting requirements pursuant to this paragraph shall maintain a license, permit, or registration to engage in the wholesale distribution of prescription drugs under the laws of the state from which the product is distributed.

2. Any distributor claiming exemption from permitting requirements pursuant to this paragraph and the prescription drug manufacturer purchasing and receiving the active pharmaceutical ingredient shall comply with the recordkeeping requirements of s. 499.0121(6), but not the requirements of s. 499.01212.

(b) A permit issued under this part is not required to distribute limited quantities of a prescription drug that has not been repackaged from an establishment located in the United States to an establishment located in this state permitted as a prescription drug manufacturer under this part for research and development or to a holder of a letter of exemption issued by the department under s. 499.03(4) for research, teaching, or testing. The department shall define "limited quantities" by rule and may include the allowable number of transactions within a given period of time and the amounts of prescription drugs distributed into the state for purposes of this exemption.

1. Any distributor claiming exemption from permitting requirements pursuant to this paragraph shall maintain a license, permit, or registration to engage in the wholesale distribution of prescription drugs under the laws of the state from which the product is distributed.

2. All purchasers and recipients of any prescription drugs distributed pursuant to this paragraph shall ensure that the products are not resold or used, directly or indirectly, on humans except in lawful clinical trials and biostudies authorized and regulated by federal law.

3. Any distributor claiming exemption from permitting requirements pursuant to this paragraph, and the purchaser and recipient of the prescription drug, shall comply with the recordkeeping requirements of s. 499.0121(6), but not the requirements of s. 499.01212.

4. The immediate package or container of any active pharmaceutical ingredient distributed into the state that is intended for teaching, testing, research, and development shall bear a label prominently displaying the statement: "Caution: Research, Teaching, or Testing Only – Not for Manufacturing, Compounding, or Resale."

(c) An out-of-state prescription drug wholesale distributor permit is not required for an intracompany sale or transfer of a prescription drug from an out-of-state establishment that is duly licensed as a prescription drug wholesale distributor in its state of residence to a licensed prescription drug wholesale distributor in this state, if both wholesale distributors conduct wholesale distributions of prescription drugs under the same business name. The recordkeeping requirements of ss. 499.0121(6) and 499.01212 must be followed for such transactions.

(d) Persons receiving prescription drugs from a source claimed to be exempt from permitting requirements under this subsection shall maintain on file:

1. A record of the FDA establishment registration number, if any;
2. The resident state prescription drug wholesale distribution license, permit, or registration number; and
3. A copy of the most recent resident state or FDA inspection report, for all distributors and establishments¹ from whom they purchase or receive prescription drugs under this subsection.

(e) All persons claiming exemption from permitting requirements pursuant to this subsection who engage in the distribution of prescription drugs within or into the state are subject to this part, including ss. 499.005 and 499.0051, and shall make available, within 48 hours, to the department on request all records related to any prescription drugs distributed under this subsection, including those records described in s. 499.051(4), regardless of the location where the records are stored.

(f) A person purchasing and receiving a prescription drug from a person claimed to be exempt from licensing requirements pursuant to this subsection shall report to the department in writing within 14 days after receiving any product that is misbranded or adulterated or that fails to meet minimum standards set forth in the official compendium or state or federal good manufacturing practices for identity, purity, potency, or sterility, regardless of whether the product is thereafter rehabilitated, quarantined, returned, or destroyed.

(g) The department may adopt rules to administer this subsection which are necessary for the protection of the public health, safety, and welfare. Failure to comply with the requirements of this subsection, or rules adopted by the department to administer this subsection, is a violation of s. 499.005(14), and a knowing failure is a violation of s. 499.0051(4).

(h) This subsection does not relieve any person from any requirement prescribed by law with respect to controlled substances as defined in the applicable federal and state laws.

(5) A prescription drug repackager permit issued under this part is not required for a restricted prescription drug distributor permit holder that is a health care entity to repackaging prescription drugs in this state for its own use or for distribution to hospitals or other health care entities in the state for their own use, pursuant to s. 499.003(54)(a)3., if:

(a) The prescription drug distributor notifies the department, in writing, of its intention to engage in repackaging under this exemption, 30 days before engaging in the repackaging of prescription drugs at the permitted establishment;

(b)The prescription drug distributor is under common control with the hospitals or other health care entities to which the prescription drug distributor is distributing prescription drugs. As used in this paragraph, "common control" means the power to direct or cause the direction of the management and policies of a person or an organization, whether by ownership of stock, voting rights, contract, or otherwise;

(c)The prescription drug distributor repackages the prescription drugs in accordance with current state and federal good manufacturing practices; and

(d)The prescription drug distributor labels the prescription drug it repackages in accordance with state and federal laws and rules.

The prescription drug distributor is exempt from the product registration requirements of s. 499.015 with regard to the prescription drugs that it repackages and distributes under this subsection.

History.—s. 34, ch. 82-225; s. 108, ch. 83-218; s. 1, ch. 83-265; ss. 14, 15, 18, 19, 52, ch. 92-69; ss. 30, 31, 34, 35, ch. 98-151; ss. 37, 40, ch. 2000-242; s. 20, ch. 2001-53; s. 138, ch. 2001-277; ss. 11, 12, 13, 14, 18, 19, ch. 2003-155; s. 85, ch. 2004-5; ss. 2, 3, ch. 2004-328; ss. 2, 3, ch. 2006-92; ss. 22, 25, ch. 2007-6; ss. 10, 11, ch. 2008-207; s. 2, ch. 2009-221; ss. 23, 39, ch. 2010-161; s. 4, ch. 2012-37; s. 34, ch. 2012-61; s. 11, ch. 2012-143.

¹Note.—The word "from" was inserted by the editors.

Note.—Subsection (2) intro. former s. 499.012(2) intro.; paragraph (2)(c) former s. 499.012(2)(e); paragraph (2)(d) former s. 499.012(2)(a); paragraph (2)(e) former s. 499.012(2)(c); paragraph (2)(f) former s. 499.012(2)(d); paragraph (2)(g) former s. 499.014; paragraph (2)(i) former s. 499.012(2)(f); paragraph (2)(k) former s. 499.012(2)(g); paragraph (2)(l) former s. 499.012(2)(h); paragraph (2)(n) former s. 499.012(2)(b); paragraph (2)(o) former s. 499.013(2)(c); paragraph (2)(p) former s. 499.013(2)(b); paragraph (2)(q) former s. 499.013(2)(d); paragraph (2)(r) former s. 499.013(2)(e).

499.012Permit application requirements.—

(1)(a)A permit issued pursuant to this part may be issued only to a natural person who is at least 18 years of age or to an applicant that is not a natural person if each person who, directly or indirectly, manages, controls, or oversees the operation of that applicant is at least 18 years of age.

(b)An establishment that is a place of residence may not receive a permit and may not operate under this part.

(c)A person that applies for or renews a permit to manufacture or distribute prescription drugs may not use a name identical to the name used by any other establishment or licensed person authorized to purchase prescription drugs in this state, except that a restricted drug distributor permit issued to a health care entity will be issued in the name in which the institutional pharmacy permit is issued and a retail pharmacy drug wholesale distributor will be issued a permit in the name of its retail pharmacy permit.

(d)A permit for a prescription drug manufacturer, prescription drug repackager, prescription drug wholesale distributor, limited prescription drug veterinary wholesale distributor, or retail pharmacy drug wholesale distributor may not be issued to the address of a health care entity or to a pharmacy licensed under chapter 465, except as provided in this paragraph. The department may issue a prescription drug manufacturer permit to an applicant at the same address as a licensed nuclear pharmacy, which is a health care entity, for the purpose of manufacturing prescription drugs used in positron emission tomography or other radiopharmaceuticals, as listed in a rule adopted by the department pursuant to this paragraph. The purpose of this exemption is to assure availability of state-of-the-art

pharmaceuticals that would pose a significant danger to the public health if manufactured at a separate establishment address from the nuclear pharmacy from which the prescription drugs are dispensed. The department may also issue a retail pharmacy drug wholesale distributor permit to the address of a community pharmacy licensed under chapter 465 which does not meet the definition of a closed pharmacy in s. 499.003.

(e)A county or municipality may not issue an occupational license for any licensing period beginning on or after October 1, 2003, for any establishment that requires a permit pursuant to this part, unless the establishment exhibits a current permit issued by the department for the establishment. Upon presentation of the requisite permit issued by the department, an occupational license may be issued by the municipality or county in which application is made. The department shall furnish to local agencies responsible for issuing occupational licenses a current list of all establishments licensed pursuant to this part.

(2)Notwithstanding subsection (6), a permitted person in good standing may change the type of permit issued to that person by completing a new application for the requested permit, paying the amount of the difference in the permit fees if the fee for the new permit is more than the fee for the original permit, and meeting the applicable permitting conditions for the new permit type. The new permit expires on the expiration date of the original permit being changed; however, a new permit for a prescription drug wholesale distributor, an out-of-state prescription drug wholesale distributor, or a retail pharmacy drug wholesale distributor shall expire on the expiration date of the original permit or 1 year after the date of issuance of the new permit, whichever is earlier. A refund may not be issued if the fee for the new permit is less than the fee that was paid for the original permit.

(3)A written application for a permit or to renew a permit must be filed with the department on forms furnished by the department. The department shall establish, by rule, the form and content of the application to obtain or renew a permit. The applicant must submit to the department with the application a statement that swears or affirms that the information is true and correct.

(4)(a)Except for a permit for a prescription drug wholesale distributor or an out-of-state prescription drug wholesale distributor, an application for a permit must include:

- 1.The name, full business address, and telephone number of the applicant;
- 2.All trade or business names used by the applicant;
- 3.The address, telephone numbers, and the names of contact persons for each facility used by the applicant for the storage, handling, and distribution of prescription drugs;
- 4.The type of ownership or operation, such as a partnership, corporation, or sole proprietorship; and
- 5.The names of the owner and the operator of the establishment, including:
 - a.If an individual, the name of the individual;
 - b.If a partnership, the name of each partner and the name of the partnership;
 - c.If a corporation, the name and title of each corporate officer and director, the corporate names, and the name of the state of incorporation;
 - d.If a sole proprietorship, the full name of the sole proprietor and the name of the business entity;
 - e.If a limited liability company, the name of each member, the name of each manager, the name of the limited liability company, and the name of the state in which the limited liability company was organized; and
 - f.Any other relevant information that the department requires.

(b) Upon approval of the application by the department and payment of the required fee, the department shall issue a permit to the applicant, if the applicant meets the requirements of this part and rules adopted under this part.

(c) Any change in information required under paragraph (a) must be submitted to the department before the change occurs.

(d) The department shall consider, at a minimum, the following factors in reviewing the qualifications of persons to be permitted under this part:

1. The applicant's having been found guilty, regardless of adjudication, in a court of this state or other jurisdiction, of a violation of a law that directly relates to a drug, device, or cosmetic. A plea of nolo contendere constitutes a finding of guilt for purposes of this subparagraph.

2. The applicant's having been disciplined by a regulatory agency in any state for any offense that would constitute a violation of this part.

3. Any felony conviction of the applicant under a federal, state, or local law;

4. The applicant's past experience in manufacturing or distributing drugs, devices, or cosmetics;

5. The furnishing by the applicant of false or fraudulent material in any application made in connection with manufacturing or distributing drugs, devices, or cosmetics;

6. Suspension or revocation by a federal, state, or local government of any permit currently or previously held by the applicant for the manufacture or distribution of any drugs, devices, or cosmetics;

7. Compliance with permitting requirements under any previously granted permits;

8. Compliance with requirements to maintain or make available to the state permitting authority or to federal, state, or local law enforcement officials those records required under this section; and

9. Any other factors or qualifications the department considers relevant to and consistent with the public health and safety.

(5) Except for a permit for a prescription drug wholesale distributor or an out-of-state prescription drug wholesale distributor:

(a) The department shall adopt rules for the biennial renewal of permits.

(b) The department shall renew a permit upon receipt of the renewal application and renewal fee if the applicant meets the requirements established under this part and the rules adopted under this part.

(c) A permit, unless sooner suspended or revoked, automatically expires 2 years after the last day of the anniversary month in which the permit was originally issued. A permit issued under this part may be renewed by making application for renewal on forms furnished by the department and paying the appropriate fees. If a renewal application and fee are submitted and postmarked after the expiration date of the permit, the permit may be renewed only upon payment of a late renewal delinquent fee of \$100, plus the required renewal fee, not later than 60 days after the expiration date.

(d) Failure to renew a permit in accordance with this section precludes any future renewal of that permit. If a permit issued pursuant to this part has expired and cannot be renewed, before an establishment may engage in activities that require a permit under this part, the establishment must submit an application for a new permit, pay the applicable application fee, the initial permit fee, and all applicable penalties, and be issued a new permit by the department.

(6) A permit issued by the department is nontransferable. Each permit is valid only for the person or governmental unit to which it is issued and is not subject to sale, assignment, or other transfer, voluntarily or involuntarily; nor is a permit valid for any establishment other than the establishment for which it was originally issued.

(a) A person permitted under this part must notify the department before making a change of address. The department shall set a change of location fee not to exceed \$100.

(b) 1. An application for a new permit is required when a majority of the ownership or controlling interest of a permitted establishment is transferred or assigned or when a lessee agrees to undertake or provide services to the extent that legal liability for operation of the establishment will rest with the lessee. The application for the new permit must be made before the date of the sale, transfer, assignment, or lease.

2. A permittee that is authorized to distribute prescription drugs may transfer such drugs to the new owner or lessee under subparagraph 1. only after the new owner or lessee has been approved for a permit to distribute prescription drugs.

(c) If an establishment permitted under this part closes, the owner must notify the department in writing before the effective date of closure and must:

1. Return the permit to the department;

2. If the permittee is authorized to distribute prescription drugs, indicate the disposition of such drugs, including the name, address, and inventory, and provide the name and address of a person to contact regarding access to records that are required to be maintained under this part. Transfer of ownership of prescription drugs may be made only to persons authorized to possess prescription drugs under this part.

The department may revoke the permit of any person that fails to comply with the requirements of this subsection.

(7) A permit must be posted in a conspicuous place on the licensed premises.

(8) An application for a permit or to renew a permit for a prescription drug wholesale distributor or an out-of-state prescription drug wholesale distributor submitted to the department must include:

(a) The name, full business address, and telephone number of the applicant.

(b) All trade or business names used by the applicant.

(c) The address, telephone numbers, and the names of contact persons for each facility used by the applicant for the storage, handling, and distribution of prescription drugs.

(d) The type of ownership or operation, such as a partnership, corporation, or sole proprietorship.

(e) The names of the owner and the operator of the establishment, including:

1. If an individual, the name of the individual.

2. If a partnership, the name of each partner and the name of the partnership.

3. If a corporation:

a. The name, address, and title of each corporate officer and director.

b. The name and address of the corporation, resident agent of the corporation, the resident agent's address, and the corporation's state of incorporation.

c. The name and address of each shareholder of the corporation that owns 5 percent or more of the outstanding stock of the corporation.

4. If a sole proprietorship, the full name of the sole proprietor and the name of the business entity.

5. If a limited liability company:

a. The name and address of each member.

b. The name and address of each manager.

c. The name and address of the limited liability company, the resident agent of the limited liability company, and the name of the state in which the limited liability company was organized.

(f) If applicable, the name and address of each member of the affiliated group of which the applicant is a member.

(g) 1. For an application for a new permit, the estimated annual dollar volume of prescription drug sales of the applicant, the estimated annual percentage of the applicant's total company sales that are prescription drugs, the applicant's estimated annual total dollar volume of purchases of prescription drugs, and the applicant's estimated annual total dollar volume of prescription drug purchases directly from manufacturers.

2. For an application to renew a permit, the total dollar volume of prescription drug sales in the previous year, the total dollar volume of prescription drug sales made in the previous 6 months, the percentage of total company sales that were prescription drugs in the previous year, the total dollar volume of purchases of prescription drugs in the previous year, and the total dollar volume of prescription drug purchases directly from manufacturers in the previous year.

Such portions of the information required pursuant to this paragraph which are a trade secret, as defined in s. 812.081, shall be maintained by the department as trade secret information is required to be maintained under s. 499.051.

(h) The tax year of the applicant.

(i) A copy of the deed for the property on which applicant's establishment is located, if the establishment is owned by the applicant, or a copy of the applicant's lease for the property on which applicant's establishment is located that has an original term of not less than 1 calendar year, if the establishment is not owned by the applicant.

(j) A list of all licenses and permits issued to the applicant by any other state which authorize the applicant to purchase or possess prescription drugs.

(k) The name of the manager of the establishment that is applying for the permit or to renew the permit, the next four highest ranking employees responsible for prescription drug wholesale operations for the establishment, and the name of all affiliated parties for the establishment, together with the personal information statement and fingerprints required pursuant to subsection (9) for each of such persons.

(l) The name of each of the applicant's designated representatives as required by subsection (16), together with the personal information statement and fingerprints required pursuant to subsection (9) for each such person.

(m) For an applicant that is a secondary wholesale distributor, each of the following:

1. A personal background information statement containing the background information and fingerprints required pursuant to subsection (9) for each person named in the applicant's response to paragraphs (k) and (l) and for each affiliated party of the applicant.

2. If any of the five largest shareholders of the corporation seeking the permit is a corporation, the name, address, and title of each corporate officer and director of each such corporation; the name and address of such corporation; the name of such corporation's resident agent, such corporation's resident agent's address, and such corporation's state of its incorporation; and the name and address of each shareholder of such corporation that owns 5 percent or more of the stock of such corporation.

3. The name and address of all financial institutions in which the applicant has an account which is used to pay for the operation of the establishment or to pay for drugs purchased for the establishment, together with the names of all persons that are authorized signatories on such accounts. The portions of the information required

pursuant to this subparagraph which are a trade secret, as defined in s. 812.081, shall be maintained by the department as trade secret information is required to be maintained under s. 499.051.

4. The sources of all funds and the amounts of such funds used to purchase or finance purchases of prescription drugs or to finance the premises on which the establishment is to be located.

5. If any of the funds identified in subparagraph 4. were borrowed, copies of all promissory notes or loans used to obtain such funds.

(n) Any other relevant information that the department requires, including, but not limited to, any information related to whether the applicant satisfies the definition of a primary wholesale distributor or a secondary wholesale distributor.

(o) Documentation of the credentialing policies and procedures required by s. 499.0121(15).

(9)(a) Each person required by subsection (8) to provide a personal information statement and fingerprints shall provide the following information to the department on forms prescribed by the department:

1. The person's places of residence for the past 7 years.

2. The person's date and place of birth.

3. The person's occupations, positions of employment, and offices held during the past 7 years.

4. The principal business and address of any business, corporation, or other organization in which each such office of the person was held or in which each such occupation or position of employment was carried on.

5. Whether the person has been, during the past 7 years, the subject of any proceeding for the revocation of any license and, if so, the nature of the proceeding and the disposition of the proceeding.

6. Whether, during the past 7 years, the person has been enjoined, temporarily or permanently, by a court of competent jurisdiction from violating any federal or state law regulating the possession, control, or distribution of prescription drugs, together with details concerning any such event.

7. A description of any involvement by the person with any business, including any investments, other than the ownership of stock in a publicly traded company or mutual fund, during the past 7 years, which manufactured, administered, prescribed, distributed, or stored pharmaceutical products and any lawsuits in which such businesses were named as a party.

8. A description of any felony criminal offense of which the person, as an adult, was found guilty, regardless of whether adjudication of guilt was withheld or whether the person pled guilty or nolo contendere. A criminal offense committed in another jurisdiction which would have been a felony in this state must be reported. If the person indicates that a criminal conviction is under appeal and submits a copy of the notice of appeal of that criminal offense, the applicant must, within 15 days after the disposition of the appeal, submit to the department a copy of the final written order of disposition.

9. A photograph of the person taken in the previous 30 days.

10. A set of fingerprints for the person on a form and under procedures specified by the department, together with payment of an amount equal to the costs incurred by the department for the criminal record check of the person.

11. The name, address, occupation, and date and place of birth for each member of the person's immediate family who is 18 years of age or older. As used in this subparagraph, the term "member of the person's immediate family" includes the person's spouse, children, parents, siblings, the spouses of the person's children, and the spouses of the person's siblings.

12. Any other relevant information that the department requires.

(b)The information required pursuant to paragraph (a) shall be provided under oath.

(c)The department shall submit the fingerprints provided by a person for initial licensure to the Department of Law Enforcement for a statewide criminal record check and for forwarding to the Federal Bureau of Investigation for a national criminal record check of the person. The department shall submit the fingerprints provided by a person as a part of a renewal application to the Department of Law Enforcement for a statewide criminal record check, and for forwarding to the Federal Bureau of Investigation for a national criminal record check, for the initial renewal of a permit after January 1, 2004; for any subsequent renewal of a permit, the department shall submit the required information for a statewide and national criminal record check of the person. Any person who as a part of an initial permit application or initial permit renewal after January 1, 2004, submits to the department a set of fingerprints required for the criminal record check required in this paragraph shall not be required to provide a subsequent set of fingerprints for a criminal record check to the department, if the person has undergone a criminal record check as a condition of the issuance of an initial permit or the initial renewal of a permit of an applicant after January 1, 2004.

(10)The department may deny an application for a permit or refuse to renew a permit for a prescription drug wholesale distributor or an out-of-state prescription drug wholesale distributor if:

(a)The applicant has not met the requirements for the permit.

(b)The management, officers, or directors of the applicant or any affiliated party are found by the department to be incompetent or untrustworthy.

(c)The applicant is so lacking in experience in managing a wholesale distributor as to make the issuance of the proposed permit hazardous to the public health.

(d)The applicant is so lacking in experience in managing a wholesale distributor as to jeopardize the reasonable promise of successful operation of the wholesale distributor.

(e)The applicant is lacking in experience in the distribution of prescription drugs.

(f)The applicant's past experience in manufacturing or distributing prescription drugs indicates that the applicant poses a public health risk.

(g)The applicant is affiliated directly or indirectly through ownership, control, or other business relations, with any person or persons whose business operations are or have been detrimental to the public health.

(h)The applicant, or any affiliated party, has been found guilty of or has pleaded guilty or nolo contendere to any felony or crime punishable by imprisonment for 1 year or more under the laws of the United States, any state, or any other country, regardless of whether adjudication of guilt was withheld.

(i)The applicant or any affiliated party has been charged with a felony in a state or federal court and the disposition of that charge is pending during the application review or renewal review period.

(j)The applicant has furnished false or fraudulent information or material in any application made in this state or any other state in connection with obtaining a permit or license to manufacture or distribute drugs, devices, or cosmetics.

(k)That a federal, state, or local government permit currently or previously held by the applicant, or any affiliated party, for the manufacture or distribution of any drugs, devices, or cosmetics has been disciplined, suspended, or revoked and has not been reinstated.

(l)The applicant does not possess the financial or physical resources to operate in compliance with the permit being sought, this chapter, and the rules adopted under this chapter.

(m)The applicant or any affiliated party receives, directly or indirectly, financial support and assistance from a person who was an affiliated party of a permittee whose permit was subject to discipline or was suspended or revoked, other than through the ownership of stock in a publicly traded company or a mutual fund.

(n)The applicant or any affiliated party receives, directly or indirectly, financial support and assistance from a person who has been found guilty of any violation of this part or chapter 465, chapter 501, or chapter 893, any rules adopted under this part or those chapters, any federal or state drug law, or any felony where the underlying facts related to drugs, regardless of whether the person has been pardoned, had her or his civil rights restored, or had adjudication withheld, other than through the ownership of stock in a publicly traded company or a mutual fund.

(o)The applicant for renewal of a permit under s. 499.01(2)(d) or (e) has not actively engaged in the wholesale distribution of prescription drugs, as demonstrated by the regular and systematic distribution of prescription drugs throughout the year as evidenced by not fewer than 12 wholesale distributions in the previous year and not fewer than three wholesale distributions in the previous 6 months.

(p)Information obtained in response to s. 499.01(2)(d) or (e) demonstrates it would not be in the best interest of the public health, safety, and welfare to issue a permit.

(q)The applicant does not possess the financial standing and business experience for the successful operation of the applicant.

(r)The applicant or any affiliated party has failed to comply with the requirements for manufacturing or distributing prescription drugs under this part, similar federal laws, similar laws in other states, or the rules adopted under such laws.

(11)Upon approval of the application by the department and payment of the required fee, the department shall issue or renew a prescription drug wholesale distributor or an out-of-state prescription drug wholesale distributor permit to the applicant.

(12)For a permit for a prescription drug wholesale distributor or an out-of-state prescription drug wholesale distributor:

(a)The department shall adopt rules for the annual renewal of permits. At least 90 days before the expiration of a permit, the department shall forward a permit renewal notification and renewal application to the prescription drug wholesale distributor or out-of-state prescription drug wholesale distributor at the mailing address of the permitted establishment on file with the department. The permit renewal notification must state conspicuously the date on which the permit for the establishment will expire and that the establishment may not operate unless the permit for the establishment is renewed timely.

(b)A permit, unless sooner suspended or revoked, automatically expires 1 year after the last day of the anniversary month in which the permit was originally issued. A permit may be renewed by making application for renewal on forms furnished by the department and paying the appropriate fees. If a renewal application and fee are submitted and postmarked after 45 days prior to the expiration date of the permit, the permit may be renewed only upon payment of a late renewal fee of \$100, plus the required renewal fee. A permittee that has submitted a renewal application in accordance with this paragraph may continue to operate under its permit, unless the permit is suspended or revoked, until final disposition of the renewal application.

(c)Failure to renew a permit in accordance with this section precludes any future renewal of that permit. If a permit issued pursuant to this section has expired and cannot be renewed, before an establishment may engage in activities that require a permit under this part, the establishment must submit an application for a new permit; pay the applicable application fee, initial permit fee, and all applicable penalties; and be issued a new permit by the department.

(13) A person that engages in wholesale distribution of prescription drugs in this state must have a wholesale distributor's permit issued by the department, except as noted in this section. Each establishment must be separately permitted except as noted in this subsection.

(a) A separate establishment permit is not required when a permitted prescription drug wholesale distributor consigns a prescription drug to a pharmacy that is permitted under chapter 465 and located in this state, provided that:

1. The consignor wholesale distributor notifies the department in writing of the contract to consign prescription drugs to a pharmacy along with the identity and location of each consignee pharmacy;

2. The pharmacy maintains its permit under chapter 465;

3. The consignor wholesale distributor, which has no legal authority to dispense prescription drugs, complies with all wholesale distribution requirements of ss. 499.0121 and 499.0122 with respect to the consigned drugs and maintains records documenting the transfer of title or other completion of the wholesale distribution of the consigned prescription drugs;

4. The distribution of the prescription drug is otherwise lawful under this chapter and other applicable law;

5. Open packages containing prescription drugs within a pharmacy are the responsibility of the pharmacy, regardless of how the drugs are titled; and

6. The pharmacy dispenses the consigned prescription drug in accordance with the limitations of its permit under chapter 465 or returns the consigned prescription drug to the consignor wholesale distributor. In addition, a person who holds title to prescription drugs may transfer the drugs to a person permitted or licensed to handle the reverse distribution or destruction of drugs. Any other distribution by and means of the consigned prescription drug by any person, not limited to the consignor wholesale distributor or consignee pharmacy, to any other person is prohibited.

(b) A wholesale distributor's permit is not required for the one-time transfer of title of a pharmacy's lawfully acquired prescription drug inventory by a pharmacy with a valid permit issued under chapter 465 to a consignor prescription drug wholesale distributor, permitted under this chapter, in accordance with a written consignment agreement between the pharmacy and that wholesale distributor if the permitted pharmacy and the permitted prescription drug wholesale distributor comply with all of the provisions of paragraph (a) and the prescription drugs continue to be within the permitted pharmacy's inventory for dispensing in accordance with the limitations of the pharmacy permit under chapter 465. A consignor drug wholesale distributor may not use the pharmacy as a wholesale distributor through which it distributes the prescription drugs to other pharmacies. Nothing in this section is intended to prevent a wholesale distributor from obtaining this inventory in the event of nonpayment by the pharmacy.

(c) A separate establishment permit is not required when a permitted prescription drug wholesale distributor operates temporary transit storage facilities for the sole purpose of storage, for up to 16 hours, of a delivery of prescription drugs when the wholesale distributor was temporarily unable to complete the delivery to the recipient.

(d) The department shall require information from each wholesale distributor as part of the permit and renewal of such permit, as required under this section.

(14) Personnel employed in wholesale distribution must have appropriate education and experience to enable them to perform their duties in compliance with state permitting requirements.

(15) The name of a permittee or establishment on a prescription drug wholesale distributor permit or an out-of-state prescription drug wholesale distributor permit may not include any indicia of attainment of any educational degree, any indicia that

the permittee or establishment possesses a professional license, or any name or abbreviation that the department determines is likely to cause confusion or mistake or that the department determines is deceptive, including that of any other entity authorized to purchase prescription drugs.

(16)(a) Each establishment that is issued an initial or renewal permit as a prescription drug wholesale distributor or an out-of-state prescription drug wholesale distributor must designate in writing to the department at least one natural person to serve as the designated representative of the wholesale distributor. Such person must have an active certification as a designated representative from the department.

(b) To be certified as a designated representative, a natural person must:

1. Submit an application on a form furnished by the department and pay the appropriate fees;
2. Be at least 18 years of age;
3. Have not less than 2 years of verifiable full-time work experience in a pharmacy licensed in this state or another state, where the person's responsibilities included, but were not limited to, recordkeeping for prescription drugs, or have not less than 2 years of verifiable full-time managerial experience with a prescription drug wholesale distributor licensed in this state or in another state;
4. Receive a passing score of at least 75 percent on an examination given by the department regarding federal laws governing distribution of prescription drugs and this part and the rules adopted by the department governing the wholesale distribution of prescription drugs. This requirement shall be effective 1 year after the results of the initial examination are mailed to the persons that took the examination. The department shall offer such examinations at least four times each calendar year; and
5. Provide the department with a personal information statement and fingerprints pursuant to subsection (9).

(c) The department may deny an application for certification as a designated representative or may suspend or revoke a certification of a designated representative pursuant to s. 499.067.

(d) A designated representative:

1. Must be actively involved in and aware of the actual daily operation of the wholesale distributor.
2. Must be employed full time in a managerial position by the wholesale distributor.
3. Must be physically present at the establishment during normal business hours, except for time periods when absent due to illness, family illness or death, scheduled vacation, or other authorized absence.
4. May serve as a designated representative for only one wholesale distributor at any one time.

(e) A wholesale distributor must notify the department when a designated representative leaves the employ of the wholesale distributor. Such notice must be provided to the department within 10 business days after the last day of designated representative's employment with the wholesale distributor.

(f) A wholesale distributor may not operate under a prescription drug wholesale distributor permit or an out-of-state prescription drug wholesale distributor permit for more than 10 business days after the designated representative leaves the employ of the wholesale distributor, unless the wholesale distributor employs another designated representative and notifies the department within 10 business days of the identity of the new designated representative.

History.—s. 34, ch. 82-225; s. 108, ch. 83-218; s. 1, ch. 83-265; ss. 14, 15, 52, ch. 92-69; s. 187, ch. 97-264; ss. 30, 31, ch. 98-151; s. 172, ch. 99-397; s. 37, ch. 2000-242; s. 20, ch. 2001-53; s. 138, ch. 2001-277; s. 38, ch. 2002-400; ss. 11,

12, 13, 14, ch. 2003-155; s. 85, ch. 2004-5; s. 3, ch. 2004-328; s. 2, ch. 2005-248; ss. 2, 3, ch. 2006-92; s. 22, ch. 2007-6; ss. 2, 10, 11, 28, ch. 2008-207; s. 61, ch. 2009-21; s. 17, ch. 2011-141; s. 67, ch. 2012-5.

Note.—Subsections (1)-(7) former s. 499.01(2)-(8).

499.01201 Agency for Health Care Administration review and use of statute and rule violation or compliance data.—Notwithstanding any other provisions of law to the contrary, the Agency for Health Care Administration may not:

(1) Review or use any violation or alleged violation of s. 499.0121(6) or s. 499.01212, or any rules adopted under those sections, as a ground for denying or withholding any payment of a Medicaid reimbursement to a pharmacy licensed under chapter 465; or

(2) Review or use compliance with s. 499.0121(6) or s. 499.01212, or any rules adopted under those sections, as the subject of any audit of Medicaid-related records held by a pharmacy licensed under chapter 465.

History.—s. 4, ch. 2005-248; s. 12, ch. 2008-207.

499.0121 Storage and handling of prescription drugs; recordkeeping.—The department shall adopt rules to implement this section as necessary to protect the public health, safety, and welfare. Such rules shall include, but not be limited to, requirements for the storage and handling of prescription drugs and for the establishment and maintenance of prescription drug distribution records.

(1) ESTABLISHMENTS.—An establishment at which prescription drugs are stored, warehoused, handled, held, offered, marketed, or displayed must:

(a) Be of suitable size and construction to facilitate cleaning, maintenance, and proper operations;

(b) Have storage areas designed to provide adequate lighting, ventilation, temperature, sanitation, humidity, space, equipment, and security conditions;

(c) Have a quarantine area for storage of prescription drugs that are outdated, damaged, deteriorated, misbranded, or adulterated, or that are in immediate or sealed, secondary containers that have been opened;

(d) Be maintained in a clean and orderly condition; and

(e) Be free from infestation by insects, rodents, birds, or vermin of any kind.

(2) SECURITY.—

(a) An establishment that is used for wholesale drug distribution must be secure from unauthorized entry.

1. Access from outside the premises must be kept to a minimum and be well-controlled.

2. The outside perimeter of the premises must be well-lighted.

3. Entry into areas where prescription drugs are held must be limited to authorized personnel.

(b) An establishment that is used for wholesale drug distribution must be equipped with:

1. An alarm system to detect entry after hours; however, the department may exempt by rule establishments that only hold a permit as prescription drug wholesale distributor-brokers and establishments that only handle medical oxygen; and

2. A security system that will provide suitable protection against theft and diversion. When appropriate, the security system must provide protection against theft or diversion that is facilitated or hidden by tampering with computers or electronic records.

(c) Any vehicle that contains prescription drugs must be secure from unauthorized access to the prescription drugs in the vehicle.

(3) STORAGE.—All prescription drugs shall be stored at appropriate temperatures and under appropriate conditions in accordance with requirements, if any, in the labeling of such drugs, or with requirements in the official compendium.

(a) If no storage requirements are established for a prescription drug, the drug may be held at "controlled" room temperature, as defined in the official compendium, to help ensure that its identity, strength, quality, and purity are not adversely affected.

(b) Appropriate manual, electromechanical, or electronic temperature and humidity recording equipment, devices, or logs must be used to document proper storage of prescription drugs.

(c) The recordkeeping requirements in subsection (6) must be followed for all stored prescription drugs.

(4) EXAMINATION OF MATERIALS AND RECORDS.—

(a) Upon receipt, each outside shipping container must be visually examined for identity and to prevent the acceptance of contaminated prescription drugs that are otherwise unfit for distribution. This examination must be adequate to reveal container damage that would suggest possible contamination or other damage to the contents.

(b) Each outgoing shipment must be carefully inspected for identity of the prescription drug products and to ensure that there is no delivery of prescription drugs that have expired or been damaged in storage or held under improper conditions.

(c) The recordkeeping requirements in subsection (6) must be followed for all incoming and outgoing prescription drugs.

(d) Upon receipt, a wholesale distributor must review records required under this section for the acquisition of prescription drugs for accuracy and completeness, considering the total facts and circumstances surrounding the transactions and the wholesale distributors involved. This includes authenticating each transaction listed on a pedigree paper, as defined in s. 499.003(37).

(5) RETURNED, DAMAGED, OR OUTDATED PRESCRIPTION DRUGS.—

(a) 1. Prescription drugs that are outdated, damaged, deteriorated, misbranded, or adulterated must be quarantined and physically separated from other prescription drugs until they are destroyed or returned to their supplier. A quarantine section must be separate and apart from other sections where prescription drugs are stored so that prescription drugs in this section are not confused with usable prescription drugs.

2. Prescription drugs must be examined at least every 12 months, and drugs for which the expiration date has passed must be removed and quarantined.

(b) Any prescription drugs of which the immediate or sealed outer containers or sealed secondary containers have been opened or used must be identified as such and must be quarantined and physically separated from other prescription drugs until they are destroyed or returned to the supplier.

(c) If the conditions under which a prescription drug has been returned cast doubt on the drug's safety, identity, strength, quality, or purity, the drug must be destroyed or returned to the supplier, unless examination, testing, or other investigation proves that the drug meets appropriate standards of safety, identity, strength, quality, and purity. In determining whether the conditions under which a drug has been returned cast doubt on the drug's safety, identity, strength, quality, or purity, the wholesale distributor must consider, among other things, the conditions under which the drug has been held, stored, or shipped before or during its return and the conditions of the drug and its container, carton, or labeling, as a result of storage or shipping.

(d) The recordkeeping requirements in subsection (6) must be followed for all outdated, damaged, deteriorated, misbranded, or adulterated prescription drugs.

(6) RECORDKEEPING.—The department shall adopt rules that require keeping such records of prescription drugs as are necessary for the protection of the public health.

(a) Wholesale distributors must establish and maintain inventories and records of all transactions regarding the receipt and distribution or other disposition of prescription drugs. These records must provide a complete audit trail from receipt to sale or other disposition, be readily retrievable for inspection, and include, at a minimum, the following information:

1. The source of the drugs, including the name and principal address of the seller or transferor, and the address of the location from which the drugs were shipped;
2. The name, principal address, and state license permit or registration number of the person authorized to purchase prescription drugs;
3. The name, strength, dosage form, and quantity of the drugs received and distributed or disposed of;
4. The dates of receipt and distribution or other disposition of the drugs; and
5. Any financial documentation supporting the transaction.

(b) Inventories and records must be made available for inspection and photocopying by authorized federal, state, or local officials for a period of 2 years following disposition of the drugs or 3 years after the creation of the records, whichever period is longer.

(c) Records described in this section that are kept at the inspection site or that can be immediately retrieved by computer or other electronic means must be readily available for authorized inspection during the retention period. Records that are kept at a central location outside of this state and that are not electronically retrievable must be made available for inspection within 2 working days after a request by an authorized official of a federal, state, or local law enforcement agency. Records that are maintained at a central location within this state must be maintained at an establishment that is permitted pursuant to this part and must be readily available.

(d) Each manufacturer or repackager of medical devices, over-the-counter drugs, or cosmetics must maintain records that include the name and principal address of the seller or transferor of the product, the address of the location from which the product was shipped, the date of the transaction, the name and quantity of the product involved, and the name and principal address of the person who purchased the product.

(e) When pedigree papers are required by this part, a wholesale distributor must maintain the pedigree papers separate and distinct from other records required under this part.

(7) **PRESCRIPTION DRUG PURCHASE LIST.**—Each wholesale distributor, except for a manufacturer, shall annually provide the department with a written list of all wholesale distributors and manufacturers from whom the wholesale distributor purchases prescription drugs. A wholesale distributor, except a manufacturer, shall notify the department not later than 10 days after any change to either list. Such portions of the information required pursuant to this subsection which are a trade secret, as defined in s. 812.081, shall be maintained by the department as trade secret information is required to be maintained under s. 499.051.

(8) **WRITTEN POLICIES AND PROCEDURES.**—Wholesale distributors must establish, maintain, and adhere to written policies and procedures, which must be followed for the receipt, security, storage, inventory, and distribution of prescription drugs, including policies and procedures for identifying, recording, and reporting losses or thefts, and for correcting all errors and inaccuracies in inventories. Wholesale distributors must include in their written policies and procedures:

(a) A procedure whereby the oldest approved stock of a prescription drug product is distributed first. The procedure may permit deviation from this requirement, if the deviation is temporary and appropriate.

(b)A procedure to be followed for handling recalls and withdrawals of prescription drugs. Such procedure must be adequate to deal with recalls and withdrawals due to:

1.Any action initiated at the request of the Food and Drug Administration or any other federal, state, or local law enforcement or other government agency, including the department.

2.Any voluntary action by the manufacturer or repackager to remove defective or potentially defective drugs from the market; or

3.Any action undertaken to promote public health and safety by replacing existing merchandise with an improved product or new package design.

(c)A procedure to ensure that wholesale distributors prepare for, protect against, and handle any crisis that affects security or operation of any facility if a strike, fire, flood, or other natural disaster, or a local, state, or national emergency, occurs.

(d)A procedure to ensure that any outdated prescription drugs are segregated from other drugs and returned to the manufacturer or repackager or destroyed. This procedure must provide for written documentation of the disposition of outdated prescription drugs. This documentation must be maintained for 2 years after disposition of the outdated drugs.

(9)RESPONSIBLE PERSONS.—Wholesale distributors must establish and maintain lists of officers, directors, managers, designated representatives, and other persons in charge of wholesale drug distribution, storage, and handling, including a description of their duties and a summary of their qualifications.

(10)COMPLIANCE WITH FEDERAL, STATE, AND LOCAL LAW.—A wholesale distributor must operate in compliance with applicable federal, state, and local laws and regulations.

(a)A wholesale distributor must allow the department and authorized federal, state, and local officials to enter and inspect its premises and delivery vehicles, and to audit its records and written operating procedures, at reasonable times and in a reasonable manner, to the extent authorized by law.

(b)A wholesale distributor that deals in controlled substances must register with the Drug Enforcement Administration and must comply with all applicable state, local, and federal laws. A wholesale distributor that distributes any substance controlled under chapter 893 must notify the department when registering with the Drug Enforcement Administration pursuant to that chapter and must provide the department with its DEA number.

(11)SALVAGING AND REPROCESSING.—A wholesale distributor is subject to any applicable federal, state, or local laws or regulations that relate to prescription drug product salvaging or reprocessing.

(12)SHIPPING AND TRANSPORTATION.—The person responsible for shipment and transportation of a prescription drug in a wholesale distribution may use a common carrier; its own vehicle or employee acting within the scope of employment if authorized under s. 499.03 for the possession of prescription drugs in this state; or, in the case of a prescription drug intended for domestic distribution, an independent contractor who must be the agent of the authorized seller or recipient responsible for shipping and transportation as set forth in a written contract between the parties. A person selling a prescription drug for export must obtain documentation, such as a validated airway bill, bill of lading, or other appropriate documentation that the prescription drug was exported. A person responsible for shipping or transporting prescription drugs is not required to maintain documentation from a common carrier that the designated recipient received the prescription drugs; however, the person must obtain such documentation from the common carrier and make it available to the department upon request of the department.

(13) DUE DILIGENCE OF SUPPLIERS.—Prior to purchasing any prescription drugs from another wholesale distributor, a prescription drug wholesale distributor, an out-of-state prescription drug wholesale distributor, or a prescription drug repackager must:

(a) Enter an agreement with the selling wholesale distributor by which the selling wholesale distributor will indemnify the purchasing wholesale distributor for any loss caused to the purchasing wholesale distributor related to the purchase of drugs from the selling wholesale distributor which are determined to be counterfeit or to have been distributed in violation of any federal or state law governing the distribution of drugs.

(b) Determine that the selling wholesale distributor has insurance coverage of not less than the greater of 1 percent of the amount of total dollar volume of the prescription drug sales reported to the department under s. 499.012(8)(g) or \$500,000; however the coverage need not exceed \$2 million.

(c) Obtain information from the selling wholesale distributor, including the length of time the selling wholesale distributor has been licensed in this state, a copy of the selling wholesale distributor's licenses or permits, and background information concerning the ownership of the selling wholesale distributor, including the experience of the wholesale distributor in the wholesale distribution of prescription drugs.

(d) Verify that the selling wholesale distributor's Florida permit is valid.

(e) Inspect the selling wholesale distributor's licensed establishment to document that it has a policies and procedures manual relating to the distribution of drugs, the appropriate temperature controlled environment for drugs requiring temperature control, an alarm system, appropriate access restrictions, and procedures to ensure that records related to the wholesale distribution of prescription drugs are maintained as required by law:

1. Before purchasing any drug from the wholesale distributor, and at least once each subsequent year; or

2. Before purchasing any drug from the wholesale distributor, and each subsequent year obtain a complete copy of the most recent inspection report for the establishment which was prepared by the department or the regulatory authority responsible for wholesale distributors in the state in which the establishment is located.

(14) DISTRIBUTION REPORTING.—Each prescription drug wholesale distributor, out-of-state prescription drug wholesale distributor, retail pharmacy drug wholesale distributor, manufacturer, or repackager that engages in the wholesale distribution of controlled substances as defined in s. 893.02 shall submit a report to the department of its receipts and distributions of controlled substances listed in Schedule II, Schedule III, Schedule IV, or Schedule V as provided in s. 893.03. Wholesale distributor facilities located within this state shall report all transactions involving controlled substances, and wholesale distributor facilities located outside this state shall report all distributions to entities located in this state. If the prescription drug wholesale distributor, out-of-state prescription drug wholesale distributor, retail pharmacy drug wholesale distributor, manufacturer, or repackager does not have any controlled substance distributions for the month, a report shall be sent indicating that no distributions occurred in the period. The report shall be submitted monthly by the 20th of the next month, in the electronic format used for controlled substance reporting to the Automation of Reports and Consolidated Orders System division of the federal Drug Enforcement Administration. Submission of electronic data must be made in a secured Internet environment that allows for manual or automated transmission. Upon successful transmission, an acknowledgment page must be displayed to confirm receipt. The report must contain the following information:

- (a) The federal Drug Enforcement Administration registration number of the wholesale distributing location.
- (b) The federal Drug Enforcement Administration registration number of the entity to which the drugs are distributed or from which the drugs are received.
- (c) The transaction code that indicates the type of transaction.
- (d) The National Drug Code identifier of the product and the quantity distributed or received.
- (e) The Drug Enforcement Administration Form 222 number or Controlled Substance Ordering System Identifier on all Schedule II transactions.
- (f) The date of the transaction.

The department must share the reported data with the Department of Law Enforcement and local law enforcement agencies upon request and must monitor purchasing to identify purchasing levels that are inconsistent with the purchasing entity's clinical needs. The Department of Law Enforcement shall investigate purchases at levels that are inconsistent with the purchasing entity's clinical needs to determine whether violations of chapter 893 have occurred.

(15) DUE DILIGENCE OF PURCHASERS.—

(a) Each prescription drug wholesale distributor, out-of-state prescription drug wholesale distributor, and retail pharmacy drug wholesale distributor must establish and maintain policies and procedures to credential physicians licensed under chapter 458, chapter 459, chapter 461, or chapter 466 and pharmacies that purchase or otherwise receive from the wholesale distributor controlled substances listed in Schedule II or Schedule III as provided in s. 893.03. The prescription drug wholesale distributor, out-of-state prescription drug wholesale distributor, or retail pharmacy drug wholesale distributor shall maintain records of such credentialing and make the records available to the department upon request. Such credentialing must, at a minimum, include:

1. A determination of the clinical nature of the receiving entity, including any specialty practice area.
2. A review of the receiving entity's history of Schedule II and Schedule III controlled substance purchasing from the wholesale distributor.
3. A determination that the receiving entity's Schedule II and Schedule III controlled substance purchasing history, if any, is consistent with and reasonable for that entity's clinical business needs.

(b) A wholesale distributor must take reasonable measures to identify its customers, understand the normal and expected transactions conducted by those customers, and identify those transactions that are suspicious in nature. A wholesale distributor must establish internal policies and procedures for identifying suspicious orders and preventing suspicious transactions. A wholesale distributor must assess orders for greater than 5,000 unit doses of any one controlled substance in any one month to determine whether the purchase is reasonable. In making such assessments, a wholesale distributor may consider the purchasing entity's clinical business needs, location, and population served, in addition to other factors established in the distributor's policies and procedures. A wholesale distributor must report to the department any regulated transaction involving an extraordinary quantity of a listed chemical, an uncommon method of payment or delivery, or any other circumstance that the regulated person believes may indicate that the listed chemical will be used in violation of the law. The wholesale distributor shall maintain records that document the report submitted to the department in compliance with this paragraph.

(c) A wholesale distributor may not distribute controlled substances to an entity if any criminal history record check for any person associated with that entity shows that the person has been convicted of, or entered a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction related to controlled substances, the practice of pharmacy, or the dispensing of medicinal drugs.

(d) The department shall assess national data from the Automation of Reports and Consolidated Orders System of the federal Drug Enforcement Administration, excluding Florida data, and identify the national average of grams of hydrocodone, morphine, oxycodone, and methadone distributed per pharmacy registrant per month in the most recent year for which data is available. The department shall report the average for each of these drugs to the Governor, the President of the Senate, and the Speaker of the House of Representatives by November 1, 2011. The department shall assess the data reported pursuant to subsection (14) and identify the statewide average of grams of each benzodiazepine distributed per community pharmacy per month. The department shall report the average for each benzodiazepine to the Governor, the President of the Senate, and the Speaker of the House of Representatives by November 1, 2011.

History.—s. 16, ch. 92-69; s. 32, ch. 98-151; ss. 38, 40, ch. 2000-242; ss. 15, 16, 18, ch. 2003-155; s. 86, ch. 2004-5; s. 4, ch. 2004-328; s. 10, ch. 2004-387; s. 3, ch. 2005-248; s. 5, ch. 2006-310; s. 17, ch. 2007-6; s. 13, ch. 2008-207; s. 62, ch. 2009-21; s. 3, ch. 2009-221; s. 40, ch. 2010-161; s. 18, ch. 2011-141.

Note.—Paragraph (6)(d) former s. 499.013(4).

499.01211 Drug Wholesale Distributor Advisory Council.—

(1) There is created the Drug Wholesale Distributor Advisory Council within the department. The council shall meet at least once each calendar quarter. Staff for the council shall be provided by the department. The council shall consist of 11 members who shall serve without compensation. The council shall elect a chairperson and a vice chairperson annually.

(2) The Secretary of Business and Professional Regulation or his or her designee and the Secretary of Health Care Administration or her or his designee shall be members of the council. The Secretary of Business and Professional Regulation shall appoint nine additional members to the council who shall be appointed to a term of 4 years each, as follows:

(a) Three different persons each of whom is employed by a different prescription drug wholesale distributor licensed under this part which operates nationally and is a primary wholesale distributor, as defined in s. 499.003(47).

(b) One person employed by a prescription drug wholesale distributor licensed under this part which is a secondary wholesale distributor, as defined in s. 499.003(52).

(c) One person employed by a retail pharmacy chain located in this state.

(d) One person who is a member of the Board of Pharmacy and is a pharmacist licensed under chapter 465.

(e) One person who is a physician licensed pursuant to chapter 458 or chapter 459.

(f) One person who is an employee of a hospital licensed pursuant to chapter 395 and is a pharmacist licensed pursuant to chapter 465.

(g) One person who is an employee of a pharmaceutical manufacturer.

(3) The council shall review this part and the rules adopted to administer this part annually, provide input to the department regarding all proposed rules to administer this part, make recommendations to the department to improve the protection of the prescription drugs and public health, make recommendations to improve coordination with other states' regulatory agencies and the federal government concerning the wholesale distribution of drugs, and make recommendations to

minimize the impact of regulation of the wholesale distribution industry while ensuring protection of the public health.

History.—s. 17, ch. 2003-155; s. 23, ch. 2007-6; s. 105, ch. 2008-6; s. 14, ch. 2008-207; s. 41, ch. 2010-161; s. 4, ch. 2012-143.

499.01212 Pedigree paper.—

(1) APPLICATION.—Each person who is engaged in the wholesale distribution of a prescription drug must, prior to or simultaneous with each wholesale distribution, provide a pedigree paper to the person who receives the drug.

(2) FORMAT.—A pedigree paper must contain the following information:

(a) For the wholesale distribution of a prescription drug within the normal distribution chain:

1. The following statement: "This wholesale distributor purchased the specific unit of the prescription drug directly from the manufacturer."

2. The manufacturer's national drug code identifier and the name and address of the wholesale distributor and the purchaser of the prescription drug.

3. The name of the prescription drug as it appears on the label.

4. The quantity, dosage form, and strength of the prescription drug.

The wholesale distributor must also maintain and make available to the department, upon request, the point of origin of the prescription drugs, including intracompany transfers, the date of the shipment from the manufacturer to the wholesale distributor, the lot numbers of such drugs, and the invoice numbers from the manufacturer.

(b) For all other wholesale distributions of prescription drugs:

1. The quantity, dosage form, and strength of the prescription drugs.

2. The lot numbers of the prescription drugs.

3. The name and address of each owner of the prescription drug and his or her signature.

4. Shipping information, including the name and address of each person certifying delivery or receipt of the prescription drug.

5. An invoice number, a shipping document number, or another number uniquely identifying the transaction.

6. A certification that the recipient wholesale distributor has authenticated the pedigree papers.

7. The unique serialization of the prescription drug, if the manufacturer or repackager has uniquely serialized the individual prescription drug unit.

8. The name, address, telephone number, and, if available, e-mail contact information of each wholesale distributor involved in the chain of the prescription drug's custody.

When an affiliated group member obtains title to a prescription drug before distributing the prescription drug as the manufacturer under s. 499.003(31)(e), information regarding the distribution between those affiliated group members may be omitted from a pedigree paper required under this paragraph for subsequent distributions of that prescription drug.

(3) EXCEPTIONS.—A pedigree paper is not required for:

(a) The wholesale distribution of a prescription drug by the manufacturer or by a third party logistics provider performing a wholesale distribution of a prescription drug for a manufacturer.

(b) The wholesale distribution of a prescription drug by a freight forwarder within the authority of a freight forwarder permit.

(c) The wholesale distribution of a prescription drug by a limited prescription drug veterinary wholesale distributor to a veterinarian.

(d)The wholesale distribution of a compressed medical gas.

(e)The wholesale distribution of a veterinary prescription drug.

(f)A drop shipment, provided:

1.The wholesale distributor delivers to the recipient of the prescription drug, within 14 days after the shipment notification from the manufacturer, an invoice and the following sworn statement: "This wholesale distributor purchased the specific unit of the prescription drug listed on the invoice directly from the manufacturer, and the specific unit of prescription drug was shipped by the manufacturer directly to a person authorized by law to administer or dispense the legend drug, as defined in s. 465.003, Florida Statutes, or a member of an affiliated group, with the exception of a repackager." The invoice must contain a unique cross-reference to the shipping document sent by the manufacturer to the recipient of the prescription drug.

2.The manufacturer of the prescription drug shipped directly to the recipient provides and the recipient of the prescription drug acquires, within 14 days after receipt of the prescription drug, a shipping document from the manufacturer that contains, at a minimum:

a.The name and address of the manufacturer, including the point of origin of the shipment, and the names and addresses of the wholesale distributor and the purchaser.

b.The name of the prescription drug as it appears on the label.

c.The quantity, dosage form, and strength of the prescription drug.

d.The date of the shipment from the manufacturer.

3.The wholesale distributor maintains and makes available to the department, upon request, the lot number of such drug if not contained in the shipping document acquired by the recipient.

4.The wholesale distributor that takes title to, but not possession of, the prescription drug is not a member of the affiliated group that receives the prescription drug directly from the manufacturer.

Failure of the manufacturer to provide, the recipient to acquire, or the wholesale distributor to deliver the documentation required under this paragraph shall constitute failure to acquire or deliver a pedigree paper under ss. 499.005(28) and 499.0051. Forgery by the manufacturer, the recipient, or the wholesale distributor of the documentation required to be acquired or delivered under this paragraph shall constitute forgery of a pedigree paper under s. 499.0051.

(g)The wholesale distribution of a prescription drug by a warehouse within an affiliated group to a warehouse or retail pharmacy within its affiliated group, provided:

1.Any affiliated group member that purchases or receives a prescription drug from outside the affiliated group must receive a pedigree paper if the prescription drug is distributed in or into this state and a pedigree paper is required under this section and must authenticate the documentation as required in s. 499.0121(4), regardless of whether the affiliated group member is directly subject to regulation under this part; and

2.The affiliated group makes available, within 48 hours, to the department on request to one or more of its members all records related to the purchase or acquisition of prescription drugs by members of the affiliated group, regardless of the location where the records are stored, if the prescription drugs were distributed in or into this state.

(h)The repackaging of prescription drugs by a repackager solely for distribution to its affiliated group members for the exclusive distribution to and among retail pharmacies that are members of the affiliated group to which the repackager is a member.

1. The repackager must:
 - a. For all repackaged prescription drugs distributed in or into this state, state in writing under oath with each distribution of a repackaged prescription drug to an affiliated group member warehouse or repackager: "All repackaged prescription drugs are purchased by the affiliated group directly from the manufacturer or from a prescription drug wholesale distributor that purchased the prescription drugs directly from the manufacturer."
 - b. Purchase all prescription drugs it repackages:
 - (I) Directly from the manufacturer; or
 - (II) From a prescription drug wholesale distributor that purchased the prescription drugs directly from the manufacturer.
 - c. Maintain records in accordance with this section to document that it purchased the prescription drugs directly from the manufacturer or that its prescription drug wholesale supplier purchased the prescription drugs directly from the manufacturer.
2. All members of the affiliated group must provide, within 48 hours, to agents of the department on request to one or more of its members records of purchases by all members of the affiliated group of prescription drugs that have been repackaged, regardless of the location at which the records are stored or at which the repackager is located.
 - (i) The wholesale distribution of prescription drugs within a medical convenience kit if:
 1. The medical convenience kit is assembled in an establishment that is registered with the United States Food and Drug Administration as a medical device manufacturer;
 2. The medical convenience kit manufacturer purchased the prescription drug directly from the manufacturer or from a wholesaler that purchased the prescription drug directly from the manufacturer;
 3. The medical convenience kit manufacturer complies with federal law for the distribution of the prescription drugs within the kit; and
 4. The drugs contained in the medical kit are:
 - a. Intravenous solutions intended for the replenishment of fluids and electrolytes;
 - b. Products intended to maintain the equilibrium of water and minerals in the body;
 - c. Products intended for irrigation or reconstitution;
 - d. Anesthetics; or
 - e. Anticoagulants.

This exemption does not apply to a convenience kit containing any controlled substance that appears in a schedule contained in or subject to chapter 893 or the federal Comprehensive Drug Abuse Prevention and Control Act of 1970.

History.—s. 15, ch. 2008-207; s. 4, ch. 2009-221; s. 24, ch. 2010-161.

499.015 Registration of drugs, devices, and cosmetics; issuance of certificates of free sale.—

(1)(a) Except for those persons exempted from the definition of manufacturer in s. 499.003(31), any person who manufactures, packages, repackages, labels, or relabels a drug, device, or cosmetic in this state must register such drug, device, or cosmetic biennially with the department; pay a fee in accordance with the fee schedule provided by s. 499.041; and comply with this section. The registrant must list each separate and distinct drug, device, or cosmetic at the time of registration.

(b) The department may not register any product that does not comply with the Federal Food, Drug, and Cosmetic Act, as amended, or Title 21 C.F.R. Registration of a product by the department does not mean that the product does in fact comply with all provisions of the Federal Food, Drug, and Cosmetic Act, as amended.

(2)The department may require the submission of a catalog and specimens of labels at the time of application for registration of drugs, devices, and cosmetics packaged and prepared in compliance with the federal act, which submission constitutes a satisfactory compliance for registration of the products. With respect to all other drugs, devices, and cosmetics, the department may require the submission of a catalog and specimens of labels at the time of application for registration, but the registration will not become effective until the department has examined and approved the label of the drug, device, or cosmetic product. This approval or denial must include written notification to the manufacturer.

(3)Except for those persons exempted from the definition of manufacturer in s. 499.003(31), a person may not sell any product that he or she has failed to register in conformity with this section. Such failure to register subjects such drug, device, or cosmetic product to seizure and condemnation as provided in s. 499.062, and subjects such person to the penalties and remedies provided in this part.

(4)Unless a registration is renewed, it expires 2 years after the last day of the month in which it was issued. The department may issue a stop-sale notice or order against a person that is subject to the requirements of this section and that fails to comply with this section within 31 days after the date the registration expires. The notice or order shall prohibit such person from selling or causing to be sold any drugs, devices, or cosmetics covered by this part until he or she complies with the requirements of this section.

(5)A product regulated under this section which is not included in the biennial registration may not be sold until it is registered and complies with this section.

(6)The department may issue a certificate of free sale for any product that is required to be registered under this part.

(7)A product registration is valid only for the company named on the registration and located at the address on the registration. A person whose product is registered by the department under this section must notify the department before any change in the name or address of the establishment to which the product is registered. If a person whose product is registered ceases conducting business, the person must notify the department before closing the business.

(8)Notwithstanding any requirements set forth in this part, a manufacturer of medical devices that is registered with the federal Food and Drug Administration is exempt from this section and s. 499.041(6) if:

(a)The manufacturer's medical devices are approved for marketing by, or listed with the federal Food and Drug Administration in accordance with federal law for commercial distribution; or

(b)The manufacturer subcontracts with a manufacturer of medical devices to manufacture components of such devices.

(9)However, the manufacturer must submit evidence of such registration, listing, or approval with its initial application for a permit to do business in this state, as required in s. 499.01 and any changes to such information previously submitted at the time of renewal of the permit. Evidence of approval, listing, and registration by the federal Food and Drug Administration must include:

(a)For Class II devices, a copy of the premarket notification letter (510K);

(b)For Class III devices, a Federal Drug Administration premarket approval number;

(c)For a manufacturer who subcontracts with a manufacturer of medical devices to manufacture components of such devices, a Federal Drug Administration registration number; or

(d)For a manufacturer of medical devices whose devices are exempt from premarket approval by the Federal Drug Administration, a Federal Drug Administration registration number.

History.—s. 34, ch. 82-225; s. 110, ch. 83-218; s. 1, ch. 83-265; s. 3, ch. 84-115; ss. 20, 52, ch. 92-69; s. 587, ch. 97-103; s. 36, ch. 98-151; s. 1, ch. 99-165; s. 41, ch. 2000-242; s. 12, ch. 2000-326; s. 18, ch. 2001-63; s. 33, ch. 2001-89; s. 88, ch. 2004-5; s. 18, ch. 2008-207; s. 63, ch. 2009-21.

499.023 New drugs; sale, manufacture, repackaging, distribution.—A person may not sell, offer for sale, hold for sale, manufacture, repackage, distribute, or give away any new drug unless an approved application has become effective under s. 505 of the federal act or unless otherwise permitted by the Secretary of the United States Department of Health and Human Services for shipment in interstate commerce.

History.—s. 34, ch. 82-225; s. 1, ch. 83-265; ss. 26, 52, ch. 92-69.

499.024 Drug product classification.—The department shall adopt rules to classify drug products intended for use by humans which the United States Food and Drug Administration has not classified in the federal act or the Code of Federal Regulations.

(1) Drug products must be classified as proprietary, prescription, or investigational drugs.

(2) If a product is distributed without required labeling, it is misbranded while held for sale.

(3) Any product that falls under the definition of drug in s. 499.003(19) may be classified under the authority of this section. This section does not subject portable emergency oxygen inhalators to classification; however, this section does not exempt any person from ss. 499.01 and 499.015.

(4) Any product classified under the authority of this section reverts to the federal classification, if different, upon the federal regulation or act becoming effective.

(5) The department may by rule reclassify drugs subject to this part when such classification action is necessary to protect the public health.

(6) The department may adopt rules that exempt from any labeling or packaging requirements of this part drugs classified under this section if those requirements are not necessary to protect the public health.

History.—s. 9, ch. 88-159; s. 1, ch. 89-296; ss. 27, 52, ch. 92-69; s. 589, ch. 97-103; s. 42, ch. 2000-242; s. 13, ch. 2000-326; s. 61, ch. 2006-1; s. 106, ch. 2008-6; s. 19, ch. 2008-207; s. 5, ch. 2012-143.

499.025 Drug products in finished, solid, oral dosage form; identification requirements.—

(1) A drug product in finished, solid, oral dosage form for which a prescription is required by federal or state law may not be manufactured or distributed within this state unless it is clearly and prominently marked or imprinted with an individual symbol, number, company name, words, letters, marking, or national drug code, or any combination thereof, that identifies the drug product and the manufacturer or distributor of the drug product which has the ability to respond to requests for information regarding the drug product.

(2) A manufacturer or distributor must make available to the department on request descriptive material that identifies each current imprint used by the manufacturer.

(3) The department, upon application by a manufacturer, may exempt a particular drug product from the requirements of subsection (1) on the ground that imprinting is not feasible because of the size, texture, or other unique characteristic of the drug product.

(4) This section does not apply to drug products compounded by a pharmacist licensed under chapter 465 in a pharmacy operating under a permit issued by the Board of Pharmacy.

(5) The department shall adopt rules for implementing this section.

History.—s. 34, ch. 82-225; s. 1, ch. 83-265; s. 22, ch. 86-256; ss. 28, 52, ch. 92-69; s. 18, ch. 2000-326.

499.028 Drug samples or complimentary drugs; starter packs; permits to distribute.—

(1) As used in this section, the term:

(a) "Drug sample," or "complimentary drug," means a human prescription drug that is labeled "sample," "not to be sold," "complimentary," or other words to that effect, that is provided as a courtesy, that is not intended to be sold, and that is intended to promote the sale of the drug.

(b) "Starter packs," also known as "stock samples," "trade packages," "initial dose packs," or "starter stocks," means human prescription drugs that are generally distributed without charge by manufacturers or distributors to pharmacies to be placed in stock and sold at retail. Although starter packs are generally given without charge to the pharmacy, they are not intended to be a free sample to the consumer nor are they labeled as such. Starter packs are subject to regulation as prescription drugs under the Florida Drug and Cosmetic Act in the same manner as stock shipments of prescription drugs. Starter packs are not drug samples.

(2) A person may not sell, purchase, or trade or offer to sell, purchase, or trade any drug sample. An officer or executive of a drug manufacturer or distributor is not subject to criminal liability solely because of a sale, purchase, trade, or offer to sell, purchase, or trade of a drug sample in violation of this subsection by other employees of the manufacturer or distributor.

(3) Except as provided in this section, a representative of a drug manufacturer or distributor may not distribute any drug sample.

(a) The manufacturer or distributor of a human prescription drug may, in accordance with this paragraph, distribute drug samples by mail or common carrier to practitioners licensed to prescribe such drugs or, at the request of a licensed practitioner, to pharmacies of hospitals or to pharmacies of other health care entities. Such a distribution of drug samples may only be made:

1. In response to a written request for drug samples made on a form that meets the requirements of paragraph (b); and

2. Under a system that requires the recipient of the drug sample to execute a written receipt for the drug sample upon its delivery and to return the receipt to the manufacturer or distributor.

(b) A written request for a drug sample that is required by this section must contain:

1. The name, address, professional designation, and signature of the practitioner who makes the request;

2. The name, strength, and dosage form of the drug sample requested and the quantity requested;

3. The name of the manufacturer of the drug sample requested; and

4. The date of the request.

(c) Each drug manufacturer or distributor that makes distributions by mail or common carrier under this paragraph must maintain, for a period of 3 years, the request forms submitted for such distributions and the receipts submitted for such distributions and must maintain a record of distributions of drug samples which identifies the drugs distributed and the recipients of the distributions. Forms, receipts, and records required to be maintained under this paragraph must be made available by the drug manufacturer or distributor to the department for its review and inspection.

(d) The manufacturer or distributor of a drug subject to paragraph (1)(a) may, by means other than mail or common carrier, distribute drug samples only if the

manufacturer or distributor makes the distributions in accordance with paragraph (e) and carries out the activities described in subsections (4)-(9).

(e) Drug samples may only be distributed:

1. To a practitioner authorized by law to prescribe such drugs if the practitioner makes a written request for the drug samples; or

2. At the written request of such a practitioner, to pharmacies of hospitals or to pharmacies of other health care entities. The written request for drug samples must be made on a form that contains the practitioner's name, address, and professional designation, the name, strength, and dosage form of the drug sample requested, the quantity of drug samples requested, the name of the manufacturer or distributor of the drug sample, the date of the request, and the signature of the practitioner that makes the request.

(4) A drug manufacturer or distributor must store drug samples under the conditions described on their labels that will maintain the stability, integrity, and effectiveness of the drug samples and will assure that the drug samples remain free of contamination, deterioration, and adulteration.

(5) A drug manufacturer or distributor must conduct, at least annually, a complete and accurate inventory of all drug samples in the possession of representatives of the manufacturer or distributor. A drug manufacturer or distributor must maintain lists of the names and addresses of each of its representatives who distribute drug samples and of the sites where drug samples are stored. A drug manufacturer or distributor must maintain for at least 3 years records of all drug samples distributed, destroyed, or returned to the manufacturer or distributor, of all inventories maintained under this subsection, of all thefts or significant losses of drug samples, and of all requests made under ¹subparagraph 1. for drug samples. The drug manufacturer or distributor must make available to the department upon request any record or list maintained under this subsection. The department shall provide to the Department of Business and Professional Regulation the names of those practitioners who have received an excessive or inappropriate quantity of such drugs.

(6) A drug manufacturer or distributor must notify the department of any significant loss of drug samples and any known theft of drug samples.

(7) A drug manufacturer or distributor must report to the department any conviction of itself or of its assigns, agents, employees, or representatives for a violation of s. 503(c)(1) of the federal act or of this part because of the sale, purchase, or trade of a drug sample or the offer to sell, purchase, or trade a drug sample.

(8) Drug manufacturers or distributors must provide to the department the name and telephone number of the individual responsible for responding to a request for information regarding drug samples.

(9) All out-of-date drug samples must be returned to the manufacturer or distributor of that drug sample.

(10) A manufacturer or distributor may not directly or through its agents, employees, or independent contractors, hold, distribute, or otherwise dispose of any complimentary drugs or drug samples in this state without first obtaining a complimentary drug distributor permit pursuant to this section.

(11)(a) Application for a permit by a manufacturer or distributor to hold, distribute, or otherwise dispose of drugs pursuant to this section must be made on a form prescribed by the department and must be accompanied by an application fee in an amount not exceeding \$250 per year, as is determined by the department.

(b) A permit issued under this section expires 2 years after the date of issuance, unless sooner suspended or revoked.

(c) A permit is renewable biennially upon the filing of an application for renewal and the payment of a renewal fee of not more than \$250 per year, as determined by the

department, if the applicant meets the requirements established by this section and the rules adopted under this section.

(12)The department may suspend or revoke a permit issued under this section, after giving notice and an opportunity to be heard pursuant to chapter 120, when:

(a)Such permit was obtained by misrepresentation or fraud or through a mistake of the department.

(b)The holder of the permit has distributed or disposed of any prescription drug, directly or through its agents, employees, or independent contractors, to any person not authorized to possess such drug.

(c)The holder of the permit, or its agents, employees, or independent contractors, has distributed or possessed any prescription drug except in the usual course of its business.

(d)The holder of the permit, or its agents, employees, or independent contractors, has distributed any prescription drug that is misbranded or adulterated under this part.

(e)The holder of the permit, or its agents, employees, or independent contractors, has distributed any prescription drug without written request, when a written request is required by this section.

(f)The holder of the permit has in its employ, or uses as agent or independent contractor for the purpose of distributing or disposing of drugs, any person who has:

1. Violated the requirements of this section or any rule adopted under this section.

2. Been convicted in any of the courts of this state, the United States, or any other state of a felony or any other crime involving moral turpitude or involving those drugs named or described in chapter 893.

(13)The department may, pursuant to chapter 120, impose an administrative fine, not to exceed \$5,000 per violation per day, for the violation of this section or rules adopted under this section. Each day such violation continues constitutes a separate violation, and each such separate violation is subject to a separate fine. All amounts collected under this section shall be deposited into the Professional Regulation Trust Fund. In determining the amount of fine to be levied for a violation, the following factors must be considered:

(a)The severity of the violation.

(b)Any actions taken by the permittee to correct the violation or to remedy complaints.

(c)Any previous violations.

(14)Chapter 893 applies to all drug samples that are controlled substances.

(15)A person may not possess a prescription drug sample unless:

(a)The drug sample was prescribed to her or him as evidenced by the label required in s. 465.0276(5).

(b)She or he is the employee of a complimentary drug distributor that holds a permit issued under this part.

(c)She or he is a person to whom prescription drug samples may be distributed pursuant to this section.

(d)He or she is an officer or employee of a federal, state, or local government acting within the scope of his or her employment.

History.—s. 34, ch. 82-225; s. 114, ch. 83-218; s. 1, ch. 83-265; s. 8, ch. 84-115; s. 23, ch. 86-256; ss. 29, 52, ch. 92-69; s. 198, ch. 94-218; s. 23, ch. 97-98; s. 590, ch. 97-103; s. 39, ch. 99-397; s. 20, ch. 2008-207; s. 12, ch. 2012-143.

¹Note.—Subsection (5) does not contain subparagraphs.

499.029Cancer Drug Donation Program.—

(1)This section may be cited as the "Cancer Drug Donation Program Act."

(2) There is created a Cancer Drug Donation Program within the department for the purpose of authorizing and facilitating the donation of cancer drugs and supplies to eligible patients.

(3) As used in this section:

(a) "Cancer drug" means a prescription drug that has been approved under s. 505 of the federal Food, Drug, and Cosmetic Act and is used to treat cancer or its side effects or is used to treat the side effects of a prescription drug used to treat cancer or its side effects. "Cancer drug" does not include a substance listed in Schedule II, Schedule III, Schedule IV, or Schedule V of s. 893.03.

(b) "Closed drug delivery system" means a system in which the actual control of the unit-dose medication package is maintained by the facility rather than by the individual patient.

(c) "Donor" means a patient or patient representative who donates cancer drugs or supplies needed to administer cancer drugs that have been maintained within a closed drug delivery system; health care facilities, nursing homes, hospices, or hospitals with closed drug delivery systems; or pharmacies, drug manufacturers, medical device manufacturers or suppliers, or wholesalers of drugs or supplies, in accordance with this section. "Donor" includes a physician licensed under chapter 458 or chapter 459 who receives cancer drugs or supplies directly from a drug manufacturer, wholesale distributor, or pharmacy.

(d) "Eligible patient" means a person who the department determines is eligible to receive cancer drugs from the program.

(e) "Participant facility" means a class II hospital pharmacy that has elected to participate in the program and that accepts donated cancer drugs and supplies under the rules adopted by the department for the program.

(f) "Prescribing practitioner" means a physician licensed under chapter 458 or chapter 459 or any other medical professional with authority under state law to prescribe cancer medication.

(g) "Program" means the Cancer Drug Donation Program created by this section.

(h) "Supplies" means any supplies used in the administration of a cancer drug.

(4) Any donor may donate cancer drugs or supplies to a participant facility that elects to participate in the program and meets criteria established by the department for such participation. Cancer drugs or supplies may not be donated to a specific cancer patient, and donated drugs or supplies may not be resold by the program. Cancer drugs billed to and paid for by Medicaid in long-term care facilities that are eligible for return to stock under federal Medicaid regulations shall be credited to Medicaid and are not eligible for donation under the program. A participant facility may provide dispensing and consulting services to individuals who are not patients of the hospital.

(5) The cancer drugs or supplies donated to the program may be prescribed only by a prescribing practitioner for use by an eligible patient and may be dispensed only by a pharmacist.

(6)(a) A cancer drug may only be accepted or dispensed under the program if the drug is in its original, unopened, sealed container, or in a tamper-evident unit-dose packaging, except that a cancer drug packaged in single-unit doses may be accepted and dispensed if the outside packaging is opened but the single-unit-dose packaging is unopened with tamper-resistant packaging intact.

(b) A cancer drug may not be accepted or dispensed under the program if the drug bears an expiration date that is less than 6 months after the date the drug was donated or if the drug appears to have been tampered with or mislabeled as determined in paragraph (c).

(c) Prior to being dispensed to an eligible patient, the cancer drug or supplies donated under the program shall be inspected by a pharmacist to determine that the drug and supplies do not appear to have been tampered with or mislabeled.

(d) A dispenser of donated cancer drugs or supplies may not submit a claim or otherwise seek reimbursement from any public or private third-party payor for donated cancer drugs or supplies dispensed to any patient under the program, and a public or private third-party payor is not required to provide reimbursement to a dispenser for donated cancer drugs or supplies dispensed to any patient under the program.

(7)(a) A donation of cancer drugs or supplies shall be made only at a participant facility. A participant facility may decline to accept a donation. A participant facility that accepts donated cancer drugs or supplies under the program shall comply with all applicable provisions of state and federal law relating to the storage and dispensing of the donated cancer drugs or supplies.

(b) A participant facility that voluntarily takes part in the program may charge a handling fee sufficient to cover the cost of preparation and dispensing of cancer drugs or supplies under the program. The fee shall be established in rules adopted by the department.

(8) The department, upon the recommendation of the Board of Pharmacy, shall adopt rules to carry out the provisions of this section. Initial rules under this section shall be adopted no later than 90 days after the effective date of this act. The rules shall include, but not be limited to:

(a) Eligibility criteria, including a method to determine priority of eligible patients under the program.

(b) Standards and procedures for participant facilities that accept, store, distribute, or dispense donated cancer drugs or supplies.

(c) Necessary forms for administration of the program, including, but not limited to, forms for use by entities that donate, accept, distribute, or dispense cancer drugs or supplies under the program.

(d) The maximum handling fee that may be charged by a participant facility that accepts and distributes or dispenses donated cancer drugs or supplies.

(e) Categories of cancer drugs and supplies that the program will accept for dispensing; however, the department may exclude any drug based on its therapeutic effectiveness or high potential for abuse or diversion.

(f) Maintenance and distribution of the participant facility registry established in subsection (10).

(9) A person who is eligible to receive cancer drugs or supplies under the state Medicaid program or under any other prescription drug program funded in whole or in part by the state, by any other prescription drug program funded in whole or in part by the Federal Government, or by any other prescription drug program offered by a third-party insurer, unless benefits have been exhausted, or a certain cancer drug or supply is not covered by the prescription drug program, is ineligible to participate in the program created under this section.

(10) The department shall establish and maintain a participant facility registry for the program. The participant facility registry shall include the participant facility's name, address, and telephone number. The department shall make the participant facility registry available on the department's website to any donor wishing to donate cancer drugs or supplies to the program. The department's website shall also contain links to cancer drug manufacturers that offer drug assistance programs or free medication.

(11) Any donor of cancer drugs or supplies, or any participant in the program, who exercises reasonable care in donating, accepting, distributing, or dispensing cancer drugs or supplies under the program and the rules adopted under this section shall

be immune from civil or criminal liability and from professional disciplinary action of any kind for any injury, death, or loss to person or property relating to such activities.

(12)A pharmaceutical manufacturer is not liable for any claim or injury arising from the transfer of any cancer drug under this section, including, but not limited to, liability for failure to transfer or communicate product or consumer information regarding the transferred drug, as well as the expiration date of the transferred drug.

(13)If any conflict exists between the provisions in this section and the provisions in this chapter or chapter 465, the provisions in this section shall control the operation of the Cancer Drug Donation Program.

History.—s. 1, ch. 2006-310; s. 122, ch. 2007-5; ss. 2, 21, ch. 2008-207.

499.03Possession of certain drugs without prescriptions unlawful; exemptions and exceptions.—

(1)A person may not possess, or possess with intent to sell, dispense, or deliver, any habit-forming, toxic, harmful, or new drug subject to s. 499.003(33), or prescription drug as defined in s. 499.003(43), unless the possession of the drug has been obtained by a valid prescription of a practitioner licensed by law to prescribe the drug. However, this section does not apply to the delivery of such drugs to persons included in any of the classes named in this subsection, or to the agents or employees of such persons, for use in the usual course of their businesses or practices or in the performance of their official duties, as the case may be; nor does this section apply to the possession of such drugs by those persons or their agents or employees for such use:

(a)A licensed pharmacist or any person under the licensed pharmacist's supervision while acting within the scope of the licensed pharmacist's practice;

(b)A licensed practitioner authorized by law to prescribe prescription drugs or any person under the licensed practitioner's supervision while acting within the scope of the licensed practitioner's practice;

(c)A qualified person who uses prescription drugs for lawful research, teaching, or testing, and not for resale;

(d)A licensed hospital or other institution that procures such drugs for lawful administration or dispensing by practitioners;

(e)An officer or employee of a federal, state, or local government; or

(f)A person that holds a valid permit issued by the department pursuant to this part which authorizes that person to possess prescription drugs.

(2)The possession of a drug under subsection (1) by any person not exempted under this section, which drug is not properly labeled to indicate that possession is by a valid prescription of a practitioner licensed by law to prescribe such drug, is prima facie evidence that such possession is unlawful.

(3)Violation of subsection (1) is a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, except that possession with the intent to sell, dispense, or deliver is a third degree felony, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(4)The department may adopt rules regarding persons engaged in lawful teaching, research, or testing who possess prescription drugs and may issue letters of exemption to facilitate the lawful possession of prescription drugs under this section. History.—s. 34, ch. 82-225; s. 1, ch. 83-265; s. 5, ch. 84-115; s. 75, ch. 87-243; ss. 30, 52, ch. 92-69; s. 37, ch. 98-151; s. 43, ch. 2000-242; s. 14, ch. 2000-326; s. 19, ch. 2001-63; s. 89, ch. 2004-5; s. 22, ch. 2008-207; s. 42, ch. 2010-161.

499.032Phenylalanine; prescription required.—Phenylalanine restricted formula is declared to be a prescription drug and may be dispensed only upon the prescription of a practitioner authorized by law to prescribe prescription drugs.

History.—s. 34, ch. 82-225; s. 1, ch. 83-265; ss. 31, 52, ch. 92-69; s. 23, ch. 2008-207.

499.033Ephedrine; prescription required.—Ephedrine is declared to be a prescription drug.

(1) Except as provided in subsection (2), any product that contains any quantity of ephedrine, a salt of ephedrine, an optical isomer of ephedrine, or a salt of an optical isomer of ephedrine may be dispensed only upon the prescription of a duly licensed practitioner authorized by the laws of the state to prescribe prescription drugs.

(2) A product containing ephedrine described in paragraphs (a)-(e) is exempt from subsection (1) if it may lawfully be sold over the counter without a prescription under the federal act; is labeled and marketed in a manner consistent with the pertinent United States Food and Drug Administration Over-the-Counter Tentative Final or Final Monograph; and is manufactured and distributed for legitimate medicinal use in a manner that reduces or eliminates the likelihood of abuse, when considered in the context with: the package sizes and the manner of packaging of the drug product; the name and labeling of the product; the manner of distribution, advertising, and promotion of the product; the duration, scope, health significance, and societal cost of abuse of the particular product; the need to provide medically important ephedrine-containing therapies to the public for United States Food and Drug Administration approved indications on an unrestricted, over-the-counter basis; and other facts as may be relevant to and consistent with public health and safety.

(a) Solid oral dosage forms that combine active ingredients in the following ranges for each dosage unit:

1. Theophylline (100-130mg), ephedrine (12.5-24mg).
2. Theophylline (60-100mg), ephedrine (12.5-24mg), guaifenesin (200-400mg).
3. Ephedrine (12.5-25mg), guaifenesin (200-400mg).
4. Phenobarbital (not greater than 8mg) in combination with the ingredients of subparagraph 1. or subparagraph 2.

(b) Liquid oral dosage forms that combine active ingredients in the following ranges for each (5ml) dose:

1. Theophylline (not greater than 45mg), ephedrine (not greater than 36mg), guaifenesin (not greater than 100mg), phenobarbital (not greater than 12mg).
2. Phenylephrine (not greater than 5mg), ephedrine (not greater than 5mg), chlorpheniramine (not greater than 2mg), dextromethorphan (not greater than 10mg), ammonium chloride (not greater than 40mg), ipecac fluid extract (not greater than 0.005ml).

(c) Anorectal preparations containing less than 5 percent ephedrine.

(d) Nasal decongestant compounds, mixtures, or preparations containing 0.5 percent or less ephedrine.

(e) Any drug product containing ephedrine that is marketed pursuant to an approved new drug application or legal equivalent under the federal act.

(3) The department may implement this section by rule.

History.—s. 7, ch. 94-309; s. 1, ch. 95-415; s. 61, ch. 2003-1; s. 24, ch. 2008-207.

499.035Dimethyl sulfoxide (DMSO); labeling and advertising.—

(1) Dimethyl sulfoxide (DMSO) not approved for drug use must be clearly marked in at least 12-point boldfaced type: "May be unsafe. Not approved for human use."

(2) All advertisements for the sale of dimethyl sulfoxide (DMSO) not approved for drug use must contain, within the advertisement and in bold lettering, the following statement: "Warning. May be unsafe. Not approved for human use."

History.—s. 34, ch. 82-225; s. 26, ch. 82-402; s. 1, ch. 83-265; ss. 32, 52, ch. 92-69; ss. 1, 5, 8, ch. 94-309.

499.039Sale, distribution, or transfer of harmful chemical substances; penalties; authority for enforcement.—It is unlawful for a person to sell, deliver, or give to a

person under the age of 18 years any compound, liquid, or chemical containing toluol, hexane, trichloroethylene, acetone, toluene, ethyl acetate, methyl ethyl ketone, trichloroethane, isopropanol, methyl isobutyl ketone, ethylene glycol monomethyl ether acetate, cyclohexanone, nitrous oxide, diethyl ether, alkyl nitrites (butyl nitrite), or any similar substance for the purpose of inducing by breathing, inhaling, or ingesting a condition of intoxication or which is intended to distort or disturb the auditory, visual, or other physical or mental processes.

(1) On the first violation of this section, the department may issue a warning according to s. 499.002(5), if the violation has not caused temporary or permanent physical or mental injury to the user.

(2) If any violation of this section has caused temporary or permanent physical or mental injury to the user, the department may, pursuant to chapter 120, impose fines according to s. 499.066 and may report any violation to the appropriate state attorney for prosecution.

(3) The department shall adopt rules to implement this section.

History.—s. 12, ch. 86-133; s. 1, ch. 89-296; ss. 33, 52, ch. 92-69; s. 239, ch. 99-8; s. 25, ch. 2008-207.

499.04 Fee authority.—The department may collect fees for all drug, device, and cosmetic applications, permits, product registrations, and free-sale certificates. The total amount of fees collected from all permits, applications, product registrations, and free-sale certificates must be adequate to fund the expenses incurred by the department in carrying out this part. The department shall, by rule, establish a schedule of fees that are within the ranges provided in this section and shall adjust those fees from time to time based on the costs associated with administering this part. The fees are payable to the department to be deposited into the Professional Regulation Trust Fund for the sole purpose of carrying out this part.

History.—s. 34, ch. 82-225; s. 115, ch. 83-218; s. 1, ch. 83-265; ss. 34, 52, ch. 92-69; s. 15, ch. 2000-326; s. 26, ch. 2008-207; s. 13, ch. 2012-143.

499.041 Schedule of fees for drug, device, and cosmetic applications and permits, product registrations, and free-sale certificates.—

(1) The department shall assess applicants requiring a manufacturing permit an annual fee within the ranges established in this section for the specific type of manufacturer.

(a) The fee for a prescription drug manufacturer permit may not be less than \$500 or more than \$750 annually.

(b) The fee for a device manufacturer permit may not be less than \$500 or more than \$600 annually.

(c) The fee for a cosmetic manufacturer permit may not be less than \$250 or more than \$400 annually.

(d) The fee for an over-the-counter drug manufacturer permit may not be less than \$300 or more than \$400 annually.

(e) The fee for a compressed medical gas manufacturer permit may not be less than \$400 or more than \$500 annually.

(f) The fee for a prescription drug repackager permit may not be less than \$500 or more than \$750 annually.

(g) A manufacturer may not be required to pay more than one fee per establishment to obtain an additional manufacturing permit, but each manufacturer must pay the highest fee applicable to his or her operation in each establishment.

(2) The department shall assess an applicant that is required to have a wholesaling permit an annual fee within the ranges established in this section for the specific type of wholesaling.

(a) The fee for a prescription drug wholesale distributor permit may not be less than \$300 or more than \$800 annually.

(b)The fee for a compressed medical gas wholesale distributor permit may not be less than \$200 or more than \$300 annually.

(c)The fee for an out-of-state prescription drug wholesale distributor permit may not be less than \$300 or more than \$800 annually.

(d)The fee for a nonresident prescription drug manufacturer permit may not be less than \$300 or more than \$500 annually.

(e)The fee for a retail pharmacy drug wholesale distributor permit may not be less than \$35 or more than \$50 annually.

(f)The fee for a freight forwarder permit may not be less than \$200 or more than \$300 annually.

(g)The fee for a veterinary prescription drug wholesale distributor permit may not be less than \$300 or more than \$500 annually.

(h)The fee for a limited prescription drug veterinary wholesale distributor permit may not be less than \$300 or more than \$500 annually.

(i)The fee for a third party logistics provider permit may not be less than \$200 or more than \$300 annually.

(3)The department shall assess an applicant that is required to have a retail establishment permit an annual fee within the ranges established in this section for the specific type of retail establishment.

(a)The fee for a veterinary prescription drug retail establishment permit may not be less than \$200 or more than \$300 annually.

(b)The fee for a medical oxygen retail establishment permit may not be less than \$200 or more than \$300 annually.

(c)The fee for a health care clinic establishment permit may not be less than \$125 or more than \$250 annually.

(4)The department shall assess an applicant that is required to have a restricted prescription drug distributor permit an annual fee of not less than \$200 or more than \$300.

(5)In addition to the fee charged for a permit required by this part, the department shall assess applicants an initial application fee of \$150 for each new permit issued by the department which requires an onsite inspection.

(6)A person that is required to register drugs, devices, or cosmetic products under s. 499.015 shall pay an annual product registration fee of not less than \$5 or more than \$15 for each separate and distinct product in package form. The registration fee is in addition to the fee charged for a free-sale certificate.

(7)The department shall assess an applicant that requests a free-sale certificate a fee of \$25. A fee of \$2 will be charged for each signature copy of a free-sale certificate that is obtained at the same time the free-sale certificate is issued.

(8)The department shall assess an out-of-state prescription drug wholesale distributor applicant or permittee an onsite inspection fee of not less than \$1,000 or more than \$3,000 annually, to be based on the actual cost of the inspection if an onsite inspection is performed by agents of the department.

(9)The department shall assess each person applying for certification as a designated representative a fee of \$150, plus the cost of processing the criminal history record check.

(10)The department shall assess other fees as provided in this part.
History.—s. 34, ch. 82-225; s. 116, ch. 83-218; s. 1, ch. 83-265; ss. 10, 14, ch. 88-159; s. 4, ch. 89-296; ss. 35, 52, ch. 92-69; s. 591, ch. 97-103; s. 16, ch. 2000-326; s. 20, ch. 2003-155; s. 5, ch. 2004-328; s. 5, ch. 2006-92; s. 27, ch. 2008-207.

499.05Rules.—

(1)The department shall adopt rules to implement and enforce this part with respect to:

- (a) The definition of terms used in this part, and used in the rules adopted under this part, when the use of the term is not its usual and ordinary meaning.
- (b) Labeling requirements for drugs, devices, and cosmetics.
- (c) The establishment of fees authorized in this part.
- (d) The identification of permits that require an initial application and onsite inspection or other prerequisites for permitting which demonstrate that the establishment and person are in compliance with the requirements of this part.
- (e) The application processes and forms for product registration.
- (f) Procedures for requesting and issuing certificates of free sale.
- (g) Inspections and investigations conducted under s. 499.051, and the identification of information claimed to be a trade secret and exempt from the public records law as provided in s. 499.051(7).
- (h) The establishment of a range of penalties, as provided in s. 499.066; requirements for notifying persons of the potential impact of a violation of this part; and a process for the uncontested settlement of alleged violations.
- (i) Additional conditions that qualify as an emergency medical reason under s. 499.003(54)(b)2.
- (j) Procedures and forms relating to the pedigree paper requirement of s. 499.01212.
- (k) The protection of the public health, safety, and welfare regarding good manufacturing practices that manufacturers and repackagers must follow to ensure the safety of the products.
- (l) Information required from each retail establishment pursuant to s. 499.012(3), including requirements for prescriptions or orders.
- (m) The recordkeeping, storage, and handling with respect to each of the distributions of prescription drugs specified in s. 499.003(54)(a)-(d).
- (n) Alternatives to compliance with s. 499.01212 for a prescription drug in the inventory of a permitted prescription drug wholesale distributor as of June 30, 2006, and the return of a prescription drug purchased prior to July 1, 2006. The department may specify time limits for such alternatives.
- (o) Wholesale distributor reporting requirements of s. 499.0121(14).
- (p) Wholesale distributor credentialing and distribution requirements of s. 499.0121(15).

(2) With respect to products in interstate commerce, those rules must not be inconsistent with rules and regulations of federal agencies unless specifically otherwise directed by the Legislature.

(3) The department shall adopt rules regulating recordkeeping for and the storage, handling, and distribution of medical devices and over-the-counter drugs to protect the public from adulterated products.

History.—s. 34, ch. 82-225; s. 1, ch. 83-265; s. 6, ch. 84-115; s. 88, ch. 85-81; s. 4, ch. 86-133; ss. 17, 18, 36, ch. 92-69; ss. 2, 5, 8, ch. 94-309; ss. 31, 34, 38, ch. 98-151; s. 172, ch. 99-397; ss. 39, 44, ch. 2000-242; s. 20, ch. 2001-63; s. 32, ch. 2001-89; ss. 13, 14, 18, ch. 2003-155; ss. 87, 90, ch. 2004-5; s. 28, ch. 2008-207; s. 43, ch. 2010-161; s. 19, ch. 2011-141.

Note.—Paragraph (1)(k) former s. 499.013(3); paragraph (1)(l) former s. 499.0122(2)(b); paragraph (1)(m) former s. 499.012(12).

499.051 Inspections and investigations.—

(1) The agents of the department and of the Department of Law Enforcement, after they present proper identification, may inspect, monitor, and investigate any establishment permitted pursuant to this part during business hours for the purpose of enforcing this part, chapters 465, 501, and 893, and the rules of the department that protect the public health, safety, and welfare.

(2) In addition to the authority set forth in subsection (1), the department and any duly designated officer or employee of the department may enter and inspect any other establishment for the purpose of determining compliance with this part and rules adopted under this part regarding any drug, device, or cosmetic product.

(3) Any application for a permit or product registration or for renewal of such permit or registration made pursuant to this part and rules adopted under this part constitutes permission for any entry or inspection of the premises in order to verify compliance with this part and rules; to discover, investigate, and determine the existence of compliance; or to elicit, receive, respond to, and resolve complaints and violations.

(4) Any application for a permit made pursuant to s. 499.012 and rules adopted under that section constitutes permission for agents of the department and the Department of Law Enforcement, after presenting proper identification, to inspect, review, and copy any financial document or record related to the manufacture, repackaging, or distribution of a drug as is necessary to verify compliance with this part and the rules adopted by the department to administer this part, in order to discover, investigate, and determine the existence of compliance, or to elicit, receive, respond to, and resolve complaints and violations.

(5) The authority to inspect under this section includes the authority to access, review, and copy any and all financial documents related to the activity of manufacturing, repackaging, or distributing prescription drugs.

(6) The authority to inspect under this section includes the authority to secure:

(a) Samples or specimens of any drug, device, or cosmetic; or

(b) Such other evidence as is needed for any action to enforce this part and the rules adopted under this part.

(7) The complaint and all information obtained pursuant to the investigation by the department are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until the investigation and the enforcement action are completed. However, trade secret information contained therein as defined by s. 812.081(1)(c) shall remain confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution, as long as the information is retained by the department. This subsection does not prohibit the department from using such information for regulatory or enforcement proceedings under this chapter or from providing such information to any law enforcement agency or any other regulatory agency. However, the receiving agency shall keep such records confidential and exempt as provided in this subsection. In addition, this subsection is not intended to prevent compliance with the provisions of s. 499.01212, and the pedigree papers required in that section shall not be deemed a trade secret.

History.—s. 34, ch. 82-225; s. 26, ch. 82-402; s. 1, ch. 83-265; s. 5, ch. 86-133; s. 11, ch. 88-159; ss. 37, 52, ch. 92-69; s. 199, ch. 94-218; ss. 3, 5, 8, ch. 94-309; s. 7, ch. 95-366; s. 332, ch. 96-406; s. 240, ch. 99-8; s. 62, ch. 2003-1; s. 21, ch. 2003-155; s. 26, ch. 2007-6; s. 29, ch. 2008-207.

499.052 Records of interstate shipment.—For the purpose of enforcing this part, carriers engaged in interstate commerce and persons receiving drugs, devices, or cosmetics in interstate commerce must, upon the request, in the manner set out below, by an officer or employee duly designated by the department, permit the officer or employee to have access to and to copy all records showing the movement in interstate commerce of any drug, device, or cosmetic, and the quantity, shipper, and consignee thereof.

History.—s. 34, ch. 82-225; s. 1, ch. 83-265; ss. 38, 52, ch. 92-69; s. 30, ch. 2008-207.

499.055 Reports and dissemination of information by department.—

(1)The department may cause to be published from time to time reports summarizing all judgments, decrees, and court orders that have been rendered under ss. 499.001-499.79, including the nature of any charges and the dispositions of the charges.

(2)The department may also cause to be disseminated such information regarding drugs, devices, and cosmetics as considered necessary in the interest of public health and the protection of consumers against fraud.

(3)This section does not prohibit the department from collecting, reporting, and illustrating the results of its investigations.

(4)The department shall publish on the department's website and update at least monthly:

(a)A list of the prescription drug wholesale distributors, out-of-state prescription drug wholesale distributors, and retail pharmacy drug wholesale distributors against whom the department has initiated enforcement action pursuant to this part to suspend or revoke a permit, seek an injunction, or otherwise file an administrative complaint and the permit number of each such wholesale distributor.

(b)A list of the prescription drug wholesale distributors, out-of-state prescription drug wholesale distributors, and retail pharmacy drug wholesale distributors to which the department has issued a permit, including the date on which each permit will expire.

(c)A list of the prescription drug wholesale distributor, out-of-state prescription drug wholesale distributor, and retail pharmacy drug wholesale distributor permits that have been returned to the department, were suspended, were revoked, have expired, or were not renewed in the previous year.

History.—s. 34, ch. 82-225; s. 1, ch. 83-265; s. 6, ch. 86-133; ss. 39, 52, ch. 92-69; s. 22, ch. 2003-155; s. 31, ch. 2008-207.

499.057Expenses and salaries.—Except as otherwise provided in the General Appropriations Act, all expenses and salaries shall be paid out of the Professional Regulation Trust Fund.

History.—s. 34, ch. 82-225; s. 1, ch. 83-265; ss. 40, 52, ch. 92-69; s. 564, ch. 2003-261; s. 14, ch. 2012-143.

499.06Embargoing, detaining, or destroying article or processing equipment which is in violation of law or rule.—

(1)When a duly authorized agent of the department finds, or has probable cause to believe, that any drug, device, or cosmetic is in violation of any provision of this part or any rule adopted under this part so as to be dangerous, unwholesome, or fraudulent within the meaning of this part, she or he may issue and enforce a stop-sale, stop-use, removal, or hold order, which order gives notice that such article or processing equipment is, or is suspected of being, in violation and has been detained or embargoed, and which order warns all persons not to remove, use, or dispose of such article or processing equipment by sale or otherwise until permission for removal, use, or disposal is given by such agent or the court. It is unlawful for any person to remove, use, or dispose of such detained or embargoed article or processing equipment by sale or otherwise without such permission; and such act is a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2)When an article or processing equipment detained or embargoed under subsection (1) has been found by such agent to be in violation of law or rule, she or he shall, within 90 days after the issuance of such notice, petition the circuit court, in the jurisdiction of which the article or processing equipment is detained or embargoed, for an order for condemnation of such article or processing equipment. When such agent has found that an article or processing equipment so detained or

embargoed is not in violation, she or he shall rescind the stop-sale, stop-use, removal, or hold order.

(3) If the court finds that the detained or embargoed article or processing equipment is in violation, such article or processing equipment shall, after entry of the court order, be destroyed or made sanitary at the expense of the claimant thereof, under the supervision of such agent; and all court costs, fees, and storage and other proper expenses shall be taxed against the claimant of such article or processing equipment or her or his agent. However, when the violation can be corrected by proper labeling of the article or sanitizing of the processing equipment, and after such costs, fees, and expenses have been paid and a good and sufficient bond, conditioned that such article be so labeled or processed or such processing equipment be so sanitized, has been executed, the court may by order direct that such article or processing equipment be delivered to the claimant thereof for such labeling, processing, or sanitizing, under the supervision of an agent of the department. The expense of such supervision shall be paid by the claimant. Such bond shall be returned to the claimant of the article or processing equipment upon representation to the court by the department that the article or processing equipment is no longer in violation of this part and that the expenses of such supervision have been paid.

(4) When the department or any of its authorized agents finds in any room, building, vehicle of transportation, or other structure any perishable articles that are unsound or contain any filthy, decomposed, or putrid substances, or which may be poisonous or deleterious to health or otherwise unsafe, the same being hereby declared to be a nuisance, the department, or its authorized agent, shall forthwith condemn or destroy such articles or in any other manner render such articles unsalable.

History.—s. 34, ch. 82-225; s. 1, ch. 83-265; ss. 41, 52, ch. 92-69; s. 592, ch. 97-103; s. 32, ch. 2008-207.

499.062 Seizure and condemnation of drugs, devices, or cosmetics.—

(1) Any article of any drug, device, or cosmetic that is adulterated or misbranded under this part is subject to seizure and condemnation by the department or by its duly authorized agents designated for that purpose in regard to drugs, devices, or cosmetics.

(2) Whenever a duly authorized officer or employee of the department finds cause, or has probable cause to believe that cause exists, for the seizure of any drug, device, or cosmetic, as set out in this part, he or she shall affix to the article a tag, stamp, or other appropriate marking, giving notice that the article is, or is suspected of being, subject to seizure under this part and that the article has been detained and seized by the department. Such officer or employee shall also warn all persons not to remove or dispose of the article, by sale or otherwise, until permission is given by the department or the court. Any person who violates this subsection is guilty of a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(a) When any article detained or seized under this subsection has been found by the department to be subject to seizure and condemnation, the department shall petition the court for an order of condemnation or sale, as the court directs. The proceeds of the sale of drugs, devices, and cosmetics, less the legal costs and charges, shall be deposited into the Professional Regulation Trust Fund.

(b) If the department finds that any article seized under this subsection was not subject to seizure, the department or the designated officer or employee shall remove the tag or marking.

History.—s. 34, ch. 82-225; s. 1, ch. 83-265; ss. 42, 43, 44, 52, ch. 92-69; s. 593, ch. 97-103; s. 33, ch. 2008-207; s. 15, ch. 2012-143.

Note.—Subsection (2) intro. former s. 499.063; paragraphs (2)(a), (b) former s. 499.064.

499.065 Inspections; imminent danger.—

(1) Notwithstanding s. 499.051, the department shall inspect each prescription drug wholesale distributor establishment, prescription drug repackager establishment, veterinary prescription drug wholesale distributor establishment, limited prescription drug veterinary wholesale distributor establishment, and retail pharmacy drug wholesale distributor establishment that is required to be permitted under this part as often as necessary to ensure compliance with applicable laws and rules. The department shall have the right of entry and access to these facilities at any reasonable time.

(2) To protect the public from prescription drugs that are adulterated or otherwise unfit for human or animal consumption, the department may examine, sample, seize, and stop the sale or use of prescription drugs to determine the condition of those drugs. The department may immediately seize and remove any prescription drugs if the Secretary of Business and Professional Regulation or his or her designee determines that the prescription drugs represent a threat to the public health. The owner of any property seized under this section may, within 10 days after the seizure, apply to a court of competent jurisdiction for whatever relief is appropriate. At any time after 10 days, the department may destroy the drugs as contraband.

(3) The department may determine that a prescription drug wholesale distributor establishment, prescription drug repackager establishment, veterinary prescription drug wholesale distributor establishment, limited prescription drug veterinary wholesale distributor establishment, or retail pharmacy drug wholesale distributor establishment that is required to be permitted under this part is an imminent danger to the public health and shall require its immediate closure if the establishment fails to comply with applicable laws and rules and, because of the failure, presents an imminent threat to the public's health, safety, or welfare. Any establishment so deemed and closed shall remain closed until allowed by the department or by judicial order to reopen.

(4) For purposes of this section, a refusal to allow entry to the department for inspection at reasonable times, or a failure or refusal to provide the department with required documentation for purposes of inspection, constitutes an imminent danger to the public health.

History.—s. 23, ch. 2003-155; s. 6, ch. 2004-328; s. 6, ch. 2006-92; s. 107, ch. 2008-6; s. 34, ch. 2008-207; s. 6, ch. 2012-143.

499.066 Penalties; remedies.—In addition to other penalties and other enforcement provisions:

(1) The department may institute such suits or other legal proceedings as are required to enforce any provision of this part. If it appears that a person has violated any provision of this part for which criminal prosecution is provided, the department may provide the appropriate state attorney or other prosecuting agency having jurisdiction with respect to such prosecution with the relevant information in the department's possession.

(2) If any person engaged in any activity covered by this part violates any provision of this part, any rule adopted under this part, or a cease and desist order as provided by this part, the department may obtain an injunction in the circuit court of the county in which the violation occurred or in which the person resides or has its principal place of business, and may apply in that court for such temporary and permanent orders as the department considers necessary to restrain the person from engaging in any such activities until the person complies with this part, the rules adopted under this part, and the orders of the department authorized by this part or

to mandate compliance with this part, the rules adopted under this part, and any order or permit issued by the department under this part.

(3)The department may impose an administrative fine, not to exceed \$5,000 per violation per day, for the violation of any provision of this part or rules adopted under this part. Each day a violation continues constitutes a separate violation, and each separate violation is subject to a separate fine. All amounts collected pursuant to this section shall be deposited into the Professional Regulation Trust Fund and are appropriated for the use of the department in administering this part. In determining the amount of the fine to be levied for a violation, the department shall consider:

- (a)The severity of the violation;
- (b)Any actions taken by the person to correct the violation or to remedy complaints; and
- (c)Any previous violations.

(4)The department shall deposit any rewards, fines, or collections that are due the department and which derive from joint enforcement activities with other state and federal agencies which relate to this part, chapter 893, or the federal act, into the Professional Regulation Trust Fund. The proceeds of those rewards, fines, and collections are appropriated for the use of the department in administering this part.

(5)The department may issue an emergency order immediately suspending or revoking a permit if it determines that any condition in the establishment presents a danger to the public health, safety, and welfare.

(6)The department may issue an emergency order to immediately remove from commerce and public access any drug, device, or cosmetic, if the department determines that the drug, device, or cosmetic presents a clear and present danger to the public health, safety, and welfare.

(7)Resignation or termination of an affiliated party does not affect the department's jurisdiction or discretion to proceed with action to suspend or revoke a permit or to impose other penalties or enforcement actions authorized by law.

History.—s. 34, ch. 82-225; s. 26, ch. 82-402; s. 117, ch. 83-218; s. 1, ch. 83-265; s. 7, ch. 86-133; s. 3, ch. 86-271; ss. 45, 52, ch. 92-69; ss. 4, 5, 8, ch. 94-309; s. 24, ch. 2003-155; s. 35, ch. 2008-207; s. 16, ch. 2012-143.

499.0661Cease and desist orders; removal of certain persons.—

(1)CEASE AND DESIST ORDERS.—

(a)In addition to any authority otherwise provided in this chapter, the department may issue and serve a complaint stating charges upon any permittee or upon any affiliated party, whenever the department has reasonable cause to believe that the person or individual named therein is engaging in or has engaged in conduct that is:

1.An act that demonstrates a lack of fitness or trustworthiness to engage in the business authorized under the permit issued pursuant to this part, is hazardous to the public health, or constitutes business operations that are a detriment to the public health;

2.A violation of any provision of this part;

3.A violation of any rule of the department;

4.A violation of any order of the department; or

5.A breach of any written agreement with the department.

(b)The complaint must contain a statement of facts and notice of opportunity for a hearing pursuant to ss. 120.569 and 120.57.

(c)If a hearing is not requested within the time allowed by ss. 120.569 and 120.57, or if a hearing is held and the department finds that any of the charges are proven, the department may enter an order directing the permittee or the affiliated party named in the complaint to cease and desist from engaging in the conduct complained of and take corrective action to remedy the effects of past improper conduct and assure future compliance.

(d) A contested or default cease and desist order is effective when reduced to writing and served upon the permittee or affiliated party named therein. An uncontested cease and desist order is effective as agreed.

(e) Whenever the department finds that conduct described in paragraph (a) is likely to cause an immediate threat to the public health, it may issue an emergency cease and desist order requiring the permittee or any affiliated party to immediately cease and desist from engaging in the conduct complained of and to take corrective and remedial action. The emergency order is effective immediately upon service of a copy of the order upon the permittee or affiliated party named therein and remains effective for 90 days. If the department begins nonemergency cease and desist proceedings under this subsection, the emergency order remains effective until the conclusion of the proceedings under ss. 120.569 and 120.57.

(2) REMOVAL OF AFFILIATED PARTIES BY THE DEPARTMENT.—

(a) The department may issue and serve a complaint stating charges upon any affiliated party and upon the permittee involved whenever the department has reason to believe that an affiliated party is engaging in or has engaged in conduct that constitutes:

1. An act that demonstrates a lack of fitness or trustworthiness to engage in the business authorized under the permit issued pursuant to this part, is hazardous to the public health, or constitutes business operations that are a detriment to the public health;

2. A willful violation of this part; however, if the violation constitutes a misdemeanor, a complaint may not be served as provided in this section until the affiliated party is notified in writing of the matter of the violation and has been afforded a reasonable period of time, as set forth in the notice, to correct the violation and has failed to do so;

3. A violation of any other law involving fraud or moral turpitude which constitutes a felony;

4. A willful violation of any rule of the department;

5. A willful violation of any order of the department; or

6. A material misrepresentation of fact, made knowingly and willfully or made with reckless disregard for the truth of the matter.

(b) The complaint must contain a statement of facts and notice of opportunity for a hearing pursuant to ss. 120.569 and 120.57.

(c) If a hearing is not requested within the time allotted by ss. 120.569 and 120.57, or if a hearing is held and the department finds that any of the charges in the complaint are proven true, the department may enter an order removing the affiliated party or restricting or prohibiting participation by the person in the affairs of that permittee or of any other permittee.

(d) A contested or default order of removal, restriction, or prohibition is effective when reduced to writing and served on the permittee and the affiliated party. An uncontested order of removal, restriction, or prohibition is effective as agreed.

(e) 1. The chief executive officer, designated representative, or the person holding the equivalent office, of a permittee shall promptly notify the department if she or he has actual knowledge that any affiliated party is charged with a felony in a state or federal court.

2. Whenever any affiliated party is charged with a felony in a state or federal court or with the equivalent of a felony in the courts of any foreign country with which the United States maintains diplomatic relations, and the charge alleges violation of any law involving prescription drugs, pharmaceuticals, fraud, theft, or moral turpitude, the department may enter an emergency order suspending the affiliated party or restricting or prohibiting participation by the affiliated party in the affairs of the particular permittee or of any other permittee upon service of the order upon the

permittee and the affiliated party charged. The order must contain notice of opportunity for a hearing pursuant to ss. 120.569 and 120.57, where the affiliated party may request a postsuspension hearing to show that continued service to or participation in the affairs of the permittee does not pose a threat to the public health or the interests of the permittee and does not threaten to impair public confidence in the permittee. In accordance with applicable departmental rules, the department shall notify the affiliated party whether the order suspending or prohibiting the person from participation in the affairs of a permittee will be rescinded or otherwise modified. The emergency order remains in effect, unless otherwise modified by the department, until the criminal charge is disposed of. The acquittal of the person charged, or the final, unappealed dismissal of all charges against the person, dissolves the emergency order but does not prohibit the department from instituting proceedings under paragraph (a). If the person charged is convicted or pleads guilty or nolo contendere, whether or not an adjudication of guilt is entered by the court, the emergency order shall become final.

(f) Any affiliated party removed pursuant to this section is not eligible for reemployment by the permittee or to be an affiliated party of any permittee except upon the written consent of the department. Any affiliated party who is removed, restricted, or prohibited from participating in the affairs of a permittee pursuant to this section may petition the department for modification or termination of the removal, restriction, or prohibition.

History.—s. 25, ch. 2003-155; ss. 2, 36, ch. 2008-207.

499.067 Denial, suspension, or revocation of permit, certification, or registration.—

(1)(a) The department may deny, suspend, or revoke a permit if it finds that there has been a substantial failure to comply with this part or chapter 465, chapter 501, or chapter 893, the rules adopted under this part or those chapters, any final order of the department, or applicable federal laws or regulations or other state laws or rules governing drugs, devices, or cosmetics.

(b) The department may deny an application for a permit or certification, or suspend or revoke a permit or certification, if the department finds that:

1. The applicant is not of good moral character or that it would be a danger or not in the best interest of the public health, safety, and welfare if the applicant were issued a permit or certification.

2. The applicant has not met the requirements for the permit or certification.

3. The applicant is not eligible for a permit or certification for any of the reasons enumerated in s. 499.012.

4. The applicant, permittee, or person certified under s. 499.012(16) demonstrates any of the conditions enumerated in s. 499.012.

5. The applicant, permittee, or person certified under s. 499.012(16) has committed any violation of ss. 499.005-499.0054.

(2) The department may deny, suspend, or revoke any registration required by the provisions of this part for the violation of any provision of this part or of any rules adopted under this part.

(3) The department may revoke or suspend a permit:

(a) If the permit was obtained by misrepresentation or fraud or through a mistake of the department;

(b) If the permit was procured, or attempted to be procured, for any other person by making or causing to be made any false representation; or

(c) If the permittee has violated any provision of this part or rules adopted under this part.

(4) If any permit issued under this part is revoked or suspended, the owner, manager, operator, or proprietor of the establishment shall cease to operate as the permit authorized, from the effective date of the suspension or revocation until the

person is again registered with the department and possesses the required permit. If a permit is revoked or suspended, the owner, manager, or proprietor shall remove all signs and symbols that identify the operation as premises permitted as a drug wholesaling establishment; drug, device, or cosmetic manufacturing establishment; or retail establishment. The department shall determine the length of time for which the permit is to be suspended. If a permit is revoked, the person that owns or operates the establishment may not apply for any permit under this part for a period of 1 year after the date of the revocation. A revocation of a permit may be permanent if the department considers that to be in the best interest of the public health.

(5)The department may deny, suspend, or revoke a permit issued under this part which authorizes the permittee to purchase prescription drugs if any owner, officer, employee, or other person who participates in administering or operating the establishment has been found guilty of any violation of this part or chapter 465, chapter 501, or chapter 893, any rules adopted under this part or those chapters, or any federal or state drug law, regardless of whether the person has been pardoned, had her or his civil rights restored, or had adjudication withheld.

(6)The department shall deny, suspend, or revoke the permit of any person or establishment if the assignment, sale, transfer, or lease of an establishment permitted under this part will avoid an administrative penalty, civil action, or criminal prosecution.

(7)Notwithstanding s. 120.60(5), if a permittee fails to comply with s. 499.012(6), the department may revoke the permit of the permittee and shall provide notice of the intended agency action by posting a notice at the department's headquarters and by mailing a copy of the notice of intended agency action by certified mail to the most recent mailing address on record with the department and, if the permittee is not a natural person, to the permittee's registered agent on file with the Department of State.

(8)The department may deny, suspend, or revoke a permit if it finds the permittee has not complied with the credentialing requirements of s. 499.0121(15).

(9)The department may deny, suspend, or revoke a permit if it finds the permittee has not complied with the reporting requirements of, or knowingly made a false statement in a report required by, s. 499.0121(14).

History.—s. 34, ch. 82-225; s. 1, ch. 83-265; s. 8, ch. 86-133; ss. 12, 14, ch. 88-159; s. 4, ch. 89-296; ss. 46, 52, ch. 92-69; s. 44, ch. 95-144; s. 594, ch. 97-103; s. 17, ch. 2000-326; s. 26, ch. 2003-155; s. 37, ch. 2008-207; s. 20, ch. 2011-141.

PART II

ETHER

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499.601 Legislative intent; construction.—

(1) The Legislature finds that the unregulated possession of bulk quantities of ether poses a substantial risk to the health, safety, and welfare of the citizens of this state, and it is the intent of the Legislature that this part be liberally construed to provide all protection necessary for the citizens of this state.

(2) The provisions of this part are cumulative and shall not be construed as repealing or affecting any powers, duties, or authority of the department under any other law of this state; except that, with respect to the regulation of ether as herein provided, in instances in which the provisions of this part may conflict with any other such law, the provisions of this part shall control.

History.—ss. 10, 11, ch. 86-133; s. 4, ch. 91-429; s. 241, ch. 99-8; s. 7, ch. 2012-143; s. 123, ch. 2012-184.

499.61 Definitions.—As used in this part:

(1) "Dealer" means any person, firm, corporation, or other entity selling, brokering, or transferring ether to anyone other than a licensed ether manufacturer, distributor, or dealer.

(2) "Department" means the Department of Business and Professional Regulation.

(3) "Distributor" means any person, firm, corporation, or other entity distributing, selling, marketing, transferring, or otherwise supplying ether to retailers, dealers, or any other entity in the primary channel of trade, but does not include retailers.

(4) "Ether" means diethyl ether in any form.

(5) "Manufacturer" means any person, firm, corporation, or other entity preparing, deriving, producing, synthesizing, or otherwise making ether in any form or repacking, relabeling, or manipulating ether.

(6) "Purchaser" means any person, firm, corporation, or other entity who purchases ether in quantities of 2.5 gallons, or equivalent by weight, or more for any purpose whatsoever, but does not include a dealer, distributor, or manufacturer.

History.—ss. 10, 11, ch. 86-133; s. 4, ch. 91-429; s. 242, ch. 99-8; s. 8, ch. 2012-143; s. 124, ch. 2012-184.

499.62 License or permit required of manufacturer, distributor, dealer, or purchaser of ether.—

(1) It shall be unlawful for any person to engage in the business of manufacturing, distributing, or dealing in ether in this state, except when done in conformity with the provisions of this part. No person shall be required to obtain more than one license under this part to handle ether, but each person shall pay the highest fee applicable to her or his operation in each location.

(2) Any person who manufactures, distributes, or deals in ether in this state must possess a current valid license issued by the department, except that a manufacturer, distributor, or dealer who also purchases ether in this state shall not be required to obtain an additional permit as a purchaser of ether.

(3) Any person who manufactures, distributes, or deals in ether at or from more than one location must possess a current valid license for each location.

(4) Any person who purchases ether in this state must possess a current valid permit issued by the department, except that no permit shall be required of any

person who purchases ether in quantities of less than 2.5 gallons, or equivalent by weight.

(5) Annual fees for licenses and permits shall be specified by rule of the department, but shall not exceed the following amounts:

(a) Manufacturer's license.....\$700

(b) Distributor's license.....\$700

(c) Dealer's license.....\$350

(d) Purchaser's permit.....\$150

(6) Licenses and permits issued by the department shall be valid beginning on October 1 of the year for which they are issued and shall expire on the following September 30.

(7) A licensed or permitted facility shall renew its license or permit prior to its expiration date. If a renewal application and fee are not filed by the expiration date of any year, the permit may be reinstated only upon payment of a delinquent fee of \$50, plus the required renewal fee, within 30 days after the date of expiration. If any person who is subject to the requirements of this part fails to comply with the renewal, the department shall have the authority to seize all ether products and dispose of them as of November 1 of the year the license or permit expires. Any funds collected from the disposal shall be placed in the Professional Regulation Trust Fund.

History.—ss. 10, 11, ch. 86-133; s. 4, ch. 91-429; s. 596, ch. 97-103; s. 17, ch. 2012-143.

499.63 Forms for applications for licenses and permits.—

(1) The forms for applications for ether licenses and permits shall be prescribed by the department.

(2) Each application for a license or permit required by the provisions of this part shall be filed in writing with the department. Each application shall require, as a minimum, the full name, date of birth, place of birth, social security number, physical description of the applicant, residence address and telephone number, and business address and telephone number of the applicant. Each application must be accompanied by an accurate and current photograph of the applicant and a complete set of fingerprints of the applicant taken by an authorized law enforcement officer; however, a set of fingerprints shall not be required if the applicant has possessed a valid Florida license or permit under this part during the prior license or permit year and such Florida license or permit has not lapsed or been suspended or revoked. If fingerprints are required, the set of fingerprints shall be submitted by the department to the Department of Law Enforcement for state processing and to the Federal Bureau of Investigation for federal processing. If the application does not require a set of fingerprints, the department shall submit the name and other identifying data to the Department of Law Enforcement for processing. Each application shall be in such form as to provide that the data and other information set forth therein shall be sworn to by the applicant or, if the applicant is a corporation, by all officers of the corporation. The officers applying on behalf of a corporation shall provide all the data and other information required by this subsection and subsection (3), and shall meet all other requirements, which are required of a natural person.

(3) The department may require an applicant to furnish such other information or data not required by this section if the information or data is deemed necessary by the department.

History.—ss. 10, 11, ch. 86-133; s. 4, ch. 91-429.

499.64 Issuance of licenses and permits; prohibitions.—

(1) Each license and permit issued by the department shall set forth, as a minimum, the full name, date of birth, and physical description of the licensee or

permittee and shall have permanently affixed an accurate and current photograph of the licensee or permittee. A license or permit issued to a corporation shall set forth the full name, date of birth, and physical description of the chief executive officer and/or resident agent residing in this state and shall have permanently affixed an accurate and current photograph of the chief executive officer and/or resident agent residing in this state. Each license and permit shall also contain a license or permit number.

(2)The department may, in its discretion, include other data or information in the license or permit when deemed appropriate.

(3)No license or permit shall be issued, renewed, or allowed to remain in effect for any natural person, or for any corporation which has any corporate officer:

(a)Under 18 years of age.

(b)Who has been convicted of a felony under the prescription drug or controlled substance laws of this state or any other state or federal jurisdiction, regardless of whether he or she has been pardoned or had his or her civil rights restored.

(c)Who has been convicted of any felony other than a felony under the prescription drug or controlled substance laws of this state or any other state or federal jurisdiction and has not been pardoned or had his or her civil rights restored.

(d)Who has been adjudicated mentally incompetent and has not had his or her civil rights restored.

(4)It is unlawful for any person to knowingly withhold information or present to the department any false, fictitious, or misrepresented application, identification, document, information, or data intended or likely to deceive the department for the purpose of obtaining a license or permit.

History.—ss. 10, 11, ch. 86-133; s. 4, ch. 91-429; s. 597, ch. 97-103.

499.65Possession of ether without license or permit prohibited; confiscation and disposal; exceptions.—

(1)It is unlawful for any person to possess 2.5 gallons, or equivalent by weight, or more of ether unless she or he is the holder of a current valid license or permit as provided by this part.

(2)Whenever the department has reason to believe that any person is or has been violating the provisions of this part or any rules adopted pursuant thereto, the department may, without further process of law, confiscate and dispose of the ether in question. The department is authorized to seize and dispose of any abandoned ether.

(3)The department is authorized to enter into contracts with private business entities for the purpose of confiscation and disposal of ether as authorized in subsection (2).

(4)The provisions of subsection (1) shall not apply to:

(a)Any common carrier transporting ether into this state or within the boundaries of this state by air, highway, railroad, or water;

(b)Any contract or private carrier transporting ether on highways into this state or within the boundaries of this state by motor vehicle when such contract or private carrier is engaged in such transport pursuant to certificate or permit, by whatever name, issued to them by any federal or state officer, agency, bureau, commission, or department;

(c)Pharmacists, for use in the usual course of their professional practice or in the performance of their official duties;

(d)Medical practitioners, for use in the usual course of their professional practice or in the performance of their official duties;

(e)Persons who procure ether for disposition by or under the supervision of pharmacists or medical practitioners employed by them or for the purpose of lawful research, teaching, or testing, and not for resale;

(f) Hospitals and other institutions which procure ether for lawful administration by practitioners;

(g) Officers or employees of federal, state, or local governments carrying out their official duties; and

(h) Law enforcement agencies of this state or any of its political subdivisions, and the employees thereof, so long as said agencies and employees are acting within the scope of their respective official capacities and in the performance of their duties.

(5) The department may adopt rules regarding persons engaged in lawful teaching, research, or testing who possess ether and may issue letters of exemption to facilitate the lawful possession of ether under this section.

History.—ss. 10, 11, ch. 86-133; s. 4, ch. 91-429; s. 598, ch. 97-103; s. 39, ch. 98-151.

499.66 Maintenance of records and sales of ether by manufacturers, distributors, and dealers; inspections.—

(1) It is unlawful for any manufacturer, distributor, or dealer to sell, distribute, or otherwise transfer ether to any person except a person presenting a current valid license or permit as provided by this part.

(2) Each sale or transfer of ether shall be evidenced by an invoice, receipt, sales ticket, or sales slip which shall bear the name, address, and license or permit number of the manufacturer, distributor, or dealer and the purchaser or transferee, the date of sale or transfer, and the quantity sold or transferred. All original invoices, receipts, sales tickets, and sales slips shall be retained by the manufacturer, distributor, or dealer, and a copy thereof provided to the purchaser or transferee.

(3) Each manufacturer, distributor, and dealer shall keep an accurate and current written account of all inventories, sales, and transfers of ether. Such records shall be maintained by the manufacturer, distributor, or dealer for a period of 5 years.

(4) Records and inventories as required by subsections (2) and (3) shall be made immediately accessible to, and subject to examination and copying by, the department and any law enforcement officer of this state without any requirement of probable cause or search warrant.

(5) It is unlawful for any person to knowingly withhold information or to make any false or fictitious entry or misrepresentation upon any invoice, receipt, sales ticket, or sales slip for the sale, distribution, or transfer of ether or upon any account of inventories of ether.

History.—ss. 10, 11, ch. 86-133; s. 4, ch. 91-429; s. 40, ch. 98-151.

499.67 Maintenance of records by purchasers; inspections.—

(1) It is unlawful for any person to purchase, receive, store, or use ether without maintaining an accurate and current written inventory of all ether purchased, received, stored, and used.

(2) Such records shall include, but not be limited to, invoices, receipts, sales tickets, and sales slips; locations, quantities, and dates of use; the names of any persons using the ether; and the names and license or permit numbers of all persons making such records. Such records shall be maintained by permittees for a period of 5 years.

(3) Such records shall be made accessible to, and subject to examination and copying by, the department and any law enforcement officer of this state without any requirement of probable cause or search warrant.

(4) It is unlawful for any person to knowingly withhold information or make any false or fictitious entry or misrepresentation upon any such records for the purchase, receipt, storage, or use of ether.

(5) It is unlawful for any person to refuse entry or inspection by the department of factories, warehouses, or establishments in which ether is manufactured, processed,

repackaged, or held; to refuse entry by the department into any vehicle being used to transport ether; or to refuse the taking of samples by the department.

History.—ss. 10, 11, ch. 86-133; s. 4, ch. 91-429; s. 41, ch. 98-151.

499.68 Reports of thefts, illegal use, or illegal possession.—

(1) Any sheriff, police department, or law enforcement officer of this state shall give immediate notice to the department of any theft, illegal use, or illegal possession of ether involving any person and shall forward a copy of his or her final written report to the department.

(2) Any licensee or permittee who incurs a loss, an unexplained shortage, or a theft of ether, or who has knowledge of a loss, an unexplained shortage, or a theft of ether, shall, within 12 hours after the discovery thereof, report such loss, theft, or unexplained shortage to the county sheriff or police chief of the jurisdiction in which the loss, theft, or unexplained shortage occurred. Such loss, theft, or unexplained shortage must also be reported to the department by the close of the next business day following the discovery thereof.

(3) Any law enforcement agency which investigates the causes and circumstances of any loss, theft, or unexplained shortage of ether shall forward a copy of its final written report to the department. The department shall retain all such reports in the respective files of the affected licensees and permittees.

History.—ss. 10, 11, ch. 86-133; s. 4, ch. 91-429; s. 599, ch. 97-103.

499.69 Possession in or near residential housing prohibited; legal entitlement to possession of premises not a defense.—

(1) Notwithstanding the possession of a current valid license or permit as provided in this part, it is unlawful for any person to possess 2.5 gallons, or equivalent by weight, or more of ether in, or within 500 feet of, any residential housing structure.

(2) A defendant's legal entitlement to possession of the property where the violation occurred shall not be a defense to a prosecution for a violation of subsection (1).

History.—ss. 10, 11, ch. 86-133; s. 4, ch. 91-429.

499.70 Adoption of rules by the department.—

(1) The department shall adopt and enforce rules necessary to the administration of its authority under this part. The rules must be such as are reasonably necessary for the protection of the health, welfare, and safety of the public and persons manufacturing, distributing, dealing, and possessing ether, and must provide for application forms and procedures, recordkeeping requirements, and security. The rules must be in substantial conformity with generally accepted standards of safety concerning such subject matter.

(2) The department may adopt rules regarding recordkeeping and security for methyl ethyl ketone (MEK) or butyl acetate as needed. These products and records are open to inspection in the same manner as are ether products and records.

History.—ss. 10, 11, ch. 86-133; s. 4, ch. 91-429; s. 45, ch. 2000-242.

499.71 Procedure for cease and desist orders.—

(1) Whenever the department has reason to believe that any person is or has been violating any provision of this part or any rules adopted pursuant thereto, it shall proceed to determine the matter.

(2) If the department determines that any provision of this part or any rules adopted pursuant thereto have been violated, it shall issue to the person charged with such violation an order requiring such person to cease and desist from such violation or imposing an administrative fine, or both.

History.—ss. 10, 11, ch. 86-133; s. 4, ch. 91-429.

499.72 Administrative fines.—

(1) If any person violates any provision of this part or any rule adopted pursuant thereto, or violates a cease and desist order issued by the department, the

department may impose an administrative fine, not to exceed \$5,000 for each violation per day, or may suspend or revoke the license or permit issued to such person, or both. Each day such violation continues constitutes a separate violation, and each such separate violation is subject to a separate fine. The department shall allow the licensee or permittee a reasonable period, not to exceed 30 days, within which to pay to the department the amount of the fine so imposed. If the licensee or permittee fails to pay the fine in its entirety to the department at its office in Tallahassee within the period so allowed, the licenses or permits of such person shall stand revoked upon expiration of such period.

(2) All such fines, monetary penalties, and costs received by the department in connection with this part shall be deposited in the Professional Regulation Trust Fund.

History.—ss. 10, 11, ch. 86-133; s. 4, ch. 91-429; s. 18, ch. 2012-143.

499.73 Suspension or revocation of license or permit.—

(1) The violation of any provision of this part, any rule adopted pursuant thereto, or any cease and desist order issued by the department by a licensee or permittee as provided in this part shall be cause for revocation or suspension of all licenses or permits held by such licensee or permittee after the department has determined the licensee or permittee to be guilty of such violation.

(2) If the department finds the licensee or permittee to be guilty of such violation, it shall enter its order suspending or revoking the license or permit of the person charged. An order of suspension shall state the period of time of such suspension, which period shall not be in excess of 1 year from the date of such order. An order of revocation may be entered for a period not exceeding 5 years; such order shall effect the revocation of all licenses or permits then held by the person charged, and during such period no license or permit shall be issued to said person. If, during the period between the beginning of proceedings and the entry of an order of suspension or revocation by the department, a new license or permit has been issued to the person charged, any order of suspension or revocation shall operate effectively with respect to the new license or permit held by such person.

(3) Any person or office of a corporation whose permit or license has been suspended or revoked shall not be issued a new permit or license under any other name or company name until the expiration of the suspension or revocation in which she or he has been involved.

(4) The provisions of this section are cumulative and shall not affect the administrative fine and injunction provisions of ss. 499.72 and 499.76.

History.—ss. 10, 11, ch. 86-133; s. 4, ch. 91-429; s. 600, ch. 97-103.

499.74 Conduct of hearings; review of orders of the department.—

(1) All hearings shall be conducted in accordance with the provisions of chapter 120.

(2) All review of orders of the department shall be in accordance with the provisions of chapter 120.

History.—ss. 10, 11, ch. 86-133; s. 4, ch. 91-429.

499.75 Penalties.—

(1) Any person who knowingly manufactures, distributes, or deals in ether without possessing a valid current license as required by s. 499.62(2) is guilty of a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) Any person who knowingly purchases 2.5 gallons, or equivalent by weight, or more of ether without possessing a valid current permit as required by s. 499.62(4) is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) Any person who knowingly withholds information or presents to the department any false, fictitious, or misrepresented application, identification, document,

information, statement, or data intended or likely to deceive the department for the purpose of obtaining a license or permit as prohibited by s. 499.64(4) is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(4) Any person who knowingly possesses 2.5 gallons, or equivalent by weight, or more of ether and is not the holder of a valid current license or permit as prohibited by s. 499.65(1) is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(5) Any person who knowingly sells or otherwise transfers 2.5 gallons, or equivalent by weight, or more of ether to any person who is not the holder of a valid current license or permit as prohibited by s. 499.66(1) is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(6) Any person who knowingly withholds information or makes any false or fictitious entry or misrepresentation upon any invoice, receipt, sales ticket, sales slip, or account of inventories as prohibited by s. 499.66(5) is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(7) Any licensee who knowingly fails to maintain written accounts of inventories or records of sales or transfers as required by s. 499.66(3) is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(8) Any permittee who knowingly fails to maintain written inventories and records as required by s. 499.67 is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(9) Any licensee or permittee who fails to report the loss, unexplained shortage, or theft of ether as required by s. 499.68(2) is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(10) Any person who knowingly possesses 2.5 gallons, or equivalent by weight, or more of ether in, or within 500 feet of, any residential housing structure as prohibited by s. 499.69(1) is guilty of a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

History.—ss. 10, 11, ch. 86-133; s. 121, ch. 91-224; s. 4, ch. 91-429.

499.76 Injunctive relief.—In addition to the penalties and other enforcement provisions of this part, in the event any person engaged in any of the activities covered by this part violates any provision of this part, any rule adopted pursuant thereto, or any cease and desist order as provided by this part, the department is authorized to resort to proceedings for injunction in the circuit court of the county in which the violation occurred or in which the person resides or has his or her principal place of business and may therein apply for such temporary and permanent orders as the department may deem necessary to restrain such person from engaging in any such activities until such person complies with the provisions of this part, the rules adopted pursuant thereto, and the orders of the department as authorized by this part.

History.—ss. 10, 11, ch. 86-133; s. 4, ch. 91-429; s. 601, ch. 97-103.

499.77 Exceptions.—Nothing contained in this part shall apply to the regular military and naval forces of the United States, or to the duly organized military forces of any state or territory thereof, provided that they are acting within their respective official capacities and in the performance of their duties.

History.—ss. 10, 11, ch. 86-133; s. 4, ch. 91-429.

499.78 County and municipal ordinances.—Nothing contained in this part shall affect any existing ordinance, rule, or regulation pertaining to ether in any county or municipality in this state, which ordinance, rule, or regulation is more restrictive than the provisions of this part and the rules adopted pursuant thereto; nor shall the provisions of this part limit the power of any county or municipality to make ordinances, rules, or regulations pertaining to ether which may be more restrictive than the provisions of this part and the rules adopted pursuant thereto.

History.—ss. 10, 11, ch. 86-133; s. 4, ch. 91-429.

499.79Deposit of fees.—All fees collected for licenses and permits required by this part shall be deposited in the Professional Regulation Trust Fund, and all moneys collected under this part and deposited in the trust fund shall be used by the department in the administration of this part. The Department of Business and Professional Regulation shall maintain a separate account in the Professional Regulation Trust Fund for the Drugs, Devices, and Cosmetics program.

History.—ss. 10, 11, ch. 86-133; s. 4, ch. 91-429; s. 45, ch. 95-144; s. 19, ch. 2012-143.

The 2012 Florida Statutes

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- 120.651 Designation of two administrative law judges to preside over actions involving department or boards.
- 120.655 Withholding funds to pay for administrative law judge services to school boards.
- 120.66 Ex parte communications.
- 120.665 Disqualification of agency personnel.

120.68Judicial review.

120.69Enforcement of agency action.

120.695Notice of noncompliance.

120.72Legislative intent; references to chapter 120 or portions thereof.

120.73Circuit court proceedings; declaratory judgments.

120.74Agency review, revision, and report.

120.745Legislative review of agency rules in effect on or before November 16, 2010.

120.7455Legislative survey of regulatory impacts.

120.80Exceptions and special requirements; agencies.

120.81Exceptions and special requirements; general areas.

120.50Exception to application of chapter.—This chapter shall not apply to:

(1)The Legislature.

(2)The courts.

History.—s. 1, ch. 74-310; s. 3, ch. 77-468; s. 1, ch. 78-162.

120.51Short title.—This chapter may be known and cited as the “Administrative Procedure Act.”

History.—s. 1, ch. 74-310.

¹ **120.515Declaration of policy.**—This chapter provides uniform procedures for the exercise of specified authority. This chapter does not limit or impinge upon the assignment of executive power under Article IV of the State Constitution or the legal authority of an appointing authority to direct and supervise those appointees serving at the pleasure of the appointing authority. For purposes of this chapter, adherence to the direction and supervision of an appointing authority does not constitute delegation or transfer of statutory authority assigned to the appointee.

History.—s. 7, ch. 2012-116.

¹**Note.**—Section 3, ch. 2012-116, provides that “[t]he Legislature intends that the amendments made by this act to ss. 20.02, 20.03, and 20.05, Florida Statutes, which apply to the organizational structure of the executive branch, and the creation of s. 120.515, Florida Statutes, which applies to administrative procedure, are to clarify that the placement of an executive department under the direct administration of an officer or board appointed by and serving at the pleasure of the Governor does not implicitly limit or restrict the Governor’s prerogative, legal authority, and constitutional responsibility to direct and supervise the execution of the law and the exercise of lawful discretion.”

120.52Definitions.—As used in this act:

(1)“Agency” means the following officers or governmental entities if acting pursuant to powers other

than those derived from the constitution:

(a)The Governor; each state officer and state department, and each departmental unit described in s. 20.04; the Board of Governors of the State University System; the Commission on Ethics; the Fish and Wildlife Conservation Commission; a regional water supply authority; a regional planning agency; a multicounty special district, but only when a majority of its governing board is comprised of nonelected persons; educational units; and each entity described in chapters 163, 373, 380, and 582 and s. 186.504.

(b)Each officer and governmental entity in the state having statewide jurisdiction or jurisdiction in more than one county.

(c)Each officer and governmental entity in the state having jurisdiction in one county or less than one county, to the extent they are expressly made subject to this act by general or special law or existing judicial decisions.

This definition does not include any municipality or legal entity created solely by a municipality; any legal entity or agency created in whole or in part pursuant to part II of chapter 361; any metropolitan planning organization created pursuant to s. 339.175; any separate legal or administrative entity created pursuant to s. 339.175 of which a metropolitan planning organization is a member; an expressway authority pursuant to chapter 348 or any transportation authority under chapter 343 or chapter 349; or any legal or administrative entity created by an interlocal agreement pursuant to s. 163.01(7), unless any party to such agreement is otherwise an agency as defined in this subsection.

(2)“Agency action” means the whole or part of a rule or order, or the equivalent, or the denial of a petition to adopt a rule or issue an order. The term also includes any denial of a request made under s. 120.54(7).

(3)“Agency head” means the person or collegial body in a department or other governmental unit statutorily responsible for final agency action. An agency head appointed by and serving at the pleasure of an appointing authority remains subject to the direction and supervision of the appointing authority, but actions taken by the agency head as authorized by statute are official acts.

(4)“Committee” means the Administrative Procedures Committee.

(5)“Division” means the Division of Administrative Hearings. Any document filed with the division by a party represented by an attorney shall be filed by electronic means through the division’s website. Any document filed with the division by a party not represented by an attorney shall, whenever possible, be filed by electronic means through the division’s website.

(6)“Educational unit” means a local school district, a community college district, the Florida School for the Deaf and the Blind, or a state university when the university is acting pursuant to statutory authority derived from the Legislature.

(7)“Final order” means a written final decision which results from a proceeding under s. 120.56, s.

120.565, s. 120.569, s. 120.57, s. 120.573, or s. 120.574 which is not a rule, and which is not excepted from the definition of a rule, and which has been filed with the agency clerk, and includes final agency actions which are affirmative, negative, injunctive, or declaratory in form. A final order includes all materials explicitly adopted in it. The clerk shall indicate the date of filing on the order.

(8)“Invalid exercise of delegated legislative authority” means action that goes beyond the powers, functions, and duties delegated by the Legislature. A proposed or existing rule is an invalid exercise of delegated legislative authority if any one of the following applies:

(a)The agency has materially failed to follow the applicable rulemaking procedures or requirements set forth in this chapter;

(b)The agency has exceeded its grant of rulemaking authority, citation to which is required by s. 120.54(3)(a)1.;

(c)The rule enlarges, modifies, or contravenes the specific provisions of law implemented, citation to which is required by s. 120.54(3)(a)1.;

(d)The rule is vague, fails to establish adequate standards for agency decisions, or vests unbridled discretion in the agency;

(e)The rule is arbitrary or capricious. A rule is arbitrary if it is not supported by logic or the necessary facts; a rule is capricious if it is adopted without thought or reason or is irrational; or

(f)The rule imposes regulatory costs on the regulated person, county, or city which could be reduced by the adoption of less costly alternatives that substantially accomplish the statutory objectives.

A grant of rulemaking authority is necessary but not sufficient to allow an agency to adopt a rule; a specific law to be implemented is also required. An agency may adopt only rules that implement or interpret the specific powers and duties granted by the enabling statute. No agency shall have authority to adopt a rule only because it is reasonably related to the purpose of the enabling legislation and is not arbitrary and capricious or is within the agency’s class of powers and duties, nor shall an agency have the authority to implement statutory provisions setting forth general legislative intent or policy. Statutory language granting rulemaking authority or generally describing the powers and functions of an agency shall be construed to extend no further than implementing or interpreting the specific powers and duties conferred by the enabling statute.

(9)“Law implemented” means the language of the enabling statute being carried out or interpreted by an agency through rulemaking.

(10)“License” means a franchise, permit, certification, registration, charter, or similar form of authorization required by law, but it does not include a license required primarily for revenue purposes when issuance of the license is merely a ministerial act.

(11)“Licensing” means the agency process respecting the issuance, denial, renewal, revocation,

suspension, annulment, withdrawal, or amendment of a license or imposition of terms for the exercise of a license.

(12)“Official reporter” means the publication in which an agency publishes final orders, the index to final orders, and the list of final orders which are listed rather than published.

(13)“Party” means:

(a)Specifically named persons whose substantial interests are being determined in the proceeding.

(b)Any other person who, as a matter of constitutional right, provision of statute, or provision of agency regulation, is entitled to participate in whole or in part in the proceeding, or whose substantial interests will be affected by proposed agency action, and who makes an appearance as a party.

(c)Any other person, including an agency staff member, allowed by the agency to intervene or participate in the proceeding as a party. An agency may by rule authorize limited forms of participation in agency proceedings for persons who are not eligible to become parties.

(d)Any county representative, agency, department, or unit funded and authorized by state statute or county ordinance to represent the interests of the consumers of a county, when the proceeding involves the substantial interests of a significant number of residents of the county and the board of county commissioners has, by resolution, authorized the representative, agency, department, or unit to represent the class of interested persons. The authorizing resolution shall apply to a specific proceeding and to appeals and ancillary proceedings thereto, and it shall not be required to state the names of the persons whose interests are to be represented.

The term “party” does not include a member government of a regional water supply authority or a governmental or quasi-judicial board or commission established by local ordinance or special or general law where the governing membership of such board or commission is shared with, in whole or in part, or appointed by a member government of a regional water supply authority in proceedings under s. 120.569, s. 120.57, or s. 120.68, to the extent that an interlocal agreement under ss. 163.01 and 373.713 exists in which the member government has agreed that its substantial interests are not affected by the proceedings or that it is to be bound by alternative dispute resolution in lieu of participating in the proceedings. This exclusion applies only to those particular types of disputes or controversies, if any, identified in an interlocal agreement.

(14)“Person” means any person described in s. 1.01, any unit of government in or outside the state, and any agency described in subsection (1).

(15)“Recommended order” means the official recommendation of an administrative law judge assigned by the division or of any other duly authorized presiding officer, other than an agency head or member of an agency head, for the final disposition of a proceeding under ss. 120.569 and 120.57.

(16)“Rule” means each agency statement of general applicability that implements, interprets, or

prescribes law or policy or describes the procedure or practice requirements of an agency and includes any form which imposes any requirement or solicits any information not specifically required by statute or by an existing rule. The term also includes the amendment or repeal of a rule. The term does not include:

(a) Internal management memoranda which do not affect either the private interests of any person or any plan or procedure important to the public and which have no application outside the agency issuing the memorandum.

(b) Legal memoranda or opinions issued to an agency by the Attorney General or agency legal opinions prior to their use in connection with an agency action.

(c) The preparation or modification of:

1. Agency budgets.

2. Statements, memoranda, or instructions to state agencies issued by the Chief Financial Officer or Comptroller as chief fiscal officer of the state and relating or pertaining to claims for payment submitted by state agencies to the Chief Financial Officer or Comptroller.

3. Contractual provisions reached as a result of collective bargaining.

4. Memoranda issued by the Executive Office of the Governor relating to information resources management.

(17) "Rulemaking authority" means statutory language that explicitly authorizes or requires an agency to adopt, develop, establish, or otherwise create any statement coming within the definition of the term "rule."

(18) "Small city" means any municipality that has an unincarcerated population of 10,000 or less according to the most recent decennial census.

(19) "Small county" means any county that has an unincarcerated population of 75,000 or less according to the most recent decennial census.

(20) "Unadopted rule" means an agency statement that meets the definition of the term "rule," but that has not been adopted pursuant to the requirements of s. 120.54.

(21) "Variance" means a decision by an agency to grant a modification to all or part of the literal requirements of an agency rule to a person who is subject to the rule. Any variance shall conform to the standards for variances outlined in this chapter and in the uniform rules adopted pursuant to s. 120.54(5).

(22) "Waiver" means a decision by an agency not to apply all or part of a rule to a person who is subject to the rule. Any waiver shall conform to the standards for waivers outlined in this chapter and in the uniform rules adopted pursuant to s. 120.54(5).

History.—s. 1, ch. 74-310; s. 1, ch. 75-191; s. 1, ch. 76-131; s. 1, ch. 77-174; s. 12, ch. 77-290; s. 2, ch. 77-453; s. 1, ch. 78-28; s. 1, ch. 78-425; s. 1, ch. 79-20; s. 55, ch. 79-40; s. 1, ch. 79-299; s. 2, ch. 81-119; s. 1, ch. 81-180; s. 7, ch. 82-180; s. 1, ch. 83-78; s. 2, ch. 83-273; s. 10, ch. 84-170; s. 15, ch. 85-80; s. 1, ch. 85-168; s. 2, ch. 87-385; s. 1, ch. 88-367; s. 1, ch. 89-147; s. 1, ch. 91-46; s. 9, ch. 92-166; s. 50, ch. 92-279; s. 55, ch. 92-326; s. 3, ch. 96-159; s. 1, ch. 97-176; s. 2, ch. 97-286; s. 1, ch. 98-

402; s. 64, ch. 99-245; s. 2, ch. 99-379; s. 895, ch. 2002-387; s. 1, ch. 2003-94; s. 138, ch. 2003-261; s. 7, ch. 2003-286; s. 3, ch. 2007-196; s. 13, ch. 2007-217; s. 2, ch. 2008-104; s. 1, ch. 2009-85; s. 1, ch. 2009-187; s. 10, ch. 2010-5; s. 2, ch. 2010-205; s. 7, ch. 2011-208; s. 8, ch. 2012-116.

120.525 Meetings, hearings, and workshops.—

(1) Except in the case of emergency meetings, each agency shall give notice of public meetings, hearings, and workshops by publication in the Florida Administrative Weekly and on the agency's website not less than 7 days before the event. The notice shall include a statement of the general subject matter to be considered.

(2) An agenda shall be prepared by the agency in time to ensure that a copy of the agenda may be received at least 7 days before the event by any person in the state who requests a copy and who pays the reasonable cost of the copy. The agenda, along with any meeting materials available in electronic form excluding confidential and exempt information, shall be published on the agency's website. The agenda shall contain the items to be considered in order of presentation. After the agenda has been made available, a change shall be made only for good cause, as determined by the person designated to preside, and stated in the record. Notification of such change shall be at the earliest practicable time.

(3) If an agency finds that an immediate danger to the public health, safety, or welfare requires immediate action, the agency may hold an emergency public meeting and give notice of such meeting by any procedure that is fair under the circumstances and necessary to protect the public interest, if:

(a) The procedure provides at least the procedural protection given by other statutes, the State Constitution, or the United States Constitution.

(b) The agency takes only that action necessary to protect the public interest under the emergency procedure.

(c) The agency publishes in writing at the time of, or prior to, its action the specific facts and reasons for finding an immediate danger to the public health, safety, or welfare and its reasons for concluding that the procedure used is fair under the circumstances. The agency findings of immediate danger, necessity, and procedural fairness shall be judicially reviewable.

*History.—*s. 4, ch. 96-159; s. 3, ch. 2009-187.

120.53 Maintenance of orders; indexing; listing; organizational information.—

(1)(a) Each agency shall maintain:

1. All agency final orders.

2. a. A current hierarchical subject-matter index, identifying for the public any rule or order as specified in this subparagraph.

b. In lieu of the requirement for making available for public inspection and copying a hierarchical subject-matter index of its orders, an agency may maintain and make available for public use an electronic database

of its orders that allows users to research and retrieve the full texts of agency orders by devising an ad hoc indexing system employing any logical search terms in common usage which are composed by the user and which are contained in the orders of the agency or by descriptive information about the order which may not be specifically contained in the order.

c. The agency orders that must be indexed, unless excluded under paragraph (c) or paragraph (d), include:

(I) Each final agency order resulting from a proceeding under s. 120.57 or s. 120.573.

(II) Each final agency order rendered pursuant to s. 120.57(4) which contains a statement of agency policy that may be the basis of future agency decisions or that may otherwise contain a statement of precedential value.

(III) Each declaratory statement issued by an agency.

(IV) Each final order resulting from a proceeding under s. 120.56 or s. 120.574.

3. A list of all final orders rendered pursuant to s. 120.57(4) which have been excluded from the indexing requirement of this section, with the approval of the Department of State, because they do not contain statements of agency policy or statements of precedential value. The list must include the name of the parties to the proceeding and the number assigned to the final order.

4. All final orders listed pursuant to subparagraph 3.

(b) An agency final order that must be indexed or listed pursuant to paragraph (a) must be indexed or listed within 120 days after the order is rendered. Each final order that must be indexed or listed pursuant to paragraph (a) must have attached a copy of the complete text of any materials incorporated by reference; however, if the quantity of the materials incorporated makes attachment of the complete text of the materials impractical, the order may contain a statement of the location of such materials and the manner in which the public may inspect or obtain copies of the materials incorporated by reference. The Department of State shall establish by rule procedures for indexing final orders, and procedures of agencies for indexing orders must be approved by the department.

(c) Each agency must receive approval in writing from the Department of State for:

1. The specific types and categories of agency final orders that may be excluded from the indexing and public inspection requirements, as determined by the department pursuant to paragraph (d).

2. The method for maintaining indexes, lists, and final orders that must be indexed or listed and made available to the public.

3. The method by which the public may inspect or obtain copies of indexes, lists, and final orders.

4. A sequential numbering system which numbers all final orders required to be indexed or listed pursuant to paragraph (a), in the order rendered.

5. Proposed rules for implementing the requirements of this section for indexing and making final orders

available for public inspection.

(d) In determining which final orders may be excluded from the indexing and public inspection requirements, the Department of State may consider all factors specified by an agency, including precedential value, legal significance, and purpose. Only agency final orders that are of limited or no precedential value, that are of limited or no legal significance, or that are ministerial in nature may be excluded.

(e) Each agency shall specify the specific types or categories of agency final orders that are excluded from the indexing and public inspection requirements.

(f) Each agency shall specify the location or locations where agency indexes, lists, and final orders that are required to be indexed or listed are maintained and shall specify the method or procedure by which the public may inspect or obtain copies of indexes, lists, and final orders.

(g) Each agency shall specify all systems in use by the agency to search and locate agency final orders that are required to be indexed or listed, including, but not limited to, any automated system. An agency shall make the search capabilities employed by the agency available to the public subject to reasonable terms and conditions, including a reasonable charge, as provided by s. 119.07. The agency shall specify how assistance and information pertaining to final orders may be obtained.

(h) Each agency shall specify the numbering system used to identify agency final orders.

(2)(a) An agency may comply with subparagraphs (1)(a)1. and 2. by designating an official reporter to publish and index by subject matter each agency order that must be indexed and made available to the public, or by electronically transmitting to the division a copy of such orders for posting on the division's website. An agency is in compliance with subparagraph (1)(a)3. if it publishes in its designated reporter a list of each agency final order that must be listed and preserves each listed order and makes it available for public inspection and copying.

(b) An agency may publish its official reporter or may contract with a publishing firm to publish its official reporter; however, if an agency contracts with a publishing firm to publish its reporter, the agency is responsible for the quality, timeliness, and usefulness of the reporter. The Department of State may publish an official reporter for an agency or may contract with a publishing firm to publish the reporter for the agency; however, if the department contracts for publication of the reporter, the department is responsible for the quality, timeliness, and usefulness of the reporter. A reporter that is designated by an agency as its official reporter and approved by the Department of State constitutes the official compilation of the administrative final orders for that agency.

(c) A reporter that is published by the Department of State may be made available by annual subscription, and each agency that designates an official reporter published by the department may be charged a space rate payable to the department. The subscription rate and the space rate must be equitably apportioned to cover the costs of publishing the reporter.

(d)An agency that designates an official reporter need not publish the full text of an agency final order that is rendered pursuant to s. 120.57(4) and that must be indexed pursuant to paragraph (1)(a), if the final order is preserved by the agency and made available for public inspection and copying and the official reporter indexes the final order and includes a synopsis of the order. A synopsis must include the names of the parties to the order; any rule, statute, or constitutional provision pertinent to the order; a summary of the facts, if included in the order, which are pertinent to the final disposition; and a summary of the final disposition.

(3)Agency orders that must be indexed or listed are documents of continuing legal value and must be permanently preserved and made available to the public. Each agency to which this chapter applies shall provide, under the direction of the Department of State, for the preservation of orders as required by this chapter and for maintaining an index to those orders.

(4)Each agency must provide any person who makes a request with a written description of its organization and the general course of its operations.

History.—s. 1, ch. 74-310; s. 2, ch. 75-191; s. 2, ch. 76-131; s. 2, ch. 79-299; s. 1, ch. 81-296; s. 2, ch. 81-309; s. 8, ch. 83-92; s. 34, ch. 83-217; s. 3, ch. 83-273; s. 1, ch. 84-203; s. 77, ch. 85-180; s. 2, ch. 87-100; s. 2, ch. 88-384; s. 44, ch. 90-136; s. 35, ch. 90-302; s. 2, ch. 91-30; s. 79, ch. 91-45; s. 1, ch. 91-191; s. 1, ch. 92-166; s. 143, ch. 92-279; s. 55, ch. 92-326; s. 757, ch. 95-147; s. 5, ch. 96-159; s. 2, ch. 96-423; s. 2, ch. 97-176; s. 3, ch. 2008-104.

120.533Coordination of indexing by Department of State.—The Department of State shall:

(1)Administer the coordination of the indexing, management, preservation, and availability of agency orders that must be indexed or listed pursuant to s. 120.53(1).

(2)Provide, by rule, guidelines for the indexing of agency orders. More than one system for indexing may be approved by the Department of State, including systems or methods in use, or proposed for use, by an agency. More than one system may be approved for use by a single agency as best serves the needs of that agency and the public.

(3)Provide, by rule, for storage and retrieval systems to be maintained by agencies for indexing, and making available, agency orders by subject matter. The Department of State may approve more than one system, including systems in use, or proposed for use, by an agency. Storage and retrieval systems that may be used by an agency include, without limitation, a designated reporter or reporters, a microfilming system, an automated system, or any other system considered appropriate by the Department of State.

(4)Determine which final orders must be indexed for each agency.

(5)Require each agency to report to the department concerning which types or categories of agency orders establish precedent for each agency.

History.—s. 9, ch. 91-30; s. 1, ch. 91-191; s. 7, ch. 96-159.

120.536 Rulemaking authority; repeal; challenge.—

(1) A grant of rulemaking authority is necessary but not sufficient to allow an agency to adopt a rule; a specific law to be implemented is also required. An agency may adopt only rules that implement or interpret the specific powers and duties granted by the enabling statute. No agency shall have authority to adopt a rule only because it is reasonably related to the purpose of the enabling legislation and is not arbitrary and capricious or is within the agency's class of powers and duties, nor shall an agency have the authority to implement statutory provisions setting forth general legislative intent or policy. Statutory language granting rulemaking authority or generally describing the powers and functions of an agency shall be construed to extend no further than implementing or interpreting the specific powers and duties conferred by the enabling statute.

(2) Unless otherwise expressly provided by law:

(a) The repeal of one or more provisions of law implemented by a rule that on its face implements only the provision or provisions repealed and no other provision of law nullifies the rule. Whenever notice of the nullification of a rule under this subsection is received from the committee or otherwise, the Department of State shall remove the rule from the Florida Administrative Code as of the effective date of the law effecting the nullification and update the historical notes for the code to show the rule repealed by operation of law.

(b) The repeal of one or more provisions of law implemented by a rule that on its face implements the provision or provisions repealed and one or more other provisions of law nullifies the rule or applicable portion of the rule to the extent that it implements the repealed law. The agency having authority to repeal or amend the rule shall, within 180 days after the effective date of the repealing law, publish a notice of rule development identifying all portions of rules affected by the repealing law, and if no notice is timely published the operation of each rule implementing a repealed provision of law shall be suspended until such notice is published.

(c) The repeal of one or more provisions of law that, other than as provided in paragraph (a) or paragraph (b), causes a rule or portion of a rule to be of uncertain enforceability requires the Department of State to treat the rule as provided by s. 120.555. A rule shall be considered to be of uncertain enforceability under this paragraph if the division notifies the Department of State that a rule or a portion of the rule has been invalidated in a division proceeding based upon a repeal of law, or the committee gives written notification to the Department of State and the agency having power to amend or repeal the rule that a law has been repealed creating doubt about whether the rule is still in full force and effect.

(3) The Administrative Procedures Committee or any substantially affected person may petition an agency to repeal any rule, or portion thereof, because it exceeds the rulemaking authority permitted by this section. Not later than 30 days after the date of filing the petition if the agency is headed by an individual, or not later than 45 days if the agency is headed by a collegial body, the agency shall initiate rulemaking proceedings

to repeal the rule, or portion thereof, or deny the petition, giving a written statement of its reasons for the denial.

(4) Nothing in this section shall be construed to change the legal status of a rule that has otherwise been judicially or administratively determined to be invalid.

History.—s. 9, ch. 96-159; s. 3, ch. 99-379; s. 15, ch. 2000-151; s. 15, ch. 2005-2; s. 4, ch. 2008-104; s. 1, ch. 2012-31.

120.54 Rulemaking.—

(1) GENERAL PROVISIONS APPLICABLE TO ALL RULES OTHER THAN EMERGENCY RULES.—

(a) Rulemaking is not a matter of agency discretion. Each agency statement defined as a rule by s. 120.52 shall be adopted by the rulemaking procedure provided by this section as soon as feasible and practicable.

1. Rulemaking shall be presumed feasible unless the agency proves that:

a. The agency has not had sufficient time to acquire the knowledge and experience reasonably necessary to address a statement by rulemaking; or

b. Related matters are not sufficiently resolved to enable the agency to address a statement by rulemaking.

2. Rulemaking shall be presumed practicable to the extent necessary to provide fair notice to affected persons of relevant agency procedures and applicable principles, criteria, or standards for agency decisions unless the agency proves that:

a. Detail or precision in the establishment of principles, criteria, or standards for agency decisions is not reasonable under the circumstances; or

b. The particular questions addressed are of such a narrow scope that more specific resolution of the matter is impractical outside of an adjudication to determine the substantial interests of a party based on individual circumstances.

(b) Whenever an act of the Legislature is enacted which requires implementation of the act by rules of an agency within the executive branch of state government, such rules shall be drafted and formally proposed as provided in this section within 180 days after the effective date of the act, unless the act provides otherwise.

(c) No statutory provision shall be delayed in its implementation pending an agency's adoption of implementing rules unless there is an express statutory provision prohibiting its application until the adoption of implementing rules.

(d) In adopting rules, all agencies must, among the alternative approaches to any regulatory objective and to the extent allowed by law, choose the alternative that does not impose regulatory costs on the regulated person, county, or city which could be reduced by the adoption of less costly alternatives that substantially accomplish the statutory objectives.

(e) No agency has inherent rulemaking authority, nor has any agency authority to establish penalties for violation of a rule unless the Legislature, when establishing a penalty, specifically provides that the penalty

applies to rules.

(f) An agency may adopt rules authorized by law and necessary to the proper implementation of a statute prior to the effective date of the statute, but the rules may not be effective until the statute upon which they are based is effective. An agency may not adopt retroactive rules, including retroactive rules intended to clarify existing law, unless that power is expressly authorized by statute.

(g) Each rule adopted shall contain only one subject.

(h) In rulemaking proceedings, the agency may recognize any material which may be judicially noticed, and it may provide that materials so recognized be incorporated into the record of the proceeding. Before the record of any proceeding is completed, all parties shall be provided a list of these materials and given a reasonable opportunity to examine them and offer written comments or written rebuttal.

(i) 1. A rule may incorporate material by reference but only as the material exists on the date the rule is adopted. For purposes of the rule, changes in the material are not effective unless the rule is amended to incorporate the changes.

2. An agency rule that incorporates by specific reference another rule of that agency automatically incorporates subsequent amendments to the referenced rule unless a contrary intent is clearly indicated in the referencing rule. A notice of amendments to a rule that has been incorporated by specific reference in other rules of that agency must explain the effect of those amendments on the referencing rules.

3. In rules adopted after December 31, 2010, material may not be incorporated by reference unless:

a. The material has been submitted in the prescribed electronic format to the Department of State and the full text of the material can be made available for free public access through an electronic hyperlink from the rule making the reference in the Florida Administrative Code; or

b. The agency has determined that posting the material on the Internet for purposes of public examination and inspection would constitute a violation of federal copyright law, in which case a statement to that effect, along with the address of locations at the Department of State and the agency at which the material is available for public inspection and examination, must be included in the notice required by subparagraph (3)(a)1.

4. A rule may not be amended by reference only. Amendments must set out the amended rule in full in the same manner as required by the State Constitution for laws.

5. Notwithstanding any contrary provision in this section, when an adopted rule of the Department of Environmental Protection or a water management district is incorporated by reference in the other agency's rule to implement a provision of part IV of chapter 373, subsequent amendments to the rule are not effective as to the incorporating rule unless the agency incorporating by reference notifies the committee and the Department of State of its intent to adopt the subsequent amendment, publishes notice of such intent in the Florida Administrative Weekly, and files with the Department of State a copy of the amended rule

incorporated by reference. Changes in the rule incorporated by reference are effective as to the other agency 20 days after the date of the published notice and filing with the Department of State. The Department of State shall amend the history note of the incorporating rule to show the effective date of such change. Any substantially affected person may, within 14 days after the date of publication of the notice of intent in the Florida Administrative Weekly, file an objection to rulemaking with the agency. The objection shall specify the portions of the rule incorporated by reference to which the person objects and the reasons for the objection. The agency shall not have the authority under this subparagraph to adopt those portions of the rule specified in such objection. The agency shall publish notice of the objection and of its action in response in the next available issue of the Florida Administrative Weekly.

6. The Department of State may adopt by rule requirements for incorporating materials pursuant to this paragraph.

(j) A rule published in the Florida Administrative Code must be indexed by the Department of State within 90 days after the rule is filed. The Department of State shall by rule establish procedures for indexing rules.

(k) An agency head may delegate the authority to initiate rule development under subsection (2); however, rulemaking responsibilities of an agency head under subparagraph (3)(a)1., subparagraph (3)(e)1., or subparagraph (3)(e)6. may not be delegated or transferred.

(2) RULE DEVELOPMENT; WORKSHOPS; NEGOTIATED RULEMAKING.—

(a) Except when the intended action is the repeal of a rule, agencies shall provide notice of the development of proposed rules by publication of a notice of rule development in the Florida Administrative Weekly before providing notice of a proposed rule as required by paragraph (3)(a). The notice of rule development shall indicate the subject area to be addressed by rule development, provide a short, plain explanation of the purpose and effect of the proposed rule, cite the specific legal authority for the proposed rule, and include the preliminary text of the proposed rules, if available, or a statement of how a person may promptly obtain, without cost, a copy of any preliminary draft, if available.

(b) All rules should be drafted in readable language. The language is readable if:

1. It avoids the use of obscure words and unnecessarily long or complicated constructions; and
2. It avoids the use of unnecessary technical or specialized language that is understood only by members of particular trades or professions.

(c) An agency may hold public workshops for purposes of rule development. An agency must hold public workshops, including workshops in various regions of the state or the agency's service area, for purposes of rule development if requested in writing by any affected person, unless the agency head explains in writing why a workshop is unnecessary. The explanation is not final agency action subject to review pursuant to ss. 120.569 and 120.57. The failure to provide the explanation when required may be a material error in procedure pursuant to s. 120.56(1)(c). When a workshop or public hearing is held, the agency must ensure

that the persons responsible for preparing the proposed rule are available to explain the agency's proposal and to respond to questions or comments regarding the rule being developed. The workshop may be facilitated or mediated by a neutral third person, or the agency may employ other types of dispute resolution alternatives for the workshop that are appropriate for rule development. Notice of a rule development workshop shall be by publication in the Florida Administrative Weekly not less than 14 days prior to the date on which the workshop is scheduled to be held and shall indicate the subject area which will be addressed; the agency contact person; and the place, date, and time of the workshop.

(d)1. An agency may use negotiated rulemaking in developing and adopting rules. The agency should consider the use of negotiated rulemaking when complex rules are being drafted or strong opposition to the rules is anticipated. The agency should consider, but is not limited to considering, whether a balanced committee of interested persons who will negotiate in good faith can be assembled, whether the agency is willing to support the work of the negotiating committee, and whether the agency can use the group consensus as the basis for its proposed rule. Negotiated rulemaking uses a committee of designated representatives to draft a mutually acceptable proposed rule.

2. An agency that chooses to use the negotiated rulemaking process described in this paragraph shall publish in the Florida Administrative Weekly a notice of negotiated rulemaking that includes a listing of the representative groups that will be invited to participate in the negotiated rulemaking process. Any person who believes that his or her interest is not adequately represented may apply to participate within 30 days after publication of the notice. All meetings of the negotiating committee shall be noticed and open to the public pursuant to the provisions of this chapter. The negotiating committee shall be chaired by a neutral facilitator or mediator.

3. The agency's decision to use negotiated rulemaking, its selection of the representative groups, and approval or denial of an application to participate in the negotiated rulemaking process are not agency action. Nothing in this subparagraph is intended to affect the rights of an affected person to challenge a proposed rule developed under this paragraph in accordance with s. 120.56(2).

(3) ADOPTION PROCEDURES.—

(a) Notices.—

1. Prior to the adoption, amendment, or repeal of any rule other than an emergency rule, an agency, upon approval of the agency head, shall give notice of its intended action, setting forth a short, plain explanation of the purpose and effect of the proposed action; the full text of the proposed rule or amendment and a summary thereof; a reference to the grant of rulemaking authority pursuant to which the rule is adopted; and a reference to the section or subsection of the Florida Statutes or the Laws of Florida being implemented or interpreted. The notice must include a summary of the agency's statement of the estimated regulatory costs, if one has been prepared, based on the factors set forth in s. 120.541(2); a statement that

any person who wishes to provide the agency with information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative as provided by s. 120.541(1), must do so in writing within 21 days after publication of the notice; and a statement as to whether, based on the statement of the estimated regulatory costs or other information expressly relied upon and described by the agency if no statement of regulatory costs is required, the proposed rule is expected to require legislative ratification pursuant to s. 120.541(3). The notice must state the procedure for requesting a public hearing on the proposed rule. Except when the intended action is the repeal of a rule, the notice must include a reference both to the date on which and to the place where the notice of rule development that is required by subsection (2) appeared.

2. The notice shall be published in the Florida Administrative Weekly not less than 28 days prior to the intended action. The proposed rule shall be available for inspection and copying by the public at the time of the publication of notice.

3. The notice shall be mailed to all persons named in the proposed rule and to all persons who, at least 14 days prior to such mailing, have made requests of the agency for advance notice of its proceedings. The agency shall also give such notice as is prescribed by rule to those particular classes of persons to whom the intended action is directed.

4. The adopting agency shall file with the committee, at least 21 days prior to the proposed adoption date, a copy of each rule it proposes to adopt; a copy of any material incorporated by reference in the rule; a detailed written statement of the facts and circumstances justifying the proposed rule; a copy of any statement of estimated regulatory costs that has been prepared pursuant to s. 120.541; a statement of the extent to which the proposed rule relates to federal standards or rules on the same subject; and the notice required by subparagraph 1.

(b) Special matters to be considered in rule adoption.—

1. Statement of estimated regulatory costs.—Before the adoption, amendment, or repeal of any rule other than an emergency rule, an agency is encouraged to prepare a statement of estimated regulatory costs of the proposed rule, as provided by s. 120.541. However, an agency must prepare a statement of estimated regulatory costs of the proposed rule, as provided by s. 120.541, if:

a. The proposed rule will have an adverse impact on small business; or

b. The proposed rule is likely to directly or indirectly increase regulatory costs in excess of \$200,000 in the aggregate in this state within 1 year after the implementation of the rule.

2. Small businesses, small counties, and small cities.—

a. Each agency, before the adoption, amendment, or repeal of a rule, shall consider the impact of the rule on small businesses as defined by s. 288.703 and the impact of the rule on small counties or small cities as defined by s. 120.52. Whenever practicable, an agency shall tier its rules to reduce disproportionate

impacts on small businesses, small counties, or small cities to avoid regulating small businesses, small counties, or small cities that do not contribute significantly to the problem the rule is designed to address. An agency may define “small business” to include businesses employing more than 200 persons, may define “small county” to include those with populations of more than 75,000, and may define “small city” to include those with populations of more than 10,000, if it finds that such a definition is necessary to adapt a rule to the needs and problems of small businesses, small counties, or small cities. The agency shall consider each of the following methods for reducing the impact of the proposed rule on small businesses, small counties, and small cities, or any combination of these entities:

(I) Establishing less stringent compliance or reporting requirements in the rule.

(II) Establishing less stringent schedules or deadlines in the rule for compliance or reporting requirements.

(III) Consolidating or simplifying the rule’s compliance or reporting requirements.

(IV) Establishing performance standards or best management practices to replace design or operational standards in the rule.

(V) Exempting small businesses, small counties, or small cities from any or all requirements of the rule.

b. (I) If the agency determines that the proposed action will affect small businesses as defined by the agency as provided in sub-subparagraph a., the agency shall send written notice of the rule to the rules ombudsman in the Executive Office of the Governor at least 28 days before the intended action.

(II) Each agency shall adopt those regulatory alternatives offered by the rules ombudsman in the Executive Office of the Governor and provided to the agency no later than 21 days after the ¹council’s receipt of the written notice of the rule which it finds are feasible and consistent with the stated objectives of the proposed rule and which would reduce the impact on small businesses. When regulatory alternatives are offered by the rules ombudsman in the Executive Office of the Governor, the 90-day period for filing the rule in subparagraph (e)2. is extended for a period of 21 days.

(III) If an agency does not adopt all alternatives offered pursuant to this sub-subparagraph, it shall, before rule adoption or amendment and pursuant to subparagraph (d)1., file a detailed written statement with the committee explaining the reasons for failure to adopt such alternatives. Within 3 working days after the filing of such notice, the agency shall send a copy of such notice to the rules ombudsman in the Executive Office of the Governor.

(c) *Hearings.* –

1. If the intended action concerns any rule other than one relating exclusively to procedure or practice, the agency shall, on the request of any affected person received within 21 days after the date of publication of the notice of intended agency action, give affected persons an opportunity to present evidence and argument on all issues under consideration. The agency may schedule a public hearing on the rule and, if requested by any affected person, shall schedule a public hearing on the rule. When a public hearing is held,

the agency must ensure that staff are available to explain the agency's proposal and to respond to questions or comments regarding the rule. If the agency head is a board or other collegial body created under s. 20.165(4) or s. 20.43(3)(g), and one or more requested public hearings is scheduled, the board or other collegial body shall conduct at least one of the public hearings itself and may not delegate this responsibility without the consent of those persons requesting the public hearing. Any material pertinent to the issues under consideration submitted to the agency within 21 days after the date of publication of the notice or submitted to the agency between the date of publication of the notice and the end of the final public hearing shall be considered by the agency and made a part of the record of the rulemaking proceeding.

2. Rulemaking proceedings shall be governed solely by the provisions of this section unless a person timely asserts that the person's substantial interests will be affected in the proceeding and affirmatively demonstrates to the agency that the proceeding does not provide adequate opportunity to protect those interests. If the agency determines that the rulemaking proceeding is not adequate to protect the person's interests, it shall suspend the rulemaking proceeding and convene a separate proceeding under the provisions of ss. 120.569 and 120.57. Similarly situated persons may be requested to join and participate in the separate proceeding. Upon conclusion of the separate proceeding, the rulemaking proceeding shall be resumed.

(d) Modification or withdrawal of proposed rules.—

1. After the final public hearing on the proposed rule, or after the time for requesting a hearing has expired, if the rule has not been changed from the rule as previously filed with the committee, or contains only technical changes, the adopting agency shall file a notice to that effect with the committee at least 7 days prior to filing the rule for adoption. Any change, other than a technical change that does not affect the substance of the rule, must be supported by the record of public hearings held on the rule, must be in response to written material submitted to the agency within 21 days after the date of publication of the notice of intended agency action or submitted to the agency between the date of publication of the notice and the end of the final public hearing, or must be in response to a proposed objection by the committee. In addition, when any change is made in a proposed rule, other than a technical change, the adopting agency shall provide a copy of a notice of change by certified mail or actual delivery to any person who requests it in writing no later than 21 days after the notice required in paragraph (a). The agency shall file the notice of change with the committee, along with the reasons for the change, and provide the notice of change to persons requesting it, at least 21 days prior to filing the rule for adoption. The notice of change shall be published in the Florida Administrative Weekly at least 21 days prior to filing the rule for adoption. This subparagraph does not apply to emergency rules adopted pursuant to subsection (4).

2. After the notice required by paragraph (a) and prior to adoption, the agency may withdraw the rule in whole or in part.

3. After adoption and before the rule becomes effective, a rule may be modified or withdrawn only in the

following circumstances:

a. When the committee objects to the rule;

b. When a final order, which is not subject to further appeal, is entered in a rule challenge brought pursuant to s. 120.56 after the date of adoption but before the rule becomes effective pursuant to subparagraph (e)6.;

c. If the rule requires ratification, when more than 90 days have passed since the rule was filed for adoption without the Legislature ratifying the rule, in which case the rule may be withdrawn but may not be modified; or

d. When the committee notifies the agency that an objection to the rule is being considered, in which case the rule may be modified to extend the effective date by not more than 60 days.

4. The agency shall give notice of its decision to withdraw or modify a rule in the first available issue of the publication in which the original notice of rulemaking was published, shall notify those persons described in subparagraph (a)3. in accordance with the requirements of that subparagraph, and shall notify the Department of State if the rule is required to be filed with the Department of State.

5. After a rule has become effective, it may be repealed or amended only through the rulemaking procedures specified in this chapter.

(e) Filing for final adoption; effective date.—

1. If the adopting agency is required to publish its rules in the Florida Administrative Code, the agency, upon approval of the agency head, shall file with the Department of State three certified copies of the rule it proposes to adopt; one copy of any material incorporated by reference in the rule, certified by the agency; a summary of the rule; a summary of any hearings held on the rule; and a detailed written statement of the facts and circumstances justifying the rule. Agencies not required to publish their rules in the Florida Administrative Code shall file one certified copy of the proposed rule, and the other material required by this subparagraph, in the office of the agency head, and such rules shall be open to the public.

2. A rule may not be filed for adoption less than 28 days or more than 90 days after the notice required by paragraph (a), until 21 days after the notice of change required by paragraph (d), until 14 days after the final public hearing, until 21 days after a statement of estimated regulatory costs required under s. 120.541 has been provided to all persons who submitted a lower cost regulatory alternative and made available to the public, or until the administrative law judge has rendered a decision under s. 120.56(2), whichever applies. When a required notice of change is published prior to the expiration of the time to file the rule for adoption, the period during which a rule must be filed for adoption is extended to 45 days after the date of publication. If notice of a public hearing is published prior to the expiration of the time to file the rule for adoption, the period during which a rule must be filed for adoption is extended to 45 days after adjournment of the final hearing on the rule, 21 days after receipt of all material authorized to be submitted at the hearing, or 21 days

after receipt of the transcript, if one is made, whichever is latest. The term “public hearing” includes any public meeting held by any agency at which the rule is considered. If a petition for an administrative determination under s. 120.56(2) is filed, the period during which a rule must be filed for adoption is extended to 60 days after the administrative law judge files the final order with the clerk or until 60 days after subsequent judicial review is complete.

3. At the time a rule is filed, the agency shall certify that the time limitations prescribed by this paragraph have been complied with, that all statutory rulemaking requirements have been met, and that there is no administrative determination pending on the rule.

4. At the time a rule is filed, the committee shall certify whether the agency has responded in writing to all material and timely written comments or written inquiries made on behalf of the committee. The department shall reject any rule that is not filed within the prescribed time limits; that does not comply with all statutory rulemaking requirements and rules of the department; upon which an agency has not responded in writing to all material and timely written inquiries or written comments; upon which an administrative determination is pending; or which does not include a statement of estimated regulatory costs, if required.

5. If a rule has not been adopted within the time limits imposed by this paragraph or has not been adopted in compliance with all statutory rulemaking requirements, the agency proposing the rule shall withdraw the rule and give notice of its action in the next available issue of the Florida Administrative Weekly.

6. The proposed rule shall be adopted on being filed with the Department of State and become effective 20 days after being filed, on a later date specified in the notice required by subparagraph (a)1., on a date required by statute, or upon ratification by the Legislature pursuant to s. 120.541(3). Rules not required to be filed with the Department of State shall become effective when adopted by the agency head, on a later date specified by rule or statute, or upon ratification by the Legislature pursuant to s. 120.541(3). If the committee notifies an agency that an objection to a rule is being considered, the agency may postpone the adoption of the rule to accommodate review of the rule by the committee. When an agency postpones adoption of a rule to accommodate review by the committee, the 90-day period for filing the rule is tolled until the committee notifies the agency that it has completed its review of the rule.

For the purposes of this paragraph, the term “administrative determination” does not include subsequent judicial review.

(4) EMERGENCY RULES.—

(a) If an agency finds that an immediate danger to the public health, safety, or welfare requires emergency action, the agency may adopt any rule necessitated by the immediate danger. The agency may adopt a rule by any procedure which is fair under the circumstances if:

1. The procedure provides at least the procedural protection given by other statutes, the State

Constitution, or the United States Constitution.

2. The agency takes only that action necessary to protect the public interest under the emergency procedure.

3. The agency publishes in writing at the time of, or prior to, its action the specific facts and reasons for finding an immediate danger to the public health, safety, or welfare and its reasons for concluding that the procedure used is fair under the circumstances. In any event, notice of emergency rules, other than those of educational units or units of government with jurisdiction in only one or a part of one county, including the full text of the rules, shall be published in the first available issue of the Florida Administrative Weekly and provided to the committee along with any material incorporated by reference in the rules. The agency's findings of immediate danger, necessity, and procedural fairness shall be judicially reviewable.

(b) Rules pertaining to the public health, safety, or welfare shall include rules pertaining to perishable agricultural commodities or rules pertaining to the interpretation and implementation of the requirements of chapters 97-102 and chapter 105 of the Election Code.

(c) An emergency rule adopted under this subsection shall not be effective for a period longer than 90 days and shall not be renewable, except when the agency has initiated rulemaking to adopt rules addressing the subject of the emergency rule and either:

1. A challenge to the proposed rules has been filed and remains pending; or

2. The proposed rules are awaiting ratification by the Legislature pursuant to s. 120.541(3).

Nothing in this paragraph prohibits the agency from adopting a rule or rules identical to the emergency rule through the rulemaking procedures specified in subsection (3).

(d) Subject to applicable constitutional and statutory provisions, an emergency rule becomes effective immediately on filing, or on a date less than 20 days thereafter if specified in the rule, if the adopting agency finds that such effective date is necessary because of immediate danger to the public health, safety, or welfare.

(5) UNIFORM RULES.—

(a) 1. By July 1, 1997, the Administration Commission shall adopt one or more sets of uniform rules of procedure which shall be reviewed by the committee and filed with the Department of State. Agencies must comply with the uniform rules by July 1, 1998. The uniform rules shall establish procedures that comply with the requirements of this chapter. On filing with the department, the uniform rules shall be the rules of procedure for each agency subject to this chapter unless the Administration Commission grants an exception to the agency under this subsection.

2. An agency may seek exceptions to the uniform rules of procedure by filing a petition with the Administration Commission. The Administration Commission shall approve exceptions to the extent necessary to implement other statutes, to the extent necessary to conform to any requirement imposed as a condition

precedent to receipt of federal funds or to permit persons in this state to receive tax benefits under federal law, or as required for the most efficient operation of the agency as determined by the Administration Commission. The reasons for the exceptions shall be published in the Florida Administrative Weekly.

3. Agency rules that provide exceptions to the uniform rules shall not be filed with the department unless the Administration Commission has approved the exceptions. Each agency that adopts rules that provide exceptions to the uniform rules shall publish a separate chapter in the Florida Administrative Code that delineates clearly the provisions of the agency's rules that provide exceptions to the uniform rules and specifies each alternative chosen from among those authorized by the uniform rules. Each chapter shall be organized in the same manner as the uniform rules.

(b) The uniform rules of procedure adopted by the commission pursuant to this subsection shall include, but are not limited to:

1. Uniform rules for the scheduling of public meetings, hearings, and workshops.

2. Uniform rules for use by each state agency that provide procedures for conducting public meetings, hearings, and workshops, and for taking evidence, testimony, and argument at such public meetings, hearings, and workshops, in person and by means of communications media technology. The rules shall provide that all evidence, testimony, and argument presented shall be afforded equal consideration, regardless of the method of communication. If a public meeting, hearing, or workshop is to be conducted by means of communications media technology, or if attendance may be provided by such means, the notice shall so state. The notice for public meetings, hearings, and workshops utilizing communications media technology shall state how persons interested in attending may do so and shall name locations, if any, where communications media technology facilities will be available. Nothing in this paragraph shall be construed to diminish the right to inspect public records under chapter 119. Limiting points of access to public meetings, hearings, and workshops subject to the provisions of s. 286.011 to places not normally open to the public shall be presumed to violate the right of access of the public, and any official action taken under such circumstances is void and of no effect. Other laws relating to public meetings, hearings, and workshops, including penal and remedial provisions, shall apply to public meetings, hearings, and workshops conducted by means of communications media technology, and shall be liberally construed in their application to such public meetings, hearings, and workshops. As used in this subparagraph, "communications media technology" means the electronic transmission of printed matter, audio, full-motion video, freeze-frame video, compressed video, and digital video by any method available.

3. Uniform rules of procedure for the filing of notice of protests and formal written protests. The Administration Commission may prescribe the form and substantive provisions of a required bond.

4. Uniform rules of procedure for the filing of petitions for administrative hearings pursuant to s. 120.569 or s. 120.57. Such rules shall require the petition to include:

a. The identification of the petitioner, including the petitioner's e-mail address, if any, for the

transmittal of subsequent documents by electronic means.

b. A statement of when and how the petitioner received notice of the agency's action or proposed action.

c. An explanation of how the petitioner's substantial interests are or will be affected by the action or proposed action.

d. A statement of all material facts disputed by the petitioner or a statement that there are no disputed facts.

e. A statement of the ultimate facts alleged, including a statement of the specific facts the petitioner contends warrant reversal or modification of the agency's proposed action.

f. A statement of the specific rules or statutes that the petitioner contends require reversal or modification of the agency's proposed action, including an explanation of how the alleged facts relate to the specific rules or statutes.

g. A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the agency to take with respect to the proposed action.

5. Uniform rules for the filing of request for administrative hearing by a respondent in agency enforcement and disciplinary actions. Such rules shall require a request to include:

a. The name, address, e-mail address, and telephone number of the party making the request and the name, address, and telephone number of the party's counsel or qualified representative upon whom service of pleadings and other papers shall be made;

b. A statement that the respondent is requesting an administrative hearing and disputes the material facts alleged by the petitioner, in which case the respondent shall identify those material facts that are in dispute, or that the respondent is requesting an administrative hearing and does not dispute the material facts alleged by the petitioner; and

c. A reference by file number to the administrative complaint that the party has received from the agency and the date on which the agency pleading was received.

The agency may provide an election-of-rights form for the respondent's use in requesting a hearing, so long as any form provided by the agency calls for the information in sub-subparagraphs a. through c. and does not impose any additional requirements on a respondent in order to request a hearing, unless such requirements are specifically authorized by law.

6. Uniform rules of procedure for the filing and prompt disposition of petitions for declaratory statements. The rules shall also describe the contents of the notices that must be published in the Florida Administrative Weekly under s. 120.565, including any applicable time limit for the filing of petitions to intervene or petitions for administrative hearing by persons whose substantial interests may be affected.

7. Provision of a method by which each agency head shall provide a description of the agency's organization and general course of its operations. The rules shall require that the statement concerning the

agency's organization and operations be published on the agency's website.

8. Uniform rules establishing procedures for granting or denying petitions for variances and waivers pursuant to s. 120.542.

(6) ADOPTION OF FEDERAL STANDARDS.—Notwithstanding any contrary provision of this section, in the pursuance of state implementation, operation, or enforcement of federal programs, an agency is empowered to adopt rules substantively identical to regulations adopted pursuant to federal law, in accordance with the following procedures:

(a) The agency shall publish notice of intent to adopt a rule pursuant to this subsection in the Florida Administrative Weekly at least 21 days prior to filing the rule with the Department of State. The agency shall provide a copy of the notice of intent to adopt a rule to the committee at least 21 days prior to the date of filing with the Department of State. Prior to filing the rule with the Department of State, the agency shall consider any written comments received within 14 days after the date of publication of the notice of intent to adopt a rule. The rule shall be adopted upon filing with the Department of State. Substantive changes from the rules as noticed shall require republishing of notice as required in this subsection.

(b) Any rule adopted pursuant to this subsection shall become effective upon the date designated by the agency in the notice of intent to adopt a rule; however, no such rule shall become effective earlier than the effective date of the substantively identical federal regulation.

(c) Any substantially affected person may, within 14 days after the date of publication of the notice of intent to adopt a rule, file an objection to rulemaking with the agency. The objection shall specify the portions of the proposed rule to which the person objects and the specific reasons for the objection. The agency shall not proceed pursuant to this subsection to adopt those portions of the proposed rule specified in an objection, unless the agency deems the objection to be frivolous, but may proceed pursuant to subsection (3). An objection to a proposed rule, which rule in no material respect differs from the requirements of the federal regulation upon which it is based, is deemed to be frivolous.

(d) Whenever any federal regulation adopted as an agency rule pursuant to this subsection is declared invalid or is withdrawn, revoked, repealed, remanded, or suspended, the agency shall, within 60 days thereafter, publish a notice of repeal of the substantively identical agency rule in the Florida Administrative Weekly. Such repeal is effective upon publication of the notice. Whenever any federal regulation adopted as an agency rule pursuant to this subsection is substantially amended, the agency may adopt the amended regulation as a rule. If the amended regulation is not adopted as a rule within 180 days after the effective date of the amended regulation, the original rule is deemed repealed and the agency shall publish a notice of repeal of the original agency rule in the next available Florida Administrative Weekly.

(e) Whenever all or part of any rule proposed for adoption by the agency is substantively identical to a regulation adopted pursuant to federal law, such rule shall be written in a manner so that the rule specifically

references the regulation whenever possible.

(7) PETITION TO INITIATE RULEMAKING.—

(a) Any person regulated by an agency or having substantial interest in an agency rule may petition an agency to adopt, amend, or repeal a rule or to provide the minimum public information required by this chapter. The petition shall specify the proposed rule and action requested. Not later than 30 calendar days following the date of filing a petition, the agency shall initiate rulemaking proceedings under this chapter, otherwise comply with the requested action, or deny the petition with a written statement of its reasons for the denial.

(b) If the petition filed under this subsection is directed to an unadopted rule, the agency shall, not later than 30 days following the date of filing a petition, initiate rulemaking, or provide notice in the Florida Administrative Weekly that the agency will hold a public hearing on the petition within 30 days after publication of the notice. The purpose of the public hearing is to consider the comments of the public directed to the agency rule which has not been adopted by the rulemaking procedures or requirements of this chapter, its scope and application, and to consider whether the public interest is served adequately by the application of the rule on a case-by-case basis, as contrasted with its adoption by the rulemaking procedures or requirements set forth in this chapter.

(c) Within 30 days following the public hearing provided for by paragraph (b), if the agency does not initiate rulemaking or otherwise comply with the requested action, the agency shall publish in the Florida Administrative Weekly a statement of its reasons for not initiating rulemaking or otherwise complying with the requested action, and of any changes it will make in the scope or application of the unadopted rule. The agency shall file the statement with the committee. The committee shall forward a copy of the statement to the substantive committee with primary oversight jurisdiction of the agency in each house of the Legislature. The committee or the committee with primary oversight jurisdiction may hold a hearing directed to the statement of the agency. The committee holding the hearing may recommend to the Legislature the introduction of legislation making the rule a statutory standard or limiting or otherwise modifying the authority of the agency.

(8) RULEMAKING RECORD.—In all rulemaking proceedings the agency shall compile a rulemaking record.

The record shall include, if applicable, copies of:

- (a) All notices given for the proposed rule.
- (b) Any statement of estimated regulatory costs for the rule.
- (c) A written summary of hearings on the proposed rule.
- (d) The written comments and responses to written comments as required by this section and s. 120.541.
- (e) All notices and findings made under subsection (4).
- (f) All materials filed by the agency with the committee under subsection (3).

(g) All materials filed with the Department of State under subsection (3).

(h) All written inquiries from standing committees of the Legislature concerning the rule.

Each state agency shall retain the record of rulemaking as long as the rule is in effect. When a rule is no longer in effect, the record may be destroyed pursuant to the records-retention schedule developed under s. 257.36(6).

History.—s. 1, ch. 74-310; s. 3, ch. 75-191; s. 3, ch. 76-131; ss. 1, 2, ch. 76-276; s. 1, ch. 77-174; s. 13, ch. 77-290; s. 3, ch. 77-453; s. 2, ch. 78-28; s. 2, ch. 78-425; s. 7, ch. 79-3; s. 3, ch. 79-299; s. 69, ch. 79-400; s. 5, ch. 80-391; s. 1, ch. 81-309; s. 2, ch. 83-351; s. 1, ch. 84-173; s. 2, ch. 84-203; s. 7, ch. 85-104; s. 1, ch. 86-30; s. 3, ch. 87-385; s. 36, ch. 90-302; ss. 2, 4, 7, ch. 92-166; s. 63, ch. 93-187; s. 758, ch. 95-147; s. 6, ch. 95-295; s. 10, ch. 96-159; s. 6, ch. 96-320; s. 9, ch. 96-370; s. 3, ch. 97-176; s. 3, ch. 98-200; s. 4, ch. 99-379; s. 9, ch. 2001-75; s. 2, ch. 2003-94; s. 50, ch. 2005-278; s. 3, ch. 2006-82; ss. 5, 6, ch. 2008-104; s. 7, ch. 2008-149; s. 4, ch. 2009-187; ss. 1, 5, ch. 2010-279; HJR 9-A, 2010 Special Session A; s. 49, ch. 2011-142; s. 8, ch. 2011-208; s. 1, ch. 2011-225; s. 2, ch. 2012-27; s. 1, ch. 2012-63.

¹**Note.**—The word “council’s” refers to the Small Business Regulatory Advisory Council. Section 5, ch. 2012-27, repealed s. 288.7001, which created the council, and other provisions in ch. 2012-27 reassigned the council’s duties to the rules ombudsman in the Executive Office of the Governor.

120.541 Statement of estimated regulatory costs.—

(1)(a) Within 21 days after publication of the notice required under s. 120.54(3)(a), a substantially affected person may submit to an agency a good faith written proposal for a lower cost regulatory alternative to a proposed rule which substantially accomplishes the objectives of the law being implemented. The proposal may include the alternative of not adopting any rule if the proposal explains how the lower costs and objectives of the law will be achieved by not adopting any rule. If such a proposal is submitted, the 90-day period for filing the rule is extended 21 days. Upon the submission of the lower cost regulatory alternative, the agency shall prepare a statement of estimated regulatory costs as provided in subsection (2), or shall revise its prior statement of estimated regulatory costs, and either adopt the alternative or provide a statement of the reasons for rejecting the alternative in favor of the proposed rule.

(b) If a proposed rule will have an adverse impact on small business or if the proposed rule is likely to directly or indirectly increase regulatory costs in excess of \$200,000 in the aggregate within 1 year after the implementation of the rule, the agency shall prepare a statement of estimated regulatory costs as required by s. 120.54(3)(b).

(c) The agency shall revise a statement of estimated regulatory costs if any change to the rule made under s. 120.54(3)(d) increases the regulatory costs of the rule.

(d) At least 21 days before filing the rule for adoption, an agency that is required to revise a statement of estimated regulatory costs shall provide the statement to the person who submitted the lower cost regulatory alternative and to the committee and shall provide notice on the agency’s website that it is available to the

public.

(e) Notwithstanding s. 120.56(1)(c), the failure of the agency to prepare a statement of estimated regulatory costs or to respond to a written lower cost regulatory alternative as provided in this subsection is a material failure to follow the applicable rulemaking procedures or requirements set forth in this chapter.

(f) An agency's failure to prepare a statement of estimated regulatory costs or to respond to a written lower cost regulatory alternative may not be raised in a proceeding challenging the validity of a rule pursuant to s. 120.52(8)(a) unless:

1. Raised in a petition filed no later than 1 year after the effective date of the rule; and
2. Raised by a person whose substantial interests are affected by the rule's regulatory costs.

(g) A rule that is challenged pursuant to s. 120.52(8)(f) may not be declared invalid unless:

1. The issue is raised in an administrative proceeding within 1 year after the effective date of the rule;
2. The challenge is to the agency's rejection of a lower cost regulatory alternative offered under

paragraph (a) or s. 120.54(3)(b)2.b.; and

3. The substantial interests of the person challenging the rule are materially affected by the rejection.

(2) A statement of estimated regulatory costs shall include:

(a) An economic analysis showing whether the rule directly or indirectly:

1. Is likely to have an adverse impact on economic growth, private sector job creation or employment, or private sector investment in excess of \$1 million in the aggregate within 5 years after the implementation of the rule;

2. Is likely to have an adverse impact on business competitiveness, including the ability of persons doing business in the state to compete with persons doing business in other states or domestic markets, productivity, or innovation in excess of \$1 million in the aggregate within 5 years after the implementation of the rule; or

3. Is likely to increase regulatory costs, including any transactional costs, in excess of \$1 million in the aggregate within 5 years after the implementation of the rule.

(b) A good faith estimate of the number of individuals and entities likely to be required to comply with the rule, together with a general description of the types of individuals likely to be affected by the rule.

(c) A good faith estimate of the cost to the agency, and to any other state and local government entities, of implementing and enforcing the proposed rule, and any anticipated effect on state or local revenues.

(d) A good faith estimate of the transactional costs likely to be incurred by individuals and entities, including local government entities, required to comply with the requirements of the rule. As used in this section, "transactional costs" are direct costs that are readily ascertainable based upon standard business practices, and include filing fees, the cost of obtaining a license, the cost of equipment required to be installed or used or procedures required to be employed in complying with the rule, additional operating costs

incurred, the cost of monitoring and reporting, and any other costs necessary to comply with the rule.

(e) An analysis of the impact on small businesses as defined by s. 288.703, and an analysis of the impact on small counties and small cities as defined in s. 120.52. The impact analysis for small businesses must include the basis for the agency's decision not to implement alternatives that would reduce adverse impacts on small businesses.

(f) Any additional information that the agency determines may be useful.

(g) In the statement or revised statement, whichever applies, a description of any regulatory alternatives submitted under paragraph (1)(a) and a statement adopting the alternative or a statement of the reasons for rejecting the alternative in favor of the proposed rule.

(3) If the adverse impact or regulatory costs of the rule exceed any of the criteria established in paragraph (2)(a), the rule shall be submitted to the President of the Senate and Speaker of the House of Representatives no later than 30 days prior to the next regular legislative session, and the rule may not take effect until it is ratified by the Legislature.

¹ (4) This section does not apply to the adoption of emergency rules pursuant to s. 120.54(4) or the adoption of federal standards pursuant to s. 120.54(6).

History.—s. 11, ch. 96-159; s. 4, ch. 97-176; ss. 2, 5, ch. 2010-279; HJR 9-A, 2010 Special Session A; s. 1, ch. 2011-222; s. 2, ch. 2011-225.

¹**Note.**—As amended by s. 2, ch. 2011-225. For a description of multiple acts in the same session affecting a statutory provision, see preface to the *Florida Statutes*, "Statutory Construction." Subsection (4) was also amended by s. 1, ch. 2011-222, and that version reads:

Subsection (4) (3) does not apply to the adoption of:

Federal (a) standards pursuant to s. 120.54(6).

Triennial (b) updates of and amendments to the Florida Building Code which are expressly authorized by s. 553.73.

Triennial (c) updates of and amendments to the Florida Fire Prevention Code which are expressly authorized by s. 633.0215.

120.542 Variances and waivers.—

(1) Strict application of uniformly applicable rule requirements can lead to unreasonable, unfair, and unintended results in particular instances. The Legislature finds that it is appropriate in such cases to adopt a procedure for agencies to provide relief to persons subject to regulation. A public employee is not a person subject to regulation under this section for the purpose of petitioning for a variance or waiver to a rule that affects that public employee in his or her capacity as a public employee. Agencies are authorized to grant variances and waivers to requirements of their rules consistent with this section and with rules adopted under the authority of this section. An agency may limit the duration of any grant of a variance or waiver or otherwise impose conditions on the grant only to the extent necessary for the purpose of the underlying statute to be achieved. This section does not authorize agencies to grant variances or waivers to statutes or to

rules required by the Federal Government for the agency's implementation or retention of any federally approved or delegated program, except as allowed by the program or when the variance or waiver is also approved by the appropriate agency of the Federal Government. This section is supplemental to, and does not abrogate, the variance and waiver provisions in any other statute.

(2) Variances and waivers shall be granted when the person subject to the rule demonstrates that the purpose of the underlying statute will be or has been achieved by other means by the person and when application of a rule would create a substantial hardship or would violate principles of fairness. For purposes of this section, "substantial hardship" means a demonstrated economic, technological, legal, or other type of hardship to the person requesting the variance or waiver. For purposes of this section, "principles of fairness" are violated when the literal application of a rule affects a particular person in a manner significantly different from the way it affects other similarly situated persons who are subject to the rule.

(3) The Governor and Cabinet, sitting as the Administration Commission, shall adopt uniform rules of procedure pursuant to the requirements of s. 120.54(5) establishing procedures for granting or denying petitions for variances and waivers. The uniform rules shall include procedures for the granting, denying, or revoking of emergency and temporary variances and waivers. Such provisions may provide for expedited timeframes, waiver of or limited public notice, and limitations on comments on the petition in the case of such temporary or emergency variances and waivers.

(4) Agencies shall advise persons of the remedies available through this section and shall provide copies of this section, the uniform rules on variances and waivers, and, if requested, the underlying statute, to persons who inquire about the possibility of relief from rule requirements.

(5) A person who is subject to regulation by an agency rule may file a petition with that agency, with a copy to the committee, requesting a variance or waiver from the agency's rule. In addition to any requirements mandated by the uniform rules, each petition shall specify:

(a) The rule from which a variance or waiver is requested.

(b) The type of action requested.

(c) The specific facts that would justify a waiver or variance for the petitioner.

(d) The reason why the variance or the waiver requested would serve the purposes of the underlying statute.

(6) Within 15 days after receipt of a petition for variance or waiver, an agency shall provide notice of the petition to the Department of State, which shall publish notice of the petition in the first available issue of the Florida Administrative Weekly. The notice shall contain the name of the petitioner, the date the petition was filed, the rule number and nature of the rule from which variance or waiver is sought, and an explanation of how a copy of the petition can be obtained. The uniform rules shall provide a means for interested persons to provide comments on the petition.

(7) Except for requests for emergency variances or waivers, within 30 days after receipt of a petition for a variance or waiver, an agency shall review the petition and request submittal of all additional information that the agency is permitted by this section to require. Within 30 days after receipt of such additional information, the agency shall review it and may request only that information needed to clarify the additional information or to answer new questions raised by or directly related to the additional information. If the petitioner asserts that any request for additional information is not authorized by law or by rule of the affected agency, the agency shall proceed, at the petitioner's written request, to process the petition.

(8) An agency shall grant or deny a petition for variance or waiver within 90 days after receipt of the original petition, the last item of timely requested additional material, or the petitioner's written request to finish processing the petition. A petition not granted or denied within 90 days after receipt of a completed petition is deemed approved. A copy of the order granting or denying the petition shall be filed with the committee and shall contain a statement of the relevant facts and reasons supporting the agency's action. The agency shall provide notice of the disposition of the petition to the Department of State, which shall publish the notice in the next available issue of the Florida Administrative Weekly. The notice shall contain the name of the petitioner, the date the petition was filed, the rule number and nature of the rule from which the waiver or variance is sought, a reference to the place and date of publication of the notice of the petition, the date of the order denying or approving the variance or waiver, the general basis for the agency decision, and an explanation of how a copy of the order can be obtained. The agency's decision to grant or deny the petition shall be supported by competent substantial evidence and is subject to ss. 120.569 and 120.57. Any proceeding pursuant to ss. 120.569 and 120.57 in regard to a variance or waiver shall be limited to the agency action on the request for the variance or waiver, except that a proceeding in regard to a variance or waiver may be consolidated with any other proceeding authorized by this chapter.

(9) Each agency shall maintain a record of the type and disposition of each petition, including temporary or emergency variances and waivers, filed pursuant to this section.

History.—s. 12, ch. 96-159; s. 5, ch. 97-176; s. 37, ch. 2010-102.

120.545 Committee review of agency rules.—

(1) As a legislative check on legislatively created authority, the committee shall examine each proposed rule, except for those proposed rules exempted by s. 120.81(1)(e) and (2), and its accompanying material, and each emergency rule, and may examine any existing rule, for the purpose of determining whether:

- (a) The rule is an invalid exercise of delegated legislative authority.
- (b) The statutory authority for the rule has been repealed.
- (c) The rule reiterates or paraphrases statutory material.
- (d) The rule is in proper form.
- (e) The notice given prior to its adoption was sufficient to give adequate notice of the purpose and effect

of the rule.

(f)The rule is consistent with expressed legislative intent pertaining to the specific provisions of law which the rule implements.

(g)The rule is necessary to accomplish the apparent or expressed objectives of the specific provision of law which the rule implements.

(h)The rule is a reasonable implementation of the law as it affects the convenience of the general public or persons particularly affected by the rule.

(i)The rule could be made less complex or more easily comprehensible to the general public.

(j)The rule's statement of estimated regulatory costs complies with the requirements of s. 120.541 and whether the rule does not impose regulatory costs on the regulated person, county, or city which could be reduced by the adoption of less costly alternatives that substantially accomplish the statutory objectives.

(k)The rule will require additional appropriations.

(l)If the rule is an emergency rule, there exists an emergency justifying the adoption of such rule, the agency is within its statutory authority, and the rule was adopted in compliance with the requirements and limitations of s. 120.54(4).

(2)The committee may request from an agency such information as is reasonably necessary for examination of a rule as required by subsection (1). The committee shall consult with legislative standing committees having jurisdiction over the subject areas. If the committee objects to a rule, the committee shall, within 5 days after the objection, certify that fact to the agency whose rule has been examined and include with the certification a statement detailing its objections with particularity. The committee shall notify the Speaker of the House of Representatives and the President of the Senate of any objection to an agency rule concurrent with certification of that fact to the agency. Such notice shall include a copy of the rule and the statement detailing the committee's objections to the rule.

(3)Within 30 days after receipt of the objection, if the agency is headed by an individual, or within 45 days after receipt of the objection, if the agency is headed by a collegial body, the agency shall:

(a)If the rule is not yet in effect:

1.File notice pursuant to s. 120.54(3)(d) of only such modifications as are necessary to address the committee's objection;

2.File notice pursuant to s. 120.54(3)(d) of withdrawal of the rule; or

3.Notify the committee in writing that it refuses to modify or withdraw the rule.

(b)If the rule is in effect:

1.File notice pursuant to s. 120.54(3)(a), without prior notice of rule development, to amend the rule to address the committee's objection;

2.File notice pursuant to s. 120.54(3)(a) to repeal the rule; or

3. Notify the committee in writing that the agency refuses to amend or repeal the rule.

(c) If the objection is to the statement of estimated regulatory costs:

1. Prepare a corrected statement of estimated regulatory costs, give notice of the availability of the corrected statement in the first available issue of the Florida Administrative Weekly, and file a copy of the corrected statement with the committee; or

2. Notify the committee that it refuses to prepare a corrected statement of estimated regulatory costs.

(4) Failure of the agency to respond to a committee objection to a rule that is not yet in effect within the time prescribed in subsection (3) constitutes withdrawal of the rule in its entirety. In this event, the committee shall notify the Department of State that the agency, by its failure to respond to a committee objection, has elected to withdraw the rule. Upon receipt of the committee's notice, the Department of State shall publish a notice to that effect in the next available issue of the Florida Administrative Weekly. Upon publication of the notice, the rule shall be stricken from the files of the Department of State and the files of the agency.

(5) Failure of the agency to respond to a committee objection to a rule that is in effect within the time prescribed in subsection (3) constitutes a refusal to amend or repeal the rule.

(6) Failure of the agency to respond to a committee objection to a statement of estimated regulatory costs within the time prescribed in subsection (3) constitutes a refusal to prepare a corrected statement of estimated regulatory costs.

(7) If the committee objects to a rule and the agency refuses to modify, amend, withdraw, or repeal the rule, the committee shall file with the Department of State a notice of the objection, detailing with particularity the committee's objection to the rule. The Department of State shall publish this notice in the Florida Administrative Weekly. If the rule is published in the Florida Administrative Code, a reference to the committee's objection and to the issue of the Florida Administrative Weekly in which the full text thereof appears shall be recorded in a history note.

(8)(a) If the committee objects to a rule, or portion of a rule, and the agency fails to initiate administrative action to modify, amend, withdraw, or repeal the rule consistent with the objection within 60 days after the objection, or thereafter fails to proceed in good faith to complete such action, the committee may submit to the President of the Senate and the Speaker of the House of Representatives a recommendation that legislation be introduced to address the committee's objection.

(b) 1. If the committee votes to recommend the introduction of legislation to address the committee's objection, the committee shall, within 5 days after this determination, certify that fact to the agency whose rule or proposed rule has been examined. The committee may request that the agency temporarily suspend the rule or suspend the adoption of the proposed rule, pending consideration of proposed legislation during the next regular session of the Legislature.

2. Within 30 days after receipt of the certification, if the agency is headed by an individual, or within 45 days after receipt of the certification, if the agency is headed by a collegial body, the agency shall:

a. Temporarily suspend the rule or suspend the adoption of the proposed rule; or

b. Notify the committee in writing that the agency refuses to temporarily suspend the rule or suspend the adoption of the proposed rule.

3. If the agency elects to temporarily suspend the rule or suspend the adoption of the proposed rule, the agency shall give notice of the suspension in the Florida Administrative Weekly. The rule or the rule adoption process shall be suspended upon publication of the notice. An agency may not base any agency action on a suspended rule or suspended proposed rule, or portion of such rule, prior to expiration of the suspension. A suspended rule or suspended proposed rule, or portion of such rule, continues to be subject to administrative determination and judicial review as provided by law.

4. Failure of an agency to respond to committee certification within the time prescribed by subparagraph 2. constitutes a refusal to suspend the rule or to suspend the adoption of the proposed rule.

(c) The committee shall prepare proposed legislation to address the committee's objection in accordance with the rules of the Senate and the House of Representatives for prefiling and introduction in the next regular session of the Legislature. The proposed legislation shall be presented to the President of the Senate and the Speaker of the House of Representatives with the committee recommendation.

(d) If proposed legislation addressing the committee's objection fails to become law, any temporary agency suspension shall expire.

History.—s. 4, ch. 76-131; s. 1, ch. 77-174; s. 6, ch. 80-391; s. 3, ch. 81-309; s. 4, ch. 87-385; s. 8, ch. 92-166; s. 20, ch. 95-280; s. 14, ch. 96-159; s. 16, ch. 2000-151; s. 18, ch. 2008-4; s. 7, ch. 2008-104.

120.55 Publication.—

(1) The Department of State shall:

(a) 1. Through a continuous revision and publication system, compile and publish electronically, on an Internet website managed by the department, the "Florida Administrative Code." The Florida Administrative Code shall contain all rules adopted by each agency, citing the grant of rulemaking authority and the specific law implemented pursuant to which each rule was adopted, all history notes as authorized in s. 120.545(7), complete indexes to all rules contained in the code, and any other material required or authorized by law or deemed useful by the department. The electronic code shall display each rule chapter currently in effect in browse mode and allow full text search of the code and each rule chapter. The department may contract with a publishing firm for a printed publication; however, the department shall retain responsibility for the code as provided in this section. The electronic publication shall be the official compilation of the administrative rules of this state. The Department of State shall retain the copyright over the Florida Administrative Code.

2. Rules general in form but applicable to only one school district, community college district, or county,

or a part thereof, or state university rules relating to internal personnel or business and finance shall not be published in the Florida Administrative Code. Exclusion from publication in the Florida Administrative Code shall not affect the validity or effectiveness of such rules.

3. At the beginning of the section of the code dealing with an agency that files copies of its rules with the department, the department shall publish the address and telephone number of the executive offices of each agency, the manner by which the agency indexes its rules, a listing of all rules of that agency excluded from publication in the code, and a statement as to where those rules may be inspected.

4. Forms shall not be published in the Florida Administrative Code; but any form which an agency uses in its dealings with the public, along with any accompanying instructions, shall be filed with the committee before it is used. Any form or instruction which meets the definition of "rule" provided in s. 120.52 shall be incorporated by reference into the appropriate rule. The reference shall specifically state that the form is being incorporated by reference and shall include the number, title, and effective date of the form and an explanation of how the form may be obtained. Each form created by an agency which is incorporated by reference in a rule notice of which is given under s. 120.54(3)(a) after December 31, 2007, must clearly display the number, title, and effective date of the form and the number of the rule in which the form is incorporated.

5. The department shall allow adopted rules and material incorporated by reference to be filed in electronic form as prescribed by department rule. When a rule is filed for adoption with incorporated material in electronic form, the department's publication of the Florida Administrative Code on its Internet website must contain a hyperlink from the incorporating reference in the rule directly to that material. The department may not allow hyperlinks from rules in the Florida Administrative Code to any material other than that filed with and maintained by the department, but may allow hyperlinks to incorporated material maintained by the department from the adopting agency's website or other sites.

(b) Electronically publish on an Internet website managed by the department a continuous revision and publication entitled the "Florida Administrative Register," which shall serve as the official publication and must contain:

1. All notices required by s. 120.54(3)(a), showing the text of all rules proposed for consideration.
2. All notices of public meetings, hearings, and workshops conducted in accordance with s. 120.525, including a statement of the manner in which a copy of the agenda may be obtained.
3. A notice of each request for authorization to amend or repeal an existing uniform rule or for the adoption of new uniform rules.
4. Notice of petitions for declaratory statements or administrative determinations.
5. A summary of each objection to any rule filed by the Administrative Procedures Committee.
6. Any other material required or authorized by law or deemed useful by the department.

The department may contract with a publishing firm for a printed publication of the Florida Administrative Register and make copies available on an annual subscription basis.

(c)Prescribe by rule the style and form required for rules, notices, and other materials submitted for filing.

(d)Charge each agency using the Florida Administrative Register a space rate to cover the costs related to the Florida Administrative Register and the Florida Administrative Code.

(e)Maintain a permanent record of all notices published in the Florida Administrative Register.

(2)The Florida Administrative Register Internet website must allow users to:

(a)Search for notices by type, publication date, rule number, word, subject, and agency.

(b)Search a database that makes available all notices published on the website for a period of at least 5 years.

(c)Subscribe to an automated e-mail notification of selected notices to be sent out before or concurrently with publication of the electronic Florida Administrative Register. Such notification must include in the text of the e-mail a summary of the content of each notice.

(d)View agency forms and other materials submitted to the department in electronic form and incorporated by reference in proposed rules.

(e)Comment on proposed rules.

(3)Publication of material required by paragraph (1)(b) on the Florida Administrative Register Internet website does not preclude publication of such material on an agency's website or by other means.

(4)Each agency shall provide copies of its rules upon request, with citations to the grant of rulemaking authority and the specific law implemented for each rule.

(5)Any publication of a proposed rule promulgated by an agency, whether published in the Florida Administrative Register or elsewhere, shall include, along with the rule, the name of the person or persons originating such rule, the name of the agency head who approved the rule, and the date upon which the rule was approved.

(6)Access to the Florida Administrative Register Internet website and its contents, including the e-mail notification service, shall be free for the public.

(7)(a)All fees and moneys collected by the Department of State under this chapter shall be deposited in the Records Management Trust Fund for the purpose of paying for costs incurred by the department in carrying out this chapter.

(b)The unencumbered balance in the Records Management Trust Fund for fees collected pursuant to this chapter may not exceed \$300,000 at the beginning of each fiscal year, and any excess shall be transferred to the General Revenue Fund.

History.—s. 1, ch. 74-310; s. 1, ch. 75-107; s. 4, ch. 75-191; s. 5, ch. 76-131; s. 1, ch. 77-174; s. 4, ch. 77-453; s. 3, ch. 78-

425; s. 4, ch. 79-299; s. 7, ch. 80-391; s. 4, ch. 81-309; s. 1, ch. 82-19; s. 1, ch. 82-47; s. 3, ch. 83-351; s. 3, ch. 84-203; s. 17, ch. 87-224; s. 1, ch. 87-322; s. 20, ch. 91-45; s. 15, ch. 96-159; s. 896, ch. 2002-387; s. 5, ch. 2004-235; s. 14, ch. 2004-335; s. 4, ch. 2006-82; ss. 8, 9, ch. 2008-104; ss. 11, 12, ch. 2010-5; s. 2, ch. 2012-63.

120.555 Summary removal of published rules no longer in force and effect.—When, as part of the continuous revision system authorized in s. 120.55(1)(a)1. or as otherwise provided by law, the Department of State is in doubt whether a rule published in the official version of the Florida Administrative Code is still in full force and effect, the procedure in this section shall be employed.

(1) The Department of State shall submit to the head of the agency with authority to repeal or amend the rule, if any, or if no such agency can be identified, to the Governor, a written request for a statement as to whether the rule is still in full force and effect. A copy of the request shall be promptly delivered to the committee and to the Attorney General. The Department of State shall publish a notice of the request together with a copy of the request in the Florida Administrative Weekly next available after delivery of the request to the head of the agency or the Governor.

(2) No later than 90 days after the date the notice required in subsection (1) is published, the agency or the Governor, notified pursuant to subsection (1), shall file a written response with the Department of State stating whether the rule is in full force and effect and under the jurisdiction of an agency with full authority to amend or repeal the rule. Failure to respond timely under this subsection constitutes an acknowledgment by the agency or the Governor that the rule is no longer in effect and is subject to summary repeal under this section.

(3) The Department of State shall publish a notice of the agency's or Governor's timely response or the acknowledgment determined under subsection (2) in the Florida Administrative Weekly next available after receipt of the response or the expiration of the response period, whichever occurs first.

(4) If the response states that the rule is no longer in effect, or if no response is filed timely with the Department of State, the notice required in subsection (3) shall also give notice of the following:

(a) Based on the agency's or Governor's written response or the acknowledgment determined under subsection (2), the rule will be repealed summarily pursuant to this section and removed from the Florida Administrative Code.

(b) Any objection to the summary repeal under this section must be filed as a petition challenging a proposed rule under s. 120.56 and must be filed no later than 21 days after the date the notice is published in the Florida Administrative Weekly.

(c) For purposes only of challenging a summary repeal under this section, the agency with current authority to repeal the rule under s. 120.54 shall be named as the respondent in the petition and shall be the proper party in interest. In such circumstances, the Department of State shall not be named as a party in a petition filed under paragraph (b) and this paragraph.

(d) If no agency currently has authority to repeal the rule under s. 120.54, the Department of State shall be named as the respondent in a petition filed under paragraph (b) and this paragraph. The Attorney General shall represent the Department of State in all proceedings under this paragraph.

(5) Upon the expiration of the 21-day period to file an objection to a notice of summary repeal published pursuant to subsection (4), if no timely objection is filed, or, if a timely objection is filed, on the date a decision finding the rule is no longer in effect becomes final, the Department of State shall update the Florida Administrative Code to remove the rule and shall provide historical notes identifying the manner in which the rule ceased to have effect, including the summary repeal pursuant to this section.

History.—s. 2, ch. 2012-31.

120.56 Challenges to rules.—

(1) GENERAL PROCEDURES FOR CHALLENGING THE VALIDITY OF A RULE OR A PROPOSED RULE.—

(a) Any person substantially affected by a rule or a proposed rule may seek an administrative determination of the invalidity of the rule on the ground that the rule is an invalid exercise of delegated legislative authority.

(b) The petition seeking an administrative determination must state with particularity the provisions alleged to be invalid with sufficient explanation of the facts or grounds for the alleged invalidity and facts sufficient to show that the person challenging a rule is substantially affected by it, or that the person challenging a proposed rule would be substantially affected by it.

(c) The petition shall be filed by electronic means with the division which shall, immediately upon filing, forward by electronic means copies to the agency whose rule is challenged, the Department of State, and the committee. Within 10 days after receiving the petition, the division director shall, if the petition complies with the requirements of paragraph (b), assign an administrative law judge who shall conduct a hearing within 30 days thereafter, unless the petition is withdrawn or a continuance is granted by agreement of the parties or for good cause shown. Evidence of good cause includes, but is not limited to, written notice of an agency's decision to modify or withdraw the proposed rule or a written notice from the chair of the committee stating that the committee will consider an objection to the rule at its next scheduled meeting. The failure of an agency to follow the applicable rulemaking procedures or requirements set forth in this chapter shall be presumed to be material; however, the agency may rebut this presumption by showing that the substantial interests of the petitioner and the fairness of the proceedings have not been impaired.

(d) Within 30 days after the hearing, the administrative law judge shall render a decision and state the reasons therefor in writing. The division shall forthwith transmit by electronic means copies of the administrative law judge's decision to the agency, the Department of State, and the committee.

(e) Hearings held under this section shall be de novo in nature. The standard of proof shall be the preponderance of the evidence. Hearings shall be conducted in the same manner as provided by ss. 120.569

and 120.57, except that the administrative law judge's order shall be final agency action. The petitioner and the agency whose rule is challenged shall be adverse parties. Other substantially affected persons may join the proceedings as intervenors on appropriate terms which shall not unduly delay the proceedings. Failure to proceed under this section shall not constitute failure to exhaust administrative remedies.

(2)CHALLENGING PROPOSED RULES; SPECIAL PROVISIONS.—

(a)A substantially affected person may seek an administrative determination of the invalidity of a proposed rule by filing a petition seeking such a determination with the division within 21 days after the date of publication of the notice required by s. 120.54(3)(a); within 10 days after the final public hearing is held on the proposed rule as provided by s. 120.54(3)(e)2.; within 20 days after the statement of estimated regulatory costs or revised statement of estimated regulatory costs, if applicable, has been prepared and made available as provided in s. 120.541(1)(d); or within 20 days after the date of publication of the notice required by s. 120.54(3)(d). The petition must state with particularity the objections to the proposed rule and the reasons that the proposed rule is an invalid exercise of delegated legislative authority. The petitioner has the burden of going forward. The agency then has the burden to prove by a preponderance of the evidence that the proposed rule is not an invalid exercise of delegated legislative authority as to the objections raised. A person who is substantially affected by a change in the proposed rule may seek a determination of the validity of such change. A person who is not substantially affected by the proposed rule as initially noticed, but who is substantially affected by the rule as a result of a change, may challenge any provision of the rule and is not limited to challenging the change to the proposed rule.

(b)The administrative law judge may declare the proposed rule wholly or partly invalid. Unless the decision of the administrative law judge is reversed on appeal, the proposed rule or provision of a proposed rule declared invalid shall not be adopted. After a petition for administrative determination has been filed, the agency may proceed with all other steps in the rulemaking process, including the holding of a factfinding hearing. In the event part of a proposed rule is declared invalid, the adopting agency may, in its sole discretion, withdraw the proposed rule in its entirety. The agency whose proposed rule has been declared invalid in whole or part shall give notice of the decision in the first available issue of the Florida Administrative Weekly.

(c)When any substantially affected person seeks determination of the invalidity of a proposed rule pursuant to this section, the proposed rule is not presumed to be valid or invalid.

(3)CHALLENGING EXISTING RULES; SPECIAL PROVISIONS.—

(a)A substantially affected person may seek an administrative determination of the invalidity of an existing rule at any time during the existence of the rule. The petitioner has a burden of proving by a preponderance of the evidence that the existing rule is an invalid exercise of delegated legislative authority as to the objections raised.

(b)The administrative law judge may declare all or part of a rule invalid. The rule or part thereof declared invalid shall become void when the time for filing an appeal expires. The agency whose rule has been declared invalid in whole or part shall give notice of the decision in the Florida Administrative Weekly in the first available issue after the rule has become void.

(4)CHALLENGING AGENCY STATEMENTS DEFINED AS RULES; SPECIAL PROVISIONS.—

(a)Any person substantially affected by an agency statement may seek an administrative determination that the statement violates s. 120.54(1)(a). The petition shall include the text of the statement or a description of the statement and shall state with particularity facts sufficient to show that the statement constitutes a rule under s. 120.52 and that the agency has not adopted the statement by the rulemaking procedure provided by s. 120.54.

(b)The administrative law judge may extend the hearing date beyond 30 days after assignment of the case for good cause. Upon notification to the administrative law judge provided before the final hearing that the agency has published a notice of rulemaking under s. 120.54(3), such notice shall automatically operate as a stay of proceedings pending adoption of the statement as a rule. The administrative law judge may vacate the stay for good cause shown. A stay of proceedings pending rulemaking shall remain in effect so long as the agency is proceeding expeditiously and in good faith to adopt the statement as a rule. If a hearing is held and the petitioner proves the allegations of the petition, the agency shall have the burden of proving that rulemaking is not feasible or not practicable under s. 120.54(1)(a).

(c)The administrative law judge may determine whether all or part of a statement violates s. 120.54(1)(a). The decision of the administrative law judge shall constitute a final order. The division shall transmit a copy of the final order to the Department of State and the committee. The Department of State shall publish notice of the final order in the first available issue of the Florida Administrative Weekly.

(d)If an administrative law judge enters a final order that all or part of an agency statement violates s. 120.54(1)(a), the agency must immediately discontinue all reliance upon the statement or any substantially similar statement as a basis for agency action.

(e)If proposed rules addressing the challenged statement are determined to be an invalid exercise of delegated legislative authority as defined in s. 120.52(8)(b)-(f), the agency must immediately discontinue reliance on the statement and any substantially similar statement until rules addressing the subject are properly adopted, and the administrative law judge shall enter a final order to that effect.

(f)All proceedings to determine a violation of s. 120.54(1)(a) shall be brought pursuant to this subsection. A proceeding pursuant to this subsection may be consolidated with a proceeding under subsection (3) or under any other section of this chapter. This paragraph does not prevent a party whose substantial interests have been determined by an agency action from bringing a proceeding pursuant to s. 120.57(1)(e).

(5)CHALLENGING EMERGENCY RULES; SPECIAL PROVISIONS.—Challenges to the validity of an emergency

rule shall be subject to the following time schedules in lieu of those established by paragraphs (1)(c) and (d). Within 7 days after receiving the petition, the division director shall, if the petition complies with paragraph (1)(b), assign an administrative law judge, who shall conduct a hearing within 14 days, unless the petition is withdrawn. The administrative law judge shall render a decision within 14 days after the hearing.

History.—s. 1, ch. 74-310; s. 5, ch. 75-191; s. 6, ch. 76-131; s. 1, ch. 77-174; s. 4, ch. 78-425; s. 759, ch. 95-147; s. 16, ch. 96-159; s. 6, ch. 97-176; s. 5, ch. 99-379; s. 3, ch. 2003-94; s. 5, ch. 2006-82; ss. 10, 11, ch. 2008-104; ss. 3, 5, ch. 2010-279; HJR 9-A, 2010 Special Session A; s. 10, ch. 2011-208; s. 3, ch. 2011-225.

120.565 Declaratory statement by agencies.—

(1) Any substantially affected person may seek a declaratory statement regarding an agency's opinion as to the applicability of a statutory provision, or of any rule or order of the agency, as it applies to the petitioner's particular set of circumstances.

(2) The petition seeking a declaratory statement shall state with particularity the petitioner's set of circumstances and shall specify the statutory provision, rule, or order that the petitioner believes may apply to the set of circumstances.

(3) The agency shall give notice of the filing of each petition in the next available issue of the Florida Administrative Weekly and transmit copies of each petition to the committee. The agency shall issue a declaratory statement or deny the petition within 90 days after the filing of the petition. The declaratory statement or denial of the petition shall be noticed in the next available issue of the Florida Administrative Weekly. Agency disposition of petitions shall be final agency action.

History.—s. 6, ch. 75-191; s. 7, ch. 76-131; s. 5, ch. 78-425; s. 5, ch. 79-299; s. 760, ch. 95-147; s. 17, ch. 96-159.

120.569 Decisions which affect substantial interests.—

(1) The provisions of this section apply in all proceedings in which the substantial interests of a party are determined by an agency, unless the parties are proceeding under s. 120.573 or s. 120.574. Unless waived by all parties, s. 120.57(1) applies whenever the proceeding involves a disputed issue of material fact. Unless otherwise agreed, s. 120.57(2) applies in all other cases. If a disputed issue of material fact arises during a proceeding under s. 120.57(2), then, unless waived by all parties, the proceeding under s. 120.57(2) shall be terminated and a proceeding under s. 120.57(1) shall be conducted. Parties shall be notified of any order, including a final order. Unless waived, a copy of the order shall be delivered or mailed to each party or the party's attorney of record at the address of record. Each notice shall inform the recipient of any administrative hearing or judicial review that is available under this section, s. 120.57, or s. 120.68; shall indicate the procedure which must be followed to obtain the hearing or judicial review; and shall state the time limits which apply.

(2)(a) Except for any proceeding conducted as prescribed in s. 120.56, a petition or request for a hearing

under this section shall be filed with the agency. If the agency requests an administrative law judge from the division, it shall so notify the division by electronic means through the division's website within 15 days after receipt of the petition or request. A request for a hearing shall be granted or denied within 15 days after receipt. On the request of any agency, the division shall assign an administrative law judge with due regard to the expertise required for the particular matter. The referring agency shall take no further action with respect to a proceeding under s. 120.57(1), except as a party litigant, as long as the division has jurisdiction over the proceeding under s. 120.57(1). Any party may request the disqualification of the administrative law judge by filing an affidavit with the division prior to the taking of evidence at a hearing, stating the grounds with particularity.

(b)All parties shall be afforded an opportunity for a hearing after reasonable notice of not less than 14 days; however, the 14-day notice requirement may be waived with the consent of all parties. The notice shall include:

- 1.A statement of the time, place, and nature of the hearing.
- 2.A statement of the legal authority and jurisdiction under which the hearing is to be held.

(c)Unless otherwise provided by law, a petition or request for hearing shall include those items required by the uniform rules adopted pursuant to s. 120.54(5)(b). Upon the receipt of a petition or request for hearing, the agency shall carefully review the petition to determine if it contains all of the required information. A petition shall be dismissed if it is not in substantial compliance with these requirements or it has been untimely filed. Dismissal of a petition shall, at least once, be without prejudice to petitioner's filing a timely amended petition curing the defect, unless it conclusively appears from the face of the petition that the defect cannot be cured. The agency shall promptly give written notice to all parties of the action taken on the petition, shall state with particularity its reasons if the petition is not granted, and shall state the deadline for filing an amended petition if applicable. This paragraph does not eliminate the availability of equitable tolling as a defense to the untimely filing of a petition.

(d)The agency may refer a petition to the division for the assignment of an administrative law judge only if the petition is in substantial compliance with the requirements of paragraph (c).

(e)All pleadings, motions, or other papers filed in the proceeding must be signed by the party, the party's attorney, or the party's qualified representative. The signature constitutes a certificate that the person has read the pleading, motion, or other paper and that, based upon reasonable inquiry, it is not interposed for any improper purposes, such as to harass or to cause unnecessary delay, or for frivolous purpose or needless increase in the cost of litigation. If a pleading, motion, or other paper is signed in violation of these requirements, the presiding officer shall impose upon the person who signed it, the represented party, or both, an appropriate sanction, which may include an order to pay the other party or parties the amount of reasonable expenses incurred because of the filing of the pleading, motion, or other paper, including a

reasonable attorney's fee.

(f)The presiding officer has the power to swear witnesses and take their testimony under oath, to issue subpoenas, and to effect discovery on the written request of any party by any means available to the courts and in the manner provided in the Florida Rules of Civil Procedure, including the imposition of sanctions, except contempt. However, no presiding officer has the authority to issue any subpoena or order directing discovery to any member or employee of the Legislature when the subpoena or order commands the production of documents or materials or compels testimony relating to the legislative duties of the member or employee. Any subpoena or order directing discovery directed to a member or an employee of the Legislature shall show on its face that the testimony sought does not relate to legislative duties.

(g)Irrelevant, immaterial, or unduly repetitious evidence shall be excluded, but all other evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs shall be admissible, whether or not such evidence would be admissible in a trial in the courts of Florida. Any part of the evidence may be received in written form, and all testimony of parties and witnesses shall be made under oath.

(h)Documentary evidence may be received in the form of a copy or excerpt. Upon request, parties shall be given an opportunity to compare the copy with the original, if available.

(i)When official recognition is requested, the parties shall be notified and given an opportunity to examine and contest the material.

(j)A party shall be permitted to conduct cross-examination when testimony is taken or documents are made a part of the record.

(k)1.Any person subject to a subpoena may, before compliance and on timely petition, request the presiding officer having jurisdiction of the dispute to invalidate the subpoena on the ground that it was not lawfully issued, is unreasonably broad in scope, or requires the production of irrelevant material.

2.A party may seek enforcement of a subpoena, order directing discovery, or order imposing sanctions issued under the authority of this chapter by filing a petition for enforcement in the circuit court of the judicial circuit in which the person failing to comply with the subpoena or order resides. A failure to comply with an order of the court shall result in a finding of contempt of court. However, no person shall be in contempt while a subpoena is being challenged under subparagraph 1. The court may award to the prevailing party all or part of the costs and attorney's fees incurred in obtaining the court order whenever the court determines that such an award should be granted under the Florida Rules of Civil Procedure.

3.Any public employee subpoenaed to appear at an agency proceeding shall be entitled to per diem and travel expenses at the same rate as that provided for state employees under s. 112.061 if travel away from such public employee's headquarters is required. All other witnesses appearing pursuant to a subpoena shall be paid such fees and mileage for their attendance as is provided in civil actions in circuit courts of this state. In the case of a public employee, such expenses shall be processed and paid in the manner provided for

agency employee travel expense reimbursement, and in the case of a witness who is not a public employee, payment of such fees and expenses shall accompany the subpoena.

(l) Unless the time period is waived or extended with the consent of all parties, the final order in a proceeding which affects substantial interests must be in writing and include findings of fact, if any, and conclusions of law separately stated, and it must be rendered within 90 days:

1. After the hearing is concluded, if conducted by the agency;

2. After a recommended order is submitted to the agency and mailed to all parties, if the hearing is conducted by an administrative law judge; or

3. After the agency has received the written and oral material it has authorized to be submitted, if there has been no hearing.

(m) Findings of fact, if set forth in a manner which is no more than mere tracking of the statutory language, must be accompanied by a concise and explicit statement of the underlying facts of record which support the findings.

(n) If an agency head finds that an immediate danger to the public health, safety, or welfare requires an immediate final order, it shall recite with particularity the facts underlying such finding in the final order, which shall be appealable or enjoinable from the date rendered.

(o) On the request of any party, the administrative law judge shall enter an initial scheduling order to facilitate the just, speedy, and inexpensive determination of the proceeding. The initial scheduling order shall establish a discovery period, including a deadline by which all discovery shall be completed, and the date by which the parties shall identify expert witnesses and their opinions. The initial scheduling order also may require the parties to meet and file a joint report by a date certain.

(p) For any proceeding arising under chapter 373, chapter 378, or chapter 403, if a nonapplicant petitions as a third party to challenge an agency's issuance of a license, permit, or conceptual approval, the order of presentation in the proceeding is for the permit applicant to present a prima facie case demonstrating entitlement to the license, permit, or conceptual approval, followed by the agency. This demonstration may be made by entering into evidence the application and relevant material submitted to the agency in support of the application, and the agency's staff report or notice of intent to approve the permit, license, or conceptual approval. Subsequent to the presentation of the applicant's prima facie case and any direct evidence submitted by the agency, the petitioner initiating the action challenging the issuance of the license, permit, or conceptual approval has the burden of ultimate persuasion and has the burden of going forward to prove the case in opposition to the license, permit, or conceptual approval through the presentation of competent and substantial evidence. The permit applicant and agency may on rebuttal present any evidence relevant to demonstrating that the application meets the conditions for issuance. Notwithstanding subsection (1), this paragraph applies to proceedings under s. 120.574.

History.—s. 18, ch. 96-159; s. 7, ch. 97-176; s. 4, ch. 98-200; s. 4, ch. 2003-94; s. 6, ch. 2006-82; s. 14, ch. 2008-104; s. 11, ch. 2011-208; s. 10, ch. 2011-225.

120.57 Additional procedures for particular cases.—

(1) ADDITIONAL PROCEDURES APPLICABLE TO HEARINGS INVOLVING DISPUTED ISSUES OF MATERIAL FACT.—

(a) Except as provided in ss. 120.80 and 120.81, an administrative law judge assigned by the division shall conduct all hearings under this subsection, except for hearings before agency heads or a member thereof. If the administrative law judge assigned to a hearing becomes unavailable, the division shall assign another administrative law judge who shall use any existing record and receive any additional evidence or argument, if any, which the new administrative law judge finds necessary.

(b) All parties shall have an opportunity to respond, to present evidence and argument on all issues involved, to conduct cross-examination and submit rebuttal evidence, to submit proposed findings of facts and orders, to file exceptions to the presiding officer's recommended order, and to be represented by counsel or other qualified representative. When appropriate, the general public may be given an opportunity to present oral or written communications. If the agency proposes to consider such material, then all parties shall be given an opportunity to cross-examine or challenge or rebut the material.

(c) Hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but it shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions.

(d) Notwithstanding s. 120.569(2)(g), similar fact evidence of other violations, wrongs, or acts is admissible when relevant to prove a material fact in issue, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident, but it is inadmissible when the evidence is relevant solely to prove bad character or propensity. When the state in an administrative proceeding intends to offer evidence of other acts or offenses under this paragraph, the state shall furnish to the party whose substantial interests are being determined and whose other acts or offenses will be the subject of such evidence, no fewer than 10 days before commencement of the proceeding, a written statement of the acts or offenses it intends to offer, describing them and the evidence the state intends to offer with particularity. Notice is not required for evidence of acts or offenses which is used for impeachment or on rebuttal.

(e) 1. An agency or an administrative law judge may not base agency action that determines the substantial interests of a party on an unadopted rule. The administrative law judge shall determine whether an agency statement constitutes an unadopted rule. This subparagraph does not preclude application of adopted rules and applicable provisions of law to the facts.

2. Notwithstanding subparagraph 1., if an agency demonstrates that the statute being implemented directs it to adopt rules, that the agency has not had time to adopt those rules because the requirement was

so recently enacted, and that the agency has initiated rulemaking and is proceeding expeditiously and in good faith to adopt the required rules, then the agency's action may be based upon those unadopted rules, subject to de novo review by the administrative law judge. The agency action shall not be presumed valid or invalid.

The agency must demonstrate that the unadopted rule:

- a. Is within the powers, functions, and duties delegated by the Legislature or, if the agency is operating pursuant to authority derived from the State Constitution, is within that authority;
- b. Does not enlarge, modify, or contravene the specific provisions of law implemented;
- c. Is not vague, establishes adequate standards for agency decisions, or does not vest unbridled discretion in the agency;
- d. Is not arbitrary or capricious. A rule is arbitrary if it is not supported by logic or the necessary facts; a rule is capricious if it is adopted without thought or reason or is irrational;
- e. Is not being applied to the substantially affected party without due notice; and
- f. Does not impose excessive regulatory costs on the regulated person, county, or city.

3. The recommended and final orders in any proceeding shall be governed by the provisions of paragraphs (k) and (l), except that the administrative law judge's determination regarding an unadopted rule under subparagraph 1. or subparagraph 2. shall not be rejected by the agency unless the agency first determines from a review of the complete record, and states with particularity in the order, that such determination is clearly erroneous or does not comply with essential requirements of law. In any proceeding for review under s. 120.68, if the court finds that the agency's rejection of the determination regarding the unadopted rule does not comport with the provisions of this subparagraph, the agency action shall be set aside and the court shall award to the prevailing party the reasonable costs and a reasonable attorney's fee for the initial proceeding and the proceeding for review.

(f) The record in a case governed by this subsection shall consist only of:

1. All notices, pleadings, motions, and intermediate rulings.
2. Evidence admitted.
3. Those matters officially recognized.
4. Proffers of proof and objections and rulings thereon.
5. Proposed findings and exceptions.
6. Any decision, opinion, order, or report by the presiding officer.
7. All staff memoranda or data submitted to the presiding officer during the hearing or prior to its disposition, after notice of the submission to all parties, except communications by advisory staff as permitted under s. 120.66(1), if such communications are public records.
8. All matters placed on the record after an ex parte communication.
9. The official transcript.

(g)The agency shall accurately and completely preserve all testimony in the proceeding, and, on the request of any party, it shall make a full or partial transcript available at no more than actual cost.

(h)Any party to a proceeding in which an administrative law judge of the Division of Administrative Hearings has final order authority may move for a summary final order when there is no genuine issue as to any material fact. A summary final order shall be rendered if the administrative law judge determines from the pleadings, depositions, answers to interrogatories, and admissions on file, together with affidavits, if any, that no genuine issue as to any material fact exists and that the moving party is entitled as a matter of law to the entry of a final order. A summary final order shall consist of findings of fact, if any, conclusions of law, a disposition or penalty, if applicable, and any other information required by law to be contained in the final order.

(i)When, in any proceeding conducted pursuant to this subsection, a dispute of material fact no longer exists, any party may move the administrative law judge to relinquish jurisdiction to the agency. An order relinquishing jurisdiction shall be rendered if the administrative law judge determines from the pleadings, depositions, answers to interrogatories, and admissions on file, together with supporting and opposing affidavits, if any, that no genuine issue as to any material fact exists. If the administrative law judge enters an order relinquishing jurisdiction, the agency may promptly conduct a proceeding pursuant to subsection (2), if appropriate, but the parties may not raise any issues of disputed fact that could have been raised before the administrative law judge. An order entered by an administrative law judge relinquishing jurisdiction to the agency based upon a determination that no genuine dispute of material fact exists, need not contain findings of fact, conclusions of law, or a recommended disposition or penalty.

(j)Findings of fact shall be based upon a preponderance of the evidence, except in penal or licensure disciplinary proceedings or except as otherwise provided by statute, and shall be based exclusively on the evidence of record and on matters officially recognized.

(k)The presiding officer shall complete and submit to the agency and all parties a recommended order consisting of findings of fact, conclusions of law, and recommended disposition or penalty, if applicable, and any other information required by law to be contained in the final order. All proceedings conducted under this subsection shall be de novo. The agency shall allow each party 15 days in which to submit written exceptions to the recommended order. The final order shall include an explicit ruling on each exception, but an agency need not rule on an exception that does not clearly identify the disputed portion of the recommended order by page number or paragraph, that does not identify the legal basis for the exception, or that does not include appropriate and specific citations to the record.

(l)The agency may adopt the recommended order as the final order of the agency. The agency in its final order may reject or modify the conclusions of law over which it has substantive jurisdiction and interpretation of administrative rules over which it has substantive jurisdiction. When rejecting or modifying such conclusion

of law or interpretation of administrative rule, the agency must state with particularity its reasons for rejecting or modifying such conclusion of law or interpretation of administrative rule and must make a finding that its substituted conclusion of law or interpretation of administrative rule is as or more reasonable than that which was rejected or modified. Rejection or modification of conclusions of law may not form the basis for rejection or modification of findings of fact. The agency may not reject or modify the findings of fact unless the agency first determines from a review of the entire record, and states with particularity in the order, that the findings of fact were not based upon competent substantial evidence or that the proceedings on which the findings were based did not comply with essential requirements of law. The agency may accept the recommended penalty in a recommended order, but may not reduce or increase it without a review of the complete record and without stating with particularity its reasons therefor in the order, by citing to the record in justifying the action.

(m) If a recommended order is submitted to an agency, the agency shall provide a copy of its final order and any exceptions to the division within 15 days after the order is filed with the agency clerk.

(n) Notwithstanding any law to the contrary, when statutes or rules impose conflicting time requirements for the scheduling of expedited hearings or issuance of recommended or final orders, the director of the division shall have the authority to set the proceedings for the orderly operation of this chapter.

(2) ADDITIONAL PROCEDURES APPLICABLE TO HEARINGS NOT INVOLVING DISPUTED ISSUES OF MATERIAL FACT.—In any case to which subsection (1) does not apply:

(a) The agency shall:

1. Give reasonable notice to affected persons of the action of the agency, whether proposed or already taken, or of its decision to refuse action, together with a summary of the factual, legal, and policy grounds therefor.

2. Give parties or their counsel the option, at a convenient time and place, to present to the agency or hearing officer written or oral evidence in opposition to the action of the agency or to its refusal to act, or a written statement challenging the grounds upon which the agency has chosen to justify its action or inaction.

3. If the objections of the parties are overruled, provide a written explanation within 7 days.

(b) The record shall only consist of:

1. The notice and summary of grounds.

2. Evidence received.

3. All written statements submitted.

4. Any decision overruling objections.

5. All matters placed on the record after an ex parte communication.

6. The official transcript.

7. Any decision, opinion, order, or report by the presiding officer.

(3) ADDITIONAL PROCEDURES APPLICABLE TO PROTESTS TO CONTRACT SOLICITATION OR AWARD.—

Agencies subject to this chapter shall use the uniform rules of procedure, which provide procedures for the resolution of protests arising from the contract solicitation or award process. Such rules shall at least provide that:

(a) The agency shall provide notice of a decision or intended decision concerning a solicitation, contract award, or exceptional purchase by electronic posting. This notice shall contain the following statement: “Failure to file a protest within the time prescribed in section 120.57(3), Florida Statutes, or failure to post the bond or other security required by law within the time allowed for filing a bond shall constitute a waiver of proceedings under chapter 120, Florida Statutes.”

(b) Any person who is adversely affected by the agency decision or intended decision shall file with the agency a notice of protest in writing within 72 hours after the posting of the notice of decision or intended decision. With respect to a protest of the terms, conditions, and specifications contained in a solicitation, including any provisions governing the methods for ranking bids, proposals, or replies, awarding contracts, reserving rights of further negotiation, or modifying or amending any contract, the notice of protest shall be filed in writing within 72 hours after the posting of the solicitation. The formal written protest shall be filed within 10 days after the date the notice of protest is filed. Failure to file a notice of protest or failure to file a formal written protest shall constitute a waiver of proceedings under this chapter. The formal written protest shall state with particularity the facts and law upon which the protest is based. Saturdays, Sundays, and state holidays shall be excluded in the computation of the 72-hour time periods provided by this paragraph.

(c) Upon receipt of the formal written protest that has been timely filed, the agency shall stop the solicitation or contract award process until the subject of the protest is resolved by final agency action, unless the agency head sets forth in writing particular facts and circumstances which require the continuance of the solicitation or contract award process without delay in order to avoid an immediate and serious danger to the public health, safety, or welfare.

(d) 1. The agency shall provide an opportunity to resolve the protest by mutual agreement between the parties within 7 days, excluding Saturdays, Sundays, and state holidays, after receipt of a formal written protest.

2. If the subject of a protest is not resolved by mutual agreement within 7 days, excluding Saturdays, Sundays, and state holidays, after receipt of the formal written protest, and if there is no disputed issue of material fact, an informal proceeding shall be conducted pursuant to subsection (2) and applicable agency rules before a person whose qualifications have been prescribed by rules of the agency.

3. If the subject of a protest is not resolved by mutual agreement within 7 days, excluding Saturdays, Sundays, and state holidays, after receipt of the formal written protest, and if there is a disputed issue of material fact, the agency shall refer the protest to the division by electronic means through the division’s

website for proceedings under subsection (1).

(e) Upon receipt of a formal written protest referred pursuant to this subsection, the director of the division shall expedite the hearing and assign an administrative law judge who shall commence a hearing within 30 days after the receipt of the formal written protest by the division and enter a recommended order within 30 days after the hearing or within 30 days after receipt of the hearing transcript by the administrative law judge, whichever is later. Each party shall be allowed 10 days in which to submit written exceptions to the recommended order. A final order shall be entered by the agency within 30 days of the entry of a recommended order. The provisions of this paragraph may be waived upon stipulation by all parties.

(f) In a protest to an invitation to bid or request for proposals procurement, no submissions made after the bid or proposal opening which amend or supplement the bid or proposal shall be considered. In a protest to an invitation to negotiate procurement, no submissions made after the agency announces its intent to award a contract, reject all replies, or withdraw the solicitation which amend or supplement the reply shall be considered. Unless otherwise provided by statute, the burden of proof shall rest with the party protesting the proposed agency action. In a competitive-procurement protest, other than a rejection of all bids, proposals, or replies, the administrative law judge shall conduct a de novo proceeding to determine whether the agency's proposed action is contrary to the agency's governing statutes, the agency's rules or policies, or the solicitation specifications. The standard of proof for such proceedings shall be whether the proposed agency action was clearly erroneous, contrary to competition, arbitrary, or capricious. In any bid-protest proceeding contesting an intended agency action to reject all bids, proposals, or replies, the standard of review by an administrative law judge shall be whether the agency's intended action is illegal, arbitrary, dishonest, or fraudulent.

(g) For purposes of this subsection, the definitions in s. 287.012 apply.

(4) **INFORMAL DISPOSITION.**—Unless precluded by law, informal disposition may be made of any proceeding by stipulation, agreed settlement, or consent order.

(5) **APPLICABILITY.**—This section does not apply to agency investigations preliminary to agency action.

History.—s. 1, ch. 74-310; s. 7, ch. 75-191; s. 8, ch. 76-131; s. 1, ch. 77-174; s. 5, ch. 77-453; ss. 6, 11, ch. 78-95; s. 6, ch. 78-425; s. 8, ch. 79-7; s. 7, ch. 80-95; s. 4, ch. 80-289; s. 57, ch. 81-259; s. 2, ch. 83-78; s. 9, ch. 83-216; s. 2, ch. 84-173; s. 4, ch. 84-203; ss. 1, 2, ch. 86-108; s. 44, ch. 87-6; ss. 1, 2, ch. 87-54; s. 5, ch. 87-385; s. 1, ch. 90-283; s. 4, ch. 91-30; s. 1, ch. 91-191; s. 22, ch. 92-315; s. 7, ch. 94-218; s. 1420, ch. 95-147; s. 1, ch. 95-328; s. 19, ch. 96-159; s. 1, ch. 96-423; s. 8, ch. 97-176; s. 5, ch. 98-200; s. 3, ch. 98-279; s. 47, ch. 99-2; s. 6, ch. 99-379; s. 2, ch. 2002-207; s. 5, ch. 2003-94; s. 7, ch. 2006-82; s. 12, ch. 2008-104; s. 12, ch. 2011-208.

120.573 Mediation of disputes.—Each announcement of an agency action that affects substantial interests shall advise whether mediation of the administrative dispute for the type of agency action announced is available and that choosing mediation does not affect the right to an administrative hearing. If

the agency and all parties to the administrative action agree to mediation, in writing, within 10 days after the time period stated in the announcement for election of an administrative remedy under ss. 120.569 and 120.57, the time limitations imposed by ss. 120.569 and 120.57 shall be tolled to allow the agency and parties to mediate the administrative dispute. The mediation shall be concluded within 60 days of such agreement unless otherwise agreed by the parties. The mediation agreement shall include provisions for mediator selection, the allocation of costs and fees associated with mediation, and the mediating parties' understanding regarding the confidentiality of discussions and documents introduced during mediation. If mediation results in settlement of the administrative dispute, the agency shall enter a final order incorporating the agreement of the parties. If mediation terminates without settlement of the dispute, the agency shall notify the parties in writing that the administrative hearing processes under ss. 120.569 and 120.57 are resumed.

History.—s. 20, ch. 96-159; s. 9, ch. 97-176.

120.574 Summary hearing.—

(1)(a) Within 5 business days following the division's receipt of a petition or request for hearing, the division shall issue and serve on all original parties an initial order that assigns the case to a specific administrative law judge and provides general information regarding practice and procedure before the division. The initial order shall also contain a statement advising the addressees that a summary hearing is available upon the agreement of all parties under subsection (2) and briefly describing the expedited time sequences, limited discovery, and final order provisions of the summary procedure.

(b) Within 15 days after service of the initial order, any party may file with the division a motion for summary hearing in accordance with subsection (2). If all original parties agree, in writing, to the summary proceeding, the proceeding shall be conducted within 30 days of the agreement, in accordance with the provisions of subsection (2).

(c) Intervenors in the proceeding shall be governed by the decision of the original parties regarding whether the case will proceed in accordance with the summary hearing process and shall not have standing to challenge that decision.

(d) If a motion for summary hearing is not filed within 15 days after service of the division's initial order, the matter shall proceed in accordance with ss. 120.569 and 120.57.

(2) In any case to which this subsection is applicable, the following procedures apply:

(a) Motions shall be limited to the following:

1. A motion in opposition to the petition.

2. A motion requesting discovery beyond the informal exchange of documents and witness lists described in paragraph (b). Upon a showing of necessity, additional discovery may be permitted in the discretion of the administrative law judge, but only if it can be completed not later than 5 days prior to the final hearing.

3. A motion for continuance of the final hearing date.

4. A motion requesting a prehearing conference, or the administrative law judge may require a prehearing conference, for the purpose of identifying: the legal and factual issues to be considered at the final hearing; the names and addresses of witnesses who may be called to testify at the final hearing; documentary evidence that will be offered at the final hearing; the range of penalties that may be imposed upon final hearing; and any other matter that the administrative law judge determines would expedite resolution of the proceeding. The prehearing conference may be held by telephone conference call.

5. During or after any preliminary hearing or conference, any party or the administrative law judge may suggest that the case is no longer appropriate for summary disposition. Following any argument requested by the parties, the administrative law judge may enter an order referring the case back to the formal adjudicatory process described in s. 120.57(1), in which event the parties shall proceed accordingly.

(b) Not later than 5 days prior to the final hearing, the parties shall furnish to each other copies of documentary evidence and lists of witnesses who may testify at the final hearing.

(c) All parties shall have an opportunity to respond, to present evidence and argument on all issues involved, to conduct cross-examination and submit rebuttal evidence, and to be represented by counsel or other qualified representative.

(d) The record in a case governed by this subsection shall consist only of:

1. All notices, pleadings, motions, and intermediate rulings.
2. Evidence received.
3. A statement of matters officially recognized.
4. Proffers of proof and objections and rulings thereon.
5. Matters placed on the record after an ex parte communication.
6. The written decision of the administrative law judge presiding at the final hearing.
7. The official transcript of the final hearing.

(e) The agency shall accurately and completely preserve all testimony in the proceeding and, upon request by any party, shall make a full or partial transcript available at no more than actual cost.

(f) The decision of the administrative law judge shall be rendered within 30 days after the conclusion of the final hearing or the filing of the transcript thereof, whichever is later. The administrative law judge's decision, which shall be final agency action subject to judicial review under s. 120.68, shall include the following:

1. Findings of fact based exclusively on the evidence of record and matters officially recognized.
2. Conclusions of law.
3. Imposition of a fine or penalty, if applicable.
4. Any other information required by law or rule to be contained in a final order.

History.—s. 21, ch. 96-159; s. 10, ch. 97-176; s. 11, ch. 2000-158; s. 10, ch. 2000-336.

120.595 Attorney's fees.—

(1) CHALLENGES TO AGENCY ACTION PURSUANT TO SECTION 120.57(1).—

(a) The provisions of this subsection are supplemental to, and do not abrogate, other provisions allowing the award of fees or costs in administrative proceedings.

(b) The final order in a proceeding pursuant to s. 120.57(1) shall award reasonable costs and a reasonable attorney's fee to the prevailing party only where the nonprevailing adverse party has been determined by the administrative law judge to have participated in the proceeding for an improper purpose.

(c) In proceedings pursuant to s. 120.57(1), and upon motion, the administrative law judge shall determine whether any party participated in the proceeding for an improper purpose as defined by this subsection. In making such determination, the administrative law judge shall consider whether the nonprevailing adverse party has participated in two or more other such proceedings involving the same prevailing party and the same project as an adverse party and in which such two or more proceedings the nonprevailing adverse party did not establish either the factual or legal merits of its position, and shall consider whether the factual or legal position asserted in the instant proceeding would have been cognizable in the previous proceedings. In such event, it shall be rebuttably presumed that the nonprevailing adverse party participated in the pending proceeding for an improper purpose.

(d) In any proceeding in which the administrative law judge determines that a party participated in the proceeding for an improper purpose, the recommended order shall so designate and shall determine the award of costs and attorney's fees.

(e) For the purpose of this subsection:

1. "Improper purpose" means participation in a proceeding pursuant to s. 120.57(1) primarily to harass or to cause unnecessary delay or for frivolous purpose or to needlessly increase the cost of litigation, licensing, or securing the approval of an activity.

2. "Costs" has the same meaning as the costs allowed in civil actions in this state as provided in chapter 57.

3. "Nonprevailing adverse party" means a party that has failed to have substantially changed the outcome of the proposed or final agency action which is the subject of a proceeding. In the event that a proceeding results in any substantial modification or condition intended to resolve the matters raised in a party's petition, it shall be determined that the party having raised the issue addressed is not a nonprevailing adverse party. The recommended order shall state whether the change is substantial for purposes of this subsection. In no event shall the term "nonprevailing party" or "prevailing party" be deemed to include any party that has intervened in a previously existing proceeding to support the position of an agency.

(2) CHALLENGES TO PROPOSED AGENCY RULES PURSUANT TO SECTION 120.56(2).—If the appellate court or

administrative law judge declares a proposed rule or portion of a proposed rule invalid pursuant to s. 120.56(2), a judgment or order shall be rendered against the agency for reasonable costs and reasonable attorney's fees, unless the agency demonstrates that its actions were substantially justified or special circumstances exist which would make the award unjust. An agency's actions are "substantially justified" if there was a reasonable basis in law and fact at the time the actions were taken by the agency. If the agency prevails in the proceedings, the appellate court or administrative law judge shall award reasonable costs and reasonable attorney's fees against a party if the appellate court or administrative law judge determines that a party participated in the proceedings for an improper purpose as defined by paragraph (1)(e). No award of attorney's fees as provided by this subsection shall exceed \$50,000.

(3)CHALLENGES TO EXISTING AGENCY RULES PURSUANT TO SECTION 120.56(3) AND (5).—If the appellate court or administrative law judge declares a rule or portion of a rule invalid pursuant to s. 120.56(3) or (5), a judgment or order shall be rendered against the agency for reasonable costs and reasonable attorney's fees, unless the agency demonstrates that its actions were substantially justified or special circumstances exist which would make the award unjust. An agency's actions are "substantially justified" if there was a reasonable basis in law and fact at the time the actions were taken by the agency. If the agency prevails in the proceedings, the appellate court or administrative law judge shall award reasonable costs and reasonable attorney's fees against a party if the appellate court or administrative law judge determines that a party participated in the proceedings for an improper purpose as defined by paragraph (1)(e). No award of attorney's fees as provided by this subsection shall exceed \$50,000.

(4)CHALLENGES TO AGENCY ACTION PURSUANT TO SECTION 120.56(4).—

(a)If the appellate court or administrative law judge determines that all or part of an agency statement violates s. 120.54(1)(a), or that the agency must immediately discontinue reliance on the statement and any substantially similar statement pursuant to s. 120.56(4)(e), a judgment or order shall be entered against the agency for reasonable costs and reasonable attorney's fees, unless the agency demonstrates that the statement is required by the Federal Government to implement or retain a delegated or approved program or to meet a condition to receipt of federal funds.

(b)Upon notification to the administrative law judge provided before the final hearing that the agency has published a notice of rulemaking under s. 120.54(3)(a), such notice shall automatically operate as a stay of proceedings pending rulemaking. The administrative law judge may vacate the stay for good cause shown. A stay of proceedings under this paragraph remains in effect so long as the agency is proceeding expeditiously and in good faith to adopt the statement as a rule. The administrative law judge shall award reasonable costs and reasonable attorney's fees accrued by the petitioner prior to the date the notice was published, unless the agency proves to the administrative law judge that it did not know and should not have known that the statement was an unadopted rule. Attorneys' fees and costs under this paragraph and paragraph (a) shall be

awarded only upon a finding that the agency received notice that the statement may constitute an unadopted rule at least 30 days before a petition under s. 120.56(4) was filed and that the agency failed to publish the required notice of rulemaking pursuant to s. 120.54(3) that addresses the statement within that 30-day period. Notice to the agency may be satisfied by its receipt of a copy of the s. 120.56(4) petition, a notice or other paper containing substantially the same information, or a petition filed pursuant to s. 120.54(7). An award of attorney's fees as provided by this paragraph may not exceed \$50,000.

(c)Notwithstanding the provisions of chapter 284, an award shall be paid from the budget entity of the secretary, executive director, or equivalent administrative officer of the agency, and the agency shall not be entitled to payment of an award or reimbursement for payment of an award under any provision of law.

(d)If the agency prevails in the proceedings, the appellate court or administrative law judge shall award reasonable costs and attorney's fees against a party if the appellate court or administrative law judge determines that the party participated in the proceedings for an improper purpose as defined in paragraph (1)(e) or that the party or the party's attorney knew or should have known that a claim was not supported by the material facts necessary to establish the claim or would not be supported by the application of then-existing law to those material facts.

(5)APPEALS.—When there is an appeal, the court in its discretion may award reasonable attorney's fees and reasonable costs to the prevailing party if the court finds that the appeal was frivolous, meritless, or an abuse of the appellate process, or that the agency action which precipitated the appeal was a gross abuse of the agency's discretion. Upon review of agency action that precipitates an appeal, if the court finds that the agency improperly rejected or modified findings of fact in a recommended order, the court shall award reasonable attorney's fees and reasonable costs to a prevailing appellant for the administrative proceeding and the appellate proceeding.

(6)OTHER SECTIONS NOT AFFECTED.—Other provisions, including ss. 57.105 and 57.111, authorize the award of attorney's fees and costs in administrative proceedings. Nothing in this section shall affect the availability of attorney's fees and costs as provided in those sections.

History.—s. 25, ch. 96-159; s. 11, ch. 97-176; s. 48, ch. 99-2; s. 6, ch. 2003-94; s. 13, ch. 2008-104.

120.60Licensing.—

(1)Upon receipt of a license application, an agency shall examine the application and, within 30 days after such receipt, notify the applicant of any apparent errors or omissions and request any additional information the agency is permitted by law to require. An agency may not deny a license for failure to correct an error or omission or to supply additional information unless the agency timely notified the applicant within this 30-day period. The agency may establish by rule the time period for submitting any additional information requested by the agency. For good cause shown, the agency shall grant a request for an extension of time for submitting the additional information. If the applicant believes the agency's request for additional

information is not authorized by law or rule, the agency, at the applicant's request, shall proceed to process the application. An application is complete upon receipt of all requested information and correction of any error or omission for which the applicant was timely notified or when the time for such notification has expired. An application for a license must be approved or denied within 90 days after receipt of a completed application unless a shorter period of time for agency action is provided by law. The 90-day time period is tolled by the initiation of a proceeding under ss. 120.569 and 120.57. Any application for a license which is not approved or denied within the 90-day or shorter time period, within 15 days after conclusion of a public hearing held on the application, or within 45 days after a recommended order is submitted to the agency and the parties, whichever action and timeframe is latest and applicable, is considered approved unless the recommended order recommends that the agency deny the license. Subject to the satisfactory completion of an examination if required as a prerequisite to licensure, any license that is considered approved shall be issued and may include such reasonable conditions as are authorized by law. Any applicant for licensure seeking to claim licensure by default under this subsection shall notify the agency clerk of the licensing agency, in writing, of the intent to rely upon the default license provision of this subsection, and may not take any action based upon the default license until after receipt of such notice by the agency clerk.

(2) If an applicant seeks a license for an activity that is exempt from licensure, the agency shall notify the applicant and return any tendered application fee within 30 days after receipt of the original application.

(3) Each applicant shall be given written notice, personally or by mail, that the agency intends to grant or deny, or has granted or denied, the application for license. The notice must state with particularity the grounds or basis for the issuance or denial of the license, except when issuance is a ministerial act. Unless waived, a copy of the notice shall be delivered or mailed to each party's attorney of record and to each person who has made a written request for notice of agency action. Each notice must inform the recipient of the basis for the agency decision, inform the recipient of any administrative hearing pursuant to ss. 120.569 and 120.57 or judicial review pursuant to s. 120.68 which may be available, indicate the procedure that must be followed, and state the applicable time limits. The issuing agency shall certify the date the notice was mailed or delivered, and the notice and the certification must be filed with the agency clerk.

(4) When a licensee has made timely and sufficient application for the renewal of a license which does not automatically expire by statute, the existing license shall not expire until the application for renewal has been finally acted upon by the agency or, in case the application is denied or the terms of the license are limited, until the last day for seeking review of the agency order or a later date fixed by order of the reviewing court.

¹ (5) No revocation, suspension, annulment, or withdrawal of any license is lawful unless, prior to the entry of a final order, the agency has served, by personal service or certified mail, an administrative complaint which affords reasonable notice to the licensee of facts or conduct which warrant the intended action and

unless the licensee has been given an adequate opportunity to request a proceeding pursuant to ss. 120.569 and 120.57. When personal service cannot be made and the certified mail notice is returned undelivered, the agency shall cause a short, plain notice to the licensee to be published once each week for 4 consecutive weeks in a newspaper published in the county of the licensee's last known address as it appears on the records of the agency. If no newspaper is published in that county, the notice may be published in a newspaper of general circulation in that county.

(6) If the agency finds that immediate serious danger to the public health, safety, or welfare requires emergency suspension, restriction, or limitation of a license, the agency may take such action by any procedure that is fair under the circumstances if:

(a) The procedure provides at least the same procedural protection as is given by other statutes, the State Constitution, or the United States Constitution;

(b) The agency takes only that action necessary to protect the public interest under the emergency procedure; and

(c) The agency states in writing at the time of, or prior to, its action the specific facts and reasons for finding an immediate danger to the public health, safety, or welfare and its reasons for concluding that the procedure used is fair under the circumstances. The agency's findings of immediate danger, necessity, and procedural fairness are judicially reviewable. Summary suspension, restriction, or limitation may be ordered, but a suspension or revocation proceeding pursuant to ss. 120.569 and 120.57 shall also be promptly instituted and acted upon.

(7) No agency shall include as a condition of approval of any license any provision that is based upon a statement, policy, or guideline of another agency unless the statement, policy, or guideline is within the jurisdiction of the other agency. The other agency shall identify for the licensing agency the specific legal authority for each such statement, policy, or guideline. The licensing agency must provide the licensee with an opportunity to challenge the condition as invalid. If the licensing agency bases a condition of approval or denial of the license upon the statement, policy, or guideline of the other agency, any party to an administrative proceeding that arises from the approval with conditions or denial of the license may require the other agency to join as a party in determining the validity of the condition.

History.—s. 1, ch. 74-310; s. 10, ch. 76-131; s. 1, ch. 77-174; ss. 6, 9, ch. 77-453; s. 57, ch. 78-95; s. 8, ch. 78-425; s. 1, ch. 79-142; s. 6, ch. 79-299; s. 2, ch. 81-180; s. 6, ch. 84-203; s. 2, ch. 84-265; s. 1, ch. 85-82; s. 14, ch. 90-51; s. 762, ch. 95-147; s. 26, ch. 96-159; s. 326, ch. 96-410; s. 12, ch. 97-176; s. 7, ch. 2003-94; ss. 4, 5, ch. 2010-279; HJR 9-A, 2010 Special Session A; s. 10, ch. 2012-212.

¹Note.—Section 21, ch. 2012-212, provides that “[e]xcept as otherwise expressly provided in this act, this act shall take effect July 1, 2012, and shall apply to legal notices that must be published on or after that date.”

120.62 Agency investigations.—

(1) Every person who responds to a request or demand by any agency or representative thereof for written data or an oral statement shall be entitled to a transcript or recording of his or her oral statement at no more than cost.

(2) Any person compelled to appear, or who appears voluntarily, before any presiding officer or agency in an investigation or in any agency proceeding has the right, at his or her own expense, to be accompanied, represented, and advised by counsel or by other qualified representatives.

*History.—*s. 1, ch. 74-310; s. 763, ch. 95-147; s. 28, ch. 96-159.

120.63 Exemption from act.—

(1) Upon application of any agency, the Administration Commission may exempt any process or proceeding governed by this act from one or more requirements of this act:

(a) When the agency head has certified that the requirement would conflict with any provision of federal law or rules with which the agency must comply;

(b) In order to permit persons in the state to receive tax benefits or federal funds under any federal law;
or

(c) When the commission has found that conformity with the requirements of the part or parts of this act for which exemption is sought would be so inconvenient or impractical as to defeat the purpose of the agency proceeding involved or the purpose of this act and would not be in the public interest in light of the nature of the intended action and the enabling act or other laws affecting the agency.

(2) The commission may not exempt an agency from any requirement of this act pursuant to this section until it establishes alternative procedures to achieve the agency's purpose which shall be consistent, insofar as possible, with the intent and purpose of the act.

(a) Prior to the granting of any exemption authorized by this section, the commission shall hold a public hearing after notice given as provided in s. 120.525. Upon the conclusion of the hearing, the commission, through the Executive Office of the Governor, shall issue an order specifically granting or denying the exemption and specifying any processes or proceedings exempted and the extent of the exemption; transmit to the committee and to the Department of State a copy of the petition, a certified copy of the order granting or denying the petition, and a copy of any alternative procedures prescribed; and give notice of the petition and the commission's response in the Florida Administrative Weekly.

(b) An exemption and any alternative procedure prescribed shall terminate 90 days following adjournment sine die of the then-current or next regular legislative session after issuance of the exemption order, or upon the effective date of any subsequent legislation incorporating the exemption or any partial exemption related thereto, whichever is earlier. The exemption granted by the commission shall be renewable upon the same or

similar facts not more than once. Such renewal shall terminate as would an original exemption.

History.—s. 1, ch. 74-310; s. 11, ch. 76-131; s. 1, ch. 77-53; s. 8, ch. 77-453; s. 87, ch. 79-190; s. 7, ch. 79-299; s. 70, ch. 79-400; s. 58, ch. 81-259; s. 29, ch. 96-159.

120.65 Administrative law judges.—

(1) The Division of Administrative Hearings within the Department of Management Services shall be headed by a director who shall be appointed by the Administration Commission and confirmed by the Senate. The director, who shall also serve as the chief administrative law judge, and any deputy chief administrative law judge must possess the same minimum qualifications as the administrative law judges employed by the division. The Deputy Chief Judge of Compensation Claims must possess the minimum qualifications established in s. 440.45(2) and shall report to the director. The division shall be a separate budget entity, and the director shall be its agency head for all purposes. The Department of Management Services shall provide administrative support and service to the division to the extent requested by the director. The division shall not be subject to control, supervision, or direction by the Department of Management Services in any manner, including, but not limited to, personnel, purchasing, transactions involving real or personal property, and budgetary matters.

(2) The director has the right to appeal actions by the Executive Office of the Governor that affect amendments to the division's approved operating budget or any personnel actions pursuant to chapter 216 to the Administration Commission, which shall decide such issue by majority vote. The appropriations committees may advise the Administration Commission on the issue. If the President of the Senate and the Speaker of the House of Representatives object in writing to the effects of the appeal, the appeal may be affirmed by the affirmative vote of two-thirds of the commission members present.

(3) Each state agency as defined in chapter 216 and each political subdivision shall make its facilities available, at a time convenient to the provider, for use by the division in conducting proceedings pursuant to this chapter.

(4) The division shall employ administrative law judges to conduct hearings required by this chapter or other law. Any person employed by the division as an administrative law judge must have been a member of The Florida Bar in good standing for the preceding 5 years.

(5) If the division cannot furnish a division administrative law judge promptly in response to an agency request, the director shall designate in writing a qualified full-time employee of an agency other than the requesting agency to conduct the hearing. The director shall have the discretion to designate such a hearing officer who is located in that part of the state where the parties and witnesses reside.

(6) By rule, the division may establish:

(a) Further qualifications for administrative law judges and shall establish procedures by which candidates will be considered for employment or contract.

(b) The manner in which public notice will be given of vacancies in the staff of administrative law judges.

(c) Procedures for the assignment of administrative law judges.

(7) The division is authorized to provide administrative law judges on a contract basis to any governmental entity to conduct any hearing not covered by this section.

(8) The division shall have the authority to adopt reasonable rules to carry out the provisions of this act.

(9) Rules promulgated by the division may authorize any reasonable sanctions except contempt for violation of the rules of the division or failure to comply with a reasonable order issued by an administrative law judge, which is not under judicial review.

(10) Not later than February 1 of each year, the division shall issue a written report to the Administrative Procedures Committee and the Administration Commission, including at least the following information:

(a) A summary of the extent and effect of agencies' utilization of administrative law judges, court reporters, and other personnel in proceedings under this chapter.

(b) Recommendations for change or improvement in the Administrative Procedure Act or any agency's practice or policy with respect thereto.

(c) Recommendations as to those types of cases or disputes which should be conducted under the summary hearing process described in s. 120.574.

(d) A report regarding each agency's compliance with the filing requirement in s. 120.57(1)(m).

(11) The division shall be reimbursed for administrative law judge services and travel expenses by the following entities: water management districts, regional planning councils, school districts, community colleges, the Division of Florida Colleges, state universities, the Board of Governors of the State University System, the State Board of Education, the Florida School for the Deaf and the Blind, and the Commission for Independent Education. These entities shall contract with the division to establish a contract rate for services and provisions for reimbursement of administrative law judge travel expenses and video conferencing expenses attributable to hearings conducted on behalf of these entities. The contract rate must be based on a total-cost-recovery methodology.

History.—s. 1, ch. 74-310; s. 9, ch. 75-191; s. 14, ch. 76-131; s. 9, ch. 78-425; s. 46, ch. 79-190; s. 1, ch. 86-297; s. 46, ch. 87-6; s. 25, ch. 87-101; s. 54, ch. 88-1; s. 30, ch. 88-277; s. 51, ch. 92-279; s. 23, ch. 92-315; s. 55, ch. 92-326; s. 764, ch. 95-147; s. 31, ch. 96-159; s. 13, ch. 97-176; s. 38, ch. 2000-371; s. 4, ch. 2001-91; s. 1, ch. 2004-247; s. 8, ch. 2006-82; s. 14, ch. 2007-217; s. 8, ch. 2009-228.

120.651 Designation of two administrative law judges to preside over actions involving department or boards.—The Division of Administrative Hearings shall designate at least two administrative law judges who shall specifically preside over actions involving the Department of Health or boards within the Department of Health. Each designated administrative law judge must be a member of The Florida Bar in good standing and must have legal, managerial, or clinical experience in issues related to health care or have attained board certification in health care law from The Florida Bar.

History.—s. 32, ch. 2003-416.

120.655Withholding funds to pay for administrative law judge services to school boards.—If a district school board fails to make a timely payment for the services provided by an administrative law judge of the Division of Administrative Hearings as provided annually in the General Appropriations Act, the Commissioner of Education shall withhold, from any general revenue funds the district is eligible to receive, an amount sufficient to pay for the administrative law judge’s services. The commissioner shall transfer the amount withheld to the Division of Administrative Hearings in payment of such services.

History.—s. 1, ch. 92-121; s. 32, ch. 96-159.

120.66Ex parte communications.—

(1)In any proceeding under ss. 120.569 and 120.57, no ex parte communication relative to the merits, threat, or offer of reward shall be made to the agency head, after the agency head has received a recommended order, or to the presiding officer by:

(a)An agency head or member of the agency or any other public employee or official engaged in prosecution or advocacy in connection with the matter under consideration or a factually related matter.

(b)A party to the proceeding, the party’s authorized representative or counsel, or any person who, directly or indirectly, would have a substantial interest in the proposed agency action.

Nothing in this subsection shall apply to advisory staff members who do not testify on behalf of the agency in the proceeding or to any rulemaking proceedings under s. 120.54.

(2)A presiding officer, including an agency head or designee, who is involved in the decisional process and who receives an ex parte communication in violation of subsection (1) shall place on the record of the pending matter all written communications received, all written responses to such communications, and a memorandum stating the substance of all oral communications received and all oral responses made, and shall also advise all parties that such matters have been placed on the record. Any party desiring to rebut the ex parte communication shall be allowed to do so, if such party requests the opportunity for rebuttal within 10 days after notice of such communication. The presiding officer may, if necessary to eliminate the effect of an ex parte communication, withdraw from the proceeding, in which case the entity that appointed the presiding officer shall assign a successor.

(3)Any person who makes an ex parte communication prohibited by subsection (1), and any presiding officer, including an agency head or designee, who fails to place in the record any such communication, is in violation of this act and may be assessed a civil penalty not to exceed \$500 or be subjected to other disciplinary action.

History.—s. 1, ch. 74-310; s. 10, ch. 75-191; s. 12, ch. 76-131; s. 1, ch. 77-174; s. 10, ch. 78-425; s. 765, ch. 95-147; s. 33, ch. 96-159; s. 14, ch. 97-176.

120.66 Disqualification of agency personnel.—

(1) Notwithstanding the provisions of s. 112.3143, any individual serving alone or with others as an agency head may be disqualified from serving in an agency proceeding for bias, prejudice, or interest when any party to the agency proceeding shows just cause by a suggestion filed within a reasonable period of time prior to the agency proceeding. If the disqualified individual was appointed, the appointing power may appoint a substitute to serve in the matter from which the individual is disqualified. If the individual is an elected official, the Governor may appoint a substitute to serve in the matter from which the individual is disqualified. However, if a quorum remains after the individual is disqualified, it shall not be necessary to appoint a substitute.

(2) Any agency action taken by a duly appointed substitute for a disqualified individual shall be as conclusive and effective as if agency action had been taken by the agency as it was constituted prior to any substitution.

History.—s. 1, ch. 74-310; s. 12, ch. 78-425; s. 2, ch. 83-329; s. 767, ch. 95-147; s. 34, ch. 96-159.

Note.—Former s. 120.71.

120.68 Judicial review.—

(1) A party who is adversely affected by final agency action is entitled to judicial review. A preliminary, procedural, or intermediate order of the agency or of an administrative law judge of the Division of Administrative Hearings is immediately reviewable if review of the final agency decision would not provide an adequate remedy.

(2)(a) Judicial review shall be sought in the appellate district where the agency maintains its headquarters or where a party resides or as otherwise provided by law. All proceedings shall be instituted by filing a notice of appeal or petition for review in accordance with the Florida Rules of Appellate Procedure within 30 days after the rendition of the order being appealed. If the appeal is of an order rendered in a proceeding initiated under s. 120.56, the agency whose rule is being challenged shall transmit a copy of the notice of appeal to the committee.

(b) When proceedings under this chapter are consolidated for final hearing and the parties to the consolidated proceeding seek review of final or interlocutory orders in more than one district court of appeal, the courts of appeal are authorized to transfer and consolidate the review proceedings. The court may transfer such appellate proceedings on its own motion, upon motion of a party to one of the appellate proceedings, or by stipulation of the parties to the appellate proceedings. In determining whether to transfer a proceeding, the court may consider such factors as the interrelationship of the parties and the proceedings, the desirability of avoiding inconsistent results in related matters, judicial economy, and the burden on the parties of reproducing the record for use in multiple appellate courts.

(3)The filing of the petition does not itself stay enforcement of the agency decision, but if the agency decision has the effect of suspending or revoking a license, supersedeas shall be granted as a matter of right upon such conditions as are reasonable, unless the court, upon petition of the agency, determines that a supersedeas would constitute a probable danger to the health, safety, or welfare of the state. The agency also may grant a stay upon appropriate terms, but, whether or not the action has the effect of suspending or revoking a license, a petition to the agency for a stay is not a prerequisite to a petition to the court for supersedeas. In any event the court shall specify the conditions, if any, upon which the stay or supersedeas is granted.

(4)Judicial review of any agency action shall be confined to the record transmitted and any additions made thereto in accordance with paragraph (7)(a).

(5)The record for judicial review shall be compiled in accordance with the Florida Rules of Appellate Procedure.

(6)(a)The reviewing court's decision may be mandatory, prohibitory, or declaratory in form, and it shall provide whatever relief is appropriate irrespective of the original form of the petition. The court may:

1.Order agency action required by law; order agency exercise of discretion when required by law; set aside agency action; remand the case for further agency proceedings; or decide the rights, privileges, obligations, requirements, or procedures at issue between the parties; and

2.Order such ancillary relief as the court finds necessary to redress the effects of official action wrongfully taken or withheld.

(b)If the court sets aside agency action or remands the case to the agency for further proceedings, it may make such interlocutory order as the court finds necessary to preserve the interests of any party and the public pending further proceedings or agency action.

(7)The court shall remand a case to the agency for further proceedings consistent with the court's decision or set aside agency action, as appropriate, when it finds that:

(a)There has been no hearing prior to agency action and the reviewing court finds that the validity of the action depends upon disputed facts;

(b)The agency's action depends on any finding of fact that is not supported by competent, substantial evidence in the record of a hearing conducted pursuant to ss. 120.569 and 120.57; however, the court shall not substitute its judgment for that of the agency as to the weight of the evidence on any disputed finding of fact;

(c)The fairness of the proceedings or the correctness of the action may have been impaired by a material error in procedure or a failure to follow prescribed procedure;

(d)The agency has erroneously interpreted a provision of law and a correct interpretation compels a particular action; or

(e)The agency's exercise of discretion was:

1.Outside the range of discretion delegated to the agency by law;

2.Inconsistent with agency rule;

3.Inconsistent with officially stated agency policy or a prior agency practice, if deviation therefrom is not explained by the agency; or

4.Otherwise in violation of a constitutional or statutory provision;

but the court shall not substitute its judgment for that of the agency on an issue of discretion.

(8)Unless the court finds a ground for setting aside, modifying, remanding, or ordering agency action or ancillary relief under a specified provision of this section, it shall affirm the agency's action.

(9)No petition challenging an agency rule as an invalid exercise of delegated legislative authority shall be instituted pursuant to this section, except to review an order entered pursuant to a proceeding under s. 120.56 or an agency's findings of immediate danger, necessity, and procedural fairness prerequisite to the adoption of an emergency rule pursuant to s. 120.54(4), unless the sole issue presented by the petition is the constitutionality of a rule and there are no disputed issues of fact.

(10)If an administrative law judge's final order depends on any fact found by the administrative law judge, the court shall not substitute its judgment for that of the administrative law judge as to the weight of the evidence on any disputed finding of fact. The court shall, however, set aside the final order of the administrative law judge or remand the case to the administrative law judge, if it finds that the final order depends on any finding of fact that is not supported by competent substantial evidence in the record of the proceeding.

History.—s. 1, ch. 74-310; s. 13, ch. 76-131; s. 38, ch. 77-104; s. 1, ch. 77-174; s. 11, ch. 78-425; s. 4, ch. 84-173; s. 7, ch. 87-385; s. 36, ch. 90-302; s. 6, ch. 91-30; s. 1, ch. 91-191; s. 10, ch. 92-166; s. 35, ch. 96-159; s. 15, ch. 97-176; s. 8, ch. 2003-94.

120.69 Enforcement of agency action.—

(1)Except as otherwise provided by statute:

(a)Any agency may seek enforcement of an action by filing a petition for enforcement, as provided in this section, in the circuit court where the subject matter of the enforcement is located.

(b)A petition for enforcement of any agency action may be filed by any substantially interested person who is a resident of the state. However, no such action may be commenced:

1.Prior to 60 days after the petitioner has given notice of the violation of the agency action to the head of the agency concerned, the Attorney General, and any alleged violator of the agency action.

2.If an agency has filed, and is diligently prosecuting, a petition for enforcement.

(c)A petition for enforcement filed by a nongovernmental person shall be in the name of the State of Florida on the relation of the petitioner, and the doctrines of res judicata and collateral estoppel shall apply.

(d)In an action brought under paragraph (b), the agency whose action is sought to be enforced, if not a

party, may intervene as a matter of right.

(2) A petition for enforcement may request declaratory relief; temporary or permanent equitable relief; any fine, forfeiture, penalty, or other remedy provided by statute; any combination of the foregoing; or, in the absence of any other specific statutory authority, a fine not to exceed \$1,000.

(3) After the court has rendered judgment on a petition for enforcement, no other petition shall be filed or adjudicated against the same agency action, on the basis of the same transaction or occurrence, unless expressly authorized on remand. The doctrines of res judicata and collateral estoppel shall apply, and the court shall make such orders as are necessary to avoid multiplicity of actions.

(4) In all enforcement proceedings:

(a) If enforcement depends on any facts other than those appearing in the record, the court may ascertain such facts under procedures set forth in s. 120.68(7)(a).

(b) If one or more petitions for enforcement and a petition for review involving the same agency action are pending at the same time, the court considering the review petition may order all such actions transferred to and consolidated in one court. Each party shall be under an affirmative duty to notify the court when it becomes aware of multiple proceedings.

(c) Should any party willfully fail to comply with an order of the court, the court shall punish that party in accordance with the law applicable to contempt committed by a person in the trial of any other action.

(5) In any enforcement proceeding the respondent may assert as a defense the invalidity of any relevant statute, the inapplicability of the administrative determination to respondent, compliance by the respondent, the inappropriateness of the remedy sought by the agency, or any combination of the foregoing. In addition, if the petition for enforcement is filed during the time within which the respondent could petition for judicial review of the agency action, the respondent may assert the invalidity of the agency action.

(6) Notwithstanding any other provision of this section, upon receipt of evidence that an alleged violation of an agency's action presents an imminent and substantial threat to the public health, safety, or welfare, the agency may bring suit for immediate temporary relief in an appropriate circuit court, and the granting of such temporary relief shall not have res judicata or collateral estoppel effect as to further relief sought under a petition for enforcement relating to the same violation.

(7) In any final order on a petition for enforcement the court may award to the prevailing party all or part of the costs of litigation and reasonable attorney's fees and expert witness fees, whenever the court determines that such an award is appropriate.

History.—s. 1, ch. 74-310; s. 766, ch. 95-147; s. 36, ch. 96-159.

120.695 Notice of noncompliance.—

(1) It is the policy of the state that the purpose of regulation is to protect the public by attaining compliance with the policies established by the Legislature. Fines and other penalties may be provided in

order to assure compliance; however, the collection of fines and the imposition of penalties are intended to be secondary to the primary goal of attaining compliance with an agency's rules. It is the intent of the Legislature that an agency charged with enforcing rules shall issue a notice of noncompliance as its first response to a minor violation of a rule in any instance in which it is reasonable to assume that the violator was unaware of the rule or unclear as to how to comply with it.

(2)(a) Each agency shall issue a notice of noncompliance as a first response to a minor violation of a rule. A "notice of noncompliance" is a notification by the agency charged with enforcing the rule issued to the person or business subject to the rule. A notice of noncompliance may not be accompanied with a fine or other disciplinary penalty. It must identify the specific rule that is being violated, provide information on how to comply with the rule, and specify a reasonable time for the violator to comply with the rule. A rule is agency action that regulates a business, occupation, or profession, or regulates a person operating a business, occupation, or profession, and that, if not complied with, may result in a disciplinary penalty.

(b) Each agency shall review all of its rules and designate those for which a violation would be a minor violation and for which a notice of noncompliance must be the first enforcement action taken against a person or business subject to regulation. A violation of a rule is a minor violation if it does not result in economic or physical harm to a person or adversely affect the public health, safety, or welfare or create a significant threat of such harm. If an agency under the direction of a cabinet officer mails to each licensee a notice of the designated rules at the time of licensure and at least annually thereafter, the provisions of paragraph (a) may be exercised at the discretion of the agency. Such notice shall include a subject-matter index of the rules and information on how the rules may be obtained.

(c) The agency's review and designation must be completed by December 1, 1995; each agency under the direction of the Governor shall make a report to the Governor, and each agency under the joint direction of the Governor and Cabinet shall report to the Governor and Cabinet by January 1, 1996, on which of its rules have been designated as rules the violation of which would be a minor violation.

(d) The Governor or the Governor and Cabinet, as appropriate pursuant to paragraph (c), may evaluate the review and designation effects of each agency and may apply a different designation than that applied by the agency.

(e) This section does not apply to the regulation of law enforcement personnel or teachers.

(f) Designation pursuant to this section is not subject to challenge under this chapter.

History.—s. 1, ch. 95-402.

120.72 Legislative intent; references to chapter 120 or portions thereof.—Unless expressly provided otherwise, a reference in any section of the Florida Statutes to chapter 120 or to any section or sections or portion of a section of chapter 120 includes, and shall be understood as including, all subsequent amendments to chapter 120 or to the referenced section or sections or portions of a section.

History.—s. 3, ch. 74-310; s. 1, ch. 76-207; s. 1, ch. 77-174; s. 57, ch. 78-95; s. 13, ch. 78-425; s. 38, ch. 96-159.

120.73 Circuit court proceedings; declaratory judgments.—Nothing in this chapter shall be construed to repeal any provision of the Florida Statutes which grants the right to a proceeding in the circuit court in lieu of an administrative hearing or to divest the circuit courts of jurisdiction to render declaratory judgments under the provisions of chapter 86.

History.—s. 11, ch. 75-191; s. 14, ch. 78-425.

120.74 Agency review, revision, and report.—

(1) Each agency shall review and revise its rules as often as necessary to ensure that its rules are correct and comply with statutory requirements. Additionally, each agency shall perform a formal review of its rules every 2 years. In the review, each agency must:

(a) Identify and correct deficiencies in its rules;

(b) Clarify and simplify its rules;

(c) Delete obsolete or unnecessary rules;

(d) Delete rules that are redundant of statutes;

(e) Seek to improve efficiency, reduce paperwork, or decrease costs to government and the private sector;

(f) Contact agencies that have concurrent or overlapping jurisdiction to determine whether their rules can be coordinated to promote efficiency, reduce paperwork, or decrease costs to government and the private sector; and

(g) Determine whether the rules should be continued without change or should be amended or repealed to reduce the impact on small business while meeting the stated objectives of the proposed rule.

(2) Beginning October 1, 1997, and by October 1 of every other year thereafter, the head of each agency shall file a report with the President of the Senate, the Speaker of the House of Representatives, and the committee, with a copy to each appropriate standing committee of the Legislature, which certifies that the agency has complied with the requirements of this section. The report must specify any changes made to its rules as a result of the review and, when appropriate, recommend statutory changes that will promote efficiency, reduce paperwork, or decrease costs to government and the private sector. The report must specifically address the economic impact of the rules on small business. The report must identify the types of cases or disputes in which the agency is involved which should be conducted under the summary hearing process described in s. 120.574.

(3) Beginning in 2012, and no later than July 1 of each year, each agency shall file with the President of the Senate, the Speaker of the House of Representatives, and the committee a regulatory plan identifying and describing each rule the agency proposes to adopt for the 12-month period beginning on the July 1 reporting

date and ending on the subsequent June 30, excluding emergency rules.

(4) For the year 2011, the certification required in subsection (2) may omit any information included in the reports provided under s. 120.745. Reporting under subsections (1) and (2) shall be suspended for the year 2013, but required reporting under those subsections shall resume in 2015 and biennially thereafter.

History.—s. 46, ch. 96-399; s. 16, ch. 97-176; s. 9, ch. 2006-82; s. 15, ch. 2008-104; s. 8, ch. 2008-149; s. 4, ch. 2011-225.

120.745 Legislative review of agency rules in effect on or before November 16, 2010.—

(1) **DEFINITIONS.**—The following definitions apply exclusively to this section:

(a) “Agency” has the same meaning and application as provided in s. 120.52(1), but for the purposes of this section excludes each officer and governmental entity in the state with jurisdiction in one county or less than one county.

(b) “Compliance economic review” means a good faith economic analysis that includes and presents the following information pertaining to a particular rule:

1. A justification for the rule summarizing the benefits of the rule; and

2. A statement of estimated regulatory costs as described in s. 120.541(2); however:

a. The applicable period for the economic analysis shall be 5 years beginning on July 1, 2011;

b. For the analysis required in s. 120.541(2)(a)3., the estimated regulatory costs over the 5-year period shall be used instead of the likely increase in regulatory costs after implementation; and

c. An explanation of the methodology used to conduct the analysis must be provided. A technical methodology need not be used to develop the statement of estimated regulatory costs, if the agency uses routine regulatory communications or its Internet website to reasonably survey regulated entities, political subdivisions, and local governments and makes good faith estimates of regulatory costs in conformity with recommendations from the Office of Fiscal Accountability and Regulatory Reform (“OFARR”), or from one or more legislative offices if requested by the agency and such request is approved by the President of the Senate and the Speaker of the House of Representatives.

(c) “Data collection rules” means those rules requiring the submission of data to the agency from external sources, including, but not limited to, local governments, service providers, clients, licensees, regulated entities, other constituents, and market participants.

(d) “Revenue rules” means those rules fixing amounts or providing for the collection of money.

(e) “Rule” has the same general meaning and application as provided in s. 120.52(16), but for purposes of this section may include only those rules for which publication in the Florida Administrative Code is required pursuant to s. 120.55(1). As used in this section, the term “rule” means each entire statement and all subparts published under a complete title, chapter, and decimal rule number in the Florida Administrative Code in compliance with Florida Administrative Code Rule 1B-30.001.

(2) **ENHANCED BIENNIAL REVIEW.**—By December 1, 2011, each agency shall complete an enhanced biennial

review of the agency's existing rules, which shall include, but is not limited to:

(a) Conduct of the review and submission of the report required by s. 120.74 and an explanation of how the agency has accomplished the requirements of s. 120.74(1). This paragraph extends the October 1 deadline provided in s. 120.74(2) for the year 2011.

(b) Review of each rule to determine whether the rule has been reviewed by OFARR pursuant to the Governor's Executive Order 2011-01.

(c) Review of each rule to determine whether the rule is a revenue rule, to identify the statute or statutes authorizing the collection of any revenue, to identify the fund or account into which revenue collections are deposited, and, for each revenue rule, to determine whether the rule authorizes, imposes, or implements:

1. Registration, license, or inspection fees.
2. Transportation service tolls for road, bridge, rail, air, waterway, or port access.
3. Fees for a specific service or purpose not included in subparagraph 1. or subparagraph 2.
4. Fines, penalties, costs, or attorney fees.
5. Any tax.
6. Any other amounts collected that are not covered under subparagraphs 1.-5.

(d) Review of each rule to determine whether the rule is a data collection rule, providing the following information for each rule determined to be a data collection rule:

1. The statute or statutes authorizing the collection of such data.
2. The purposes for which the agency uses the data and any purpose for which the data is used by others.
3. The policies supporting the reporting and retention of the data.
4. Whether and to what extent the data is exempt from public inspection under chapter 119.

(e) Identification of each entire rule the agency plans to repeal and, if so, the estimated timetable for repeal.

(f) Identification of each entire rule or subpart of a rule the agency plans to amend to substantially reduce the economic impact and the estimated timetable for amendment.

(g) Identification of each rule for which the agency will be required to prepare a compliance economic review, to include each entire rule that:

1. The agency does not plan to repeal on or before December 31, 2012;
2. Was effective on or before November 16, 2010; and
3. Probably will have any of the economic impacts described in s. 120.541(2)(a), for 5 years beginning on July 1, 2011, excluding in such estimation any part or subpart identified for amendment under paragraph (f).

(h) Listing of all rules identified for compliance economic review in paragraph (g), divided into two approximately equal groups, identified as "Group 1" and "Group 2." Such division shall be made at the

agency's discretion.

(i)Written certification of the agency head to the committee verifying the completion of the report for all rules of the agency, including each separate part or subsection. The duty to certify completion of the report is the responsibility solely of the agency head as defined in s. 120.52(3) and may not be delegated to any other person. If the defined agency head is a collegial body, the written certification must be prepared by the chair or equivalent presiding officer of that body.

(3)PUBLICATION OF REPORT.—No later than December 1, 2011, each agency shall publish, in the manner provided in subsection (7), a report of the entire enhanced biennial review pursuant to subsection (2), including the results of the review; a complete list of all rules the agency has placed in Group 1 or Group 2; the name, physical address, fax number, and e-mail address for the person the agency has designated to receive all inquiries, public comments, and objections pertaining to the report; and the certification of the agency head pursuant to paragraph (2)(i). The report of results shall summarize certain information required in subsection (2) in a table consisting of the following columns:

(a)Column 1: Agency name.

(b)Column 2: F.A.C. rule number, with subcolumns including:

1.Column 2a: F.A.C. title and any subtitle or chapter designation; and

2.Column 2b: F.A.C. number, excluding title and subtitle or chapter designation.

(c)Column 3: OFARR reviewed rule under Executive Order 2011-01. Entries should be "Y" or "N."

(d)Column 4: Revenue rule/fund or account with subcolumns including:

1.Column 4a: Licensure fees.

2.Column 4b: Transportation tolls.

3.Column 4c: Other fees.

4.Column 4d: Fines.

5.Column 4e: Tax.

6.Column 4f: Other revenue.

Entries should be "N" or the identification of the fund or account where receipts are deposited and provide notes indicating the statutory authority for revenue collection.

(e)Column 5: Data collection rule. Entries should be "Y" or "N." If "Y," provide notes supplying the information required in paragraph (2)(d).

(f)Column 6: Repeal. Entries should be "Y" or "N" for the entire rule. If "Y," provide notes estimating the timetable for repeal.

(g)Column 7: Amend. Entries should be "Y" or "N," based on the response required in paragraph (2)(f), and provide notes identifying each specific subpart that will be amended and estimating the timetable for amendment.

(h)Column 8: Effective on or before 11/16/2010. Entries should be “Y” or “N.”

(i)Column 9: Section 120.541(2)(a) impacts. Entries should be “NA” if Column 8 is “N” or, if Column 6 is “Y,” “NP” for not probable, based on the response required in subparagraph (2)(g)3., or “1” or “2,” reflecting the group number assigned by the division required in paragraph (2)(h).

(4)PUBLIC COMMENT ON ENHANCED BIENNIAL REVIEW AND REPORT; OBJECTIONS.—Public input on reports required in subsection (3) may be provided by stating an objection to the information required in paragraphs (2)(b), (c), (d), and (g) and identifying the entire rule or any subpart to which the objection relates, and shall be submitted in writing or electronically to the person designated in the report.

(a)An objection under this subsection to a report that an entire rule or any subpart probably will not have, for 5 years beginning on July 1, 2011, any of the economic impacts described in s. 120.541(2)(a), must include allegations of fact upon which the objection is based, stating the precise information upon which a contrary evaluation of probable impact may be made. Allegations of fact related to other objections may be included.

(b)Objections may be submitted by any interested person no later than June 1, 2012.

(c)The agency shall determine whether to sustain an objection based upon the information provided with the objection and whether any further review of information available to the agency is necessary to correct its report.

(d)No later than 20 days after the date an objection is submitted, the agency shall publish its determination of the objection in the manner provided in subsection (7).

(e)The agency’s determination with respect to an objection is final but not a final agency action subject to further proceedings, hearing, or judicial review.

(f)If the agency sustains an objection, it shall amend its report within 10 days after the determination. The amended report shall indicate that a change has been made, the date of the last change, and identify the amended portions. The agency shall publish notice of the amendment in the manner provided in subsection (7).

(g)On or before July 1, 2012, the agency shall deliver a written certification of the agency head or designee to the committee verifying the completion of determinations of all objections under this subsection and of any report amendments required under paragraph (f). The certification shall be published as an addendum to the report required in subsection (3). Notice of the certification shall be published in the manner provided in subsection (7).

(5)COMPLIANCE ECONOMIC REVIEW OF RULES AND REQUIRED REPORT.—Each agency shall perform a compliance economic review and report for all rules, including separate reviews of subparts, listed under Group 1 “Group 1 rules” or Group 2 “Group 2 rules” pursuant to subparagraph (2)(g)3. Group 1 rules shall be reviewed and reported on in 2012, and Group 2 rules shall be reviewed and reported on in 2013.

(a) No later than May 1, each agency shall:

1. Complete a compliance economic review for each entire rule or subpart in the appropriate group.

2. File the written certification of the agency head with the committee verifying the completion of each compliance economic review required for the respective year. The certification shall be dated and published as an addendum to the report required in subsection (3). The duty to certify completion of the required compliance economic reviews is the responsibility solely of the agency head as defined in s. 120.52(3) and may not be delegated to any other person. If the defined agency head is a collegial body, the written certification must be prepared by the chair or equivalent presiding officer of that body.

3. Publish a copy of the compliance economic review, directions on how and when interested parties may submit lower cost regulatory alternatives to the agency, and the date the notice is published in the manner provided in subsection (7).

4. Publish notice of the publications required in subparagraphs 2. and 3. in the manner provided in subsection (7).

5. Submit each compliance economic review to the rules ombudsman in the Executive Office of the Governor for ¹the ombudsman's review.

(b) Any agency rule, including subparts, reviewed pursuant to Executive Order 2011-01 are exempt from the compliance economic review if the review found that the rule:

1. Does not unnecessarily restrict entry into a profession or occupation;

2. Does not adversely affect the availability of professional or occupational services to the public;

3. Does not unreasonably affect job creation or job retention;

4. Does not place unreasonable restrictions on individuals attempting to find employment;

5. Does not impose burdensome costs on businesses; or

6. Is justifiable when the overall cost-effectiveness and economic impact of the regulation, including indirect costs to consumers, is considered.

(c) No later than August 1, the rules ombudsman in the Executive Office of the Governor may submit lower cost regulatory alternatives to any rule to the agency that adopted the rule. No later than June 15, other interested parties may submit lower cost regulatory alternatives to any rule.

(d) No later than December 1, each agency shall publish a final report of the agency's review under this subsection in the manner provided in subsection (7). For each rule the report shall include:

1. The text of the rule.

2. The compliance economic review for the rule.

3. All lower regulatory cost alternatives received by the agency.

4. The agency's written explanation for rejecting submitted lower regulatory cost alternatives.

5. The agency's justification to repeal or amend the rule or to retain the rule without amendment.

6. The written certification of the agency head to the committee verifying the completion of the reviews and reporting required under this subsection for that year. The certification shall be dated and published as an addendum to the report required in subsection (3). The duty to certify completion of the report is the responsibility solely of the agency head as defined in s. 120.52(3) and may not be delegated to any other person. If the defined agency head is a collegial body, the written certification must be prepared by the chair or equivalent presiding officer of that body.

(e) Notice of publication of the final report and certification shall be published in the manner provided in subsection (7).

(f) By December 1, each agency shall begin proceedings under s. 120.54(3) to amend or repeal those rules so designated in the report under this subsection. Proceedings to repeal rules are exempt from the requirements for the preparation, consideration, or use of a statement of estimated regulatory costs under s. 120.54 and the provisions of s. 120.541.

(6) LEGISLATIVE CONSIDERATION.—With respect to a rule identified for retention without amendment in the report required in subsection (5), the Legislature may consider specific legislation nullifying the rule or altering the statutory authority for the rule.

(7) MANNER OF PUBLICATION OF NOTICES, DETERMINATIONS, AND REPORTS.—Agencies shall publish notices, determinations, and reports required under this section exclusively in the following manner:

(a) The agency shall publish each notice, determination, and complete report on its Internet website. If the agency does not have an Internet website, the information shall be published on the committee's Internet website using [www.japc.state.fl.us/\[agency name\]/](http://www.japc.state.fl.us/[agency name]/) in place of the address of the agency's Internet website. The following URL formats shall be used:

1. Reports required under subsection (3), including any reports amended as a result of a determination under subsection (4):

[Address of agency's Internet website]/2011_Rule_review/

[Florida Administrative Code (F.A.C.) title and subtitle (if applicable) designation for the rules included].

(Example: http://www.dos.state.fl.us/2011_Rule_review/15).

2. The lists of Group 1 rules and Group 2 rules, required under subsection (3):

[Address of agency's Internet website]/2011_Rule_review/

Economic_Review/Schedule.

(Example: [http://www.dos.state.fl.us/2011_Rule_review/](http://www.dos.state.fl.us/2011_Rule_review/Economic_Review/Schedule)

Economic_Review/Schedule).

3. Determinations under subsection (4):

[Address of agency's Internet website]/2011_Rule_review/

Objection_Determination/[F.A.C. Rule number].

(Example: http://www.dos.state.fl.us/2011_Rule_review/Objection_Determination/15-1.001).

4. Completed compliance economic reviews reported under subsection (5):

[Address of agency's Internet website]/2011_Rule_review/
Economic_Review/[F.A.C. Rule number].

(Example: http://www.dos.state.fl.us/2011_Rule_review/Economic_Review/15-1.001).

5. Final reports under paragraph (5)(d), with the appropriate year:

[Address of agency's Internet website]/2011_Rule_review/
Economic_Review/[YYYY_Final_Report].

(Example: http://www.dos.state.fl.us/2011_Rule_review/Economic_Review/2012_Final_Report).

(b)1. Each notice shall be published using the following URL format:

[Address of agency's Internet website]/
2011_Rule_review/Notices.

(Example: http://www.dos.state.fl.us/2011_Rule_review/Notices).

2. Once each week a copy of all notices published in the previous week on the Internet under this paragraph shall be delivered to the Department of State, for publication in the next available issue of the Florida Administrative Weekly, and a copy shall be delivered by electronic mail to the committee.

3. Each notice shall identify the publication for which notice is being given and include:

a. The name of the agency.

b. The name, physical address, fax number, and e-mail address for the person designated to receive all inquiries, public comments, and objections pertaining to the publication identified in the notice.

c. The particular Internet address through which the publication may be accessed.

d. The date the notice and publication is first published on the agency's Internet website.

(c) Publication pursuant to this section is deemed to be complete as of the date the notice, determination, or report is posted on the agency's Internet website.

(8) FAILURE TO FILE CERTIFICATION OF COMPLETION.—If an agency fails to timely file any written certification required in paragraph (2)(i), paragraph (4)(g), subparagraph (5)(a)2., or subparagraph (5)(d)6., the entire rulemaking authority delegated to the agency by the Legislature under any statute or law shall be suspended automatically as of the due date of the required certification and shall remain suspended until the date that the agency files the required certification with the committee.

(a) During the period of any suspension under this subsection, the agency has no authority to engage in rulemaking under s. 120.54.

(b)A suspension under this subsection does not authorize an agency to promulgate any statement defined as a rule under s. 120.52(16).

(c)A suspension under this subsection shall toll the time requirements under s. 120.54 for any rulemaking proceeding the agency initiated before the date of suspension, which time requirements shall resume on the date the agency files the written certification with the committee and publishes notice of the required certification in the manner provided in subsection (7).

(d)Failure to timely file a written certification required under paragraph (2)(i) tolls the time for public response, which period shall not begin until the date the agency files the written certification with the committee and publishes notice of the required certification in the manner provided in subsection (7). The period for public response shall be extended by the number of days equivalent to the period of suspension under this subsection.

(e)Failure to timely file a written certification required under subparagraph (5)(a)2. shall toll the deadline for submission of lower cost regulatory alternatives for any rule or subpart for which a compliance economic review has not been timely published. The period of tolling shall be the number of days after May 1 until the date of the certification as published.

(9)EXEMPTION FROM ENHANCED BIENNIAL REVIEW AND COMPLIANCE ECONOMIC REVIEW.—

(a)An agency is exempt from subsections (1)-(8) if it has cooperated or cooperates with OFARR in a review of the agency's rules in a manner consistent with Executive Order 2011-01, or any alternative review directed by OFARR; if the agency or OFARR identifies each data collection rule and each revenue rule; and if the information developed thereby becomes publicly available on the Internet by December 1, 2011. Each such agency is exempt from the biennial review required in s. 120.74(2) for the year 2011.

(b)For each rule reviewed under this subsection, OFARR may identify whether the rule imposes a significant regulatory cost or economic impact and shall schedule and obtain or direct a reasonable economic estimate of such cost and impact for each rule so identified. A report on each such estimate shall be published on the Internet by December 31, 2013. On or before October 1, 2013, the agency head shall certify in writing to the committee that the agency has completed each economic estimate required under this paragraph, and thereupon the agency is exempt from the biennial review required in s. 120.74(2) for the year 2013.

(c)The exemption under this paragraph does not apply unless the agency head certifies in writing to the committee, on or before October 1, 2011, that the agency has chosen such exemption and has cooperated with OFARR in undertaking the review required in paragraph (a).

(10)REPEAL.—This section is repealed July 1, 2014.

History.—s. 5, ch. 2011-225; s. 10, ch. 2012-5; s. 3, ch. 2012-27.

¹**Note.—**The words “the ombudsman’s” were substituted by the editors for the word “its.”

120.7455Legislative survey of regulatory impacts.—

(1) From July 1, 2011, until July 1, 2014, the Legislature may establish and maintain an Internet-based public survey of regulatory impact soliciting information from the public regarding the kind and degree of regulation affecting private activities in the state. The input may include, but need not be limited to:

(a) The registered business name or other name of each reporting person.

(b) The number and identity of agencies licensing, inspecting, registering, permitting, or otherwise regulating lawful activities of the reporting person.

(c) The types, numbers, and nature of licenses, permits, and registrations required for various lawful activities of the reporting person.

(d) The identity of local, state, and federal agencies, and other entities acting under color of law which regulate the lawful activities of the reporting person or otherwise exercise power to enforce laws applicable to such activities.

(e) The identification and nature of each ordinance, law, or administrative rule or regulation deemed unreasonably burdensome by the reporting person.

(2) The President of the Senate and the Speaker of the House of Representatives may certify in writing to the chair of the committee and to the Attorney General the establishment and identity of any Internet-based public survey established under this section.

(3) Any person reporting or otherwise providing information solicited by the Legislature in conformity with this section is immune from any enforcement action or prosecution that:

(a) Is instituted on account of, or in reliance upon, the fact of reporting or nonreporting of information in response to the Legislature's solicitation of information pursuant to this section; or

(b) Uses information provided in response to the Legislature's solicitation of information pursuant to this section.

(4) Any alleged violator against whom an enforcement action is brought may object to any proposed penalty in excess of the minimum provided by law or rule on the basis that the action is in retaliation for the violator providing or withholding any information in response to the Legislature's solicitation of information pursuant to this section. If the presiding judge determines that the enforcement action was motivated in whole or in part by retaliation, any penalty imposed is limited to the minimum penalties provided by law for each separate violation adjudicated.

History.—s. 6, ch. 2011-225.

120.80 Exceptions and special requirements; agencies.—

(1) DIVISION OF ADMINISTRATIVE HEARINGS.—

(a) *Division as a party.*—Notwithstanding s. 120.57(1)(a), a hearing in which the division is a party may not be conducted by an administrative law judge assigned by the division. An attorney assigned by the Administration Commission shall be the hearing officer.

(b) *Workers' compensation.*—Notwithstanding s. 120.52(1), a judge of compensation claims, in adjudicating matters under chapter 440, is not an agency or part of an agency for purposes of this chapter.

(2) DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES.—

(a) Marketing orders under chapter 527, chapter 573, or chapter 601 are not rules.

(b) Notwithstanding s. 120.57(1)(a), hearings held by the Department of Agriculture and Consumer Services pursuant to chapter 601 need not be conducted by an administrative law judge assigned by the division.

(3) OFFICE OF FINANCIAL REGULATION.—

(a) Notwithstanding s. 120.60(1), in proceedings for the issuance, denial, renewal, or amendment of a license or approval of a merger pursuant to title XXXVIII:

1.a. The Office of Financial Regulation of the Financial Services Commission shall have published in the Florida Administrative Weekly notice of the application within 21 days after receipt.

b. Within 21 days after publication of notice, any person may request a hearing. Failure to request a hearing within 21 days after notice constitutes a waiver of any right to a hearing. The Office of Financial Regulation or an applicant may request a hearing at any time prior to the issuance of a final order. Hearings shall be conducted pursuant to ss. 120.569 and 120.57, except that the Financial Services Commission shall by rule provide for participation by the general public.

2. Should a hearing be requested as provided by sub-subparagraph 1.b., the applicant or licensee shall publish at its own cost a notice of the hearing in a newspaper of general circulation in the area affected by the application. The Financial Services Commission may by rule specify the format and size of the notice.

3. Notwithstanding s. 120.60(1), and except as provided in subparagraph 4., every application for license for a new bank, new trust company, new credit union, or new savings and loan association shall be approved or denied within 180 days after receipt of the original application or receipt of the timely requested additional information or correction of errors or omissions. Any application for such a license or for acquisition of such control which is not approved or denied within the 180-day period or within 30 days after conclusion of a public hearing on the application, whichever is later, shall be deemed approved subject to the satisfactory completion of conditions required by statute as a prerequisite to license and approval of insurance of accounts for a new bank, a new savings and loan association, or a new credit union by the appropriate insurer.

4. In the case of every application for license to establish a new bank, trust company, or capital stock savings association in which a foreign national proposes to own or control 10 percent or more of any class of voting securities, and in the case of every application by a foreign national for approval to acquire control of a bank, trust company, or capital stock savings association, the Office of Financial Regulation shall request that a public hearing be conducted pursuant to ss. 120.569 and 120.57. Notice of such hearing shall be published by

the applicant as provided in subparagraph 2. The failure of any such foreign national to appear personally at the hearing shall be grounds for denial of the application. Notwithstanding the provisions of s. 120.60(1) and subparagraph 3., every application involving a foreign national shall be approved or denied within 1 year after receipt of the original application or any timely requested additional information or the correction of any errors or omissions, or within 30 days after the conclusion of the public hearing on the application, whichever is later.

(b) In any application for a license or merger pursuant to title XXXVIII which is referred by the agency to the division for hearing, the administrative law judge shall complete and submit to the agency and to all parties a written report consisting of findings of fact and rulings on evidentiary matters. The agency shall allow each party at least 10 days in which to submit written exceptions to the report.

(4) DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION.—

(a) *Business regulation.*—The Division of Pari-mutuel Wagering is exempt from the hearing and notice requirements of ss. 120.569 and 120.57(1)(a), but only for stewards, judges, and boards of judges when the hearing is to be held for the purpose of the imposition of fines or suspensions as provided by rules of the Division of Pari-mutuel Wagering, but not for revocations, and only upon violations of subparagraphs 1.-6. The Division of Pari-mutuel Wagering shall adopt rules establishing alternative procedures, including a hearing upon reasonable notice, for the following violations:

1. Horse riding, harness riding, greyhound interference, and jai alai game actions in violation of chapter 550.

2. Application and usage of drugs and medication to horses, greyhounds, and jai alai players in violation of chapter 550.

3. Maintaining or possessing any device which could be used for the injection or other infusion of a prohibited drug to horses, greyhounds, and jai alai players in violation of chapter 550.

4. Suspensions under reciprocity agreements between the Division of Pari-mutuel Wagering and regulatory agencies of other states.

5. Assault or other crimes of violence on premises licensed for pari-mutuel wagering.

6. Prearranging the outcome of any race or game.

(b) *Professional regulation.*—Notwithstanding s. 120.57(1)(a), formal hearings may not be conducted by the Secretary of Business and Professional Regulation or a board or member of a board within the Department of Business and Professional Regulation for matters relating to the regulation of professions, as defined by chapter 455.

(5) FLORIDA LAND AND WATER ADJUDICATORY COMMISSION.—Notwithstanding the provisions of s. 120.57(1)(a), when the Florida Land and Water Adjudicatory Commission receives a notice of appeal pursuant to s. 380.07, the commission shall notify the division within 60 days after receipt of the notice of appeal if the

commission elects to request the assignment of an administrative law judge.

(6)DEPARTMENT OF LAW ENFORCEMENT.—Law enforcement policies and procedures of the Department of Law Enforcement which relate to the following are not rules as defined by this chapter:

(a)The collection, management, and dissemination of active criminal intelligence information and active criminal investigative information; management of criminal investigations; and management of undercover investigations and the selection, assignment, and fictitious identity of undercover personnel.

(b)The recruitment, management, identity, and remuneration of confidential informants or sources.

(c)Surveillance techniques, the selection of surveillance personnel, and electronic surveillance, including court-ordered and consensual interceptions of communication conducted pursuant to chapter 934.

(d)The safety and release of hostages.

(e)The provision of security and protection to public figures.

(f)The protection of witnesses.

(7)DEPARTMENT OF CHILDREN AND FAMILY SERVICES.—Notwithstanding s. 120.57(1)(a), hearings conducted within the Department of Children and Family Services in the execution of those social and economic programs administered by the former Division of Family Services of the former Department of Health and Rehabilitative Services prior to the reorganization effected by chapter 75-48, Laws of Florida, need not be conducted by an administrative law judge assigned by the division.

(8)DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES.—

(a)*Drivers' licenses.*—

1. Notwithstanding s. 120.57(1)(a), hearings regarding drivers' licensing pursuant to chapter 322 need not be conducted by an administrative law judge assigned by the division.

2. Notwithstanding s. 120.60(5), cancellation, suspension, or revocation of a driver's license shall be by personal delivery to the licensee or by first-class mail as provided in s. 322.251.

(b)*Wrecker operators.*—Notwithstanding s. 120.57(1)(a), hearings held by the Division of the Florida Highway Patrol of the Department of Highway Safety and Motor Vehicles to deny, suspend, or remove a wrecker operator from participating in the wrecker rotation system established by s. 321.051 need not be conducted by an administrative law judge assigned by the division. These hearings shall be held by a hearing officer appointed by the director of the Division of the Florida Highway Patrol.

(9)OFFICE OF INSURANCE REGULATION.—Notwithstanding s. 120.60(1), every application for a certificate of authority as required by s. 624.401 shall be approved or denied within 180 days after receipt of the original application. Any application for a certificate of authority which is not approved or denied within the 180-day period, or within 30 days after conclusion of a public hearing held on the application, shall be deemed approved, subject to the satisfactory completion of conditions required by statute as a prerequisite to licensure.

(10) DEPARTMENT OF ECONOMIC OPPORTUNITY.—

(a) Notwithstanding s. 120.54, the rulemaking provisions of this chapter do not apply to reemployment assistance appeals referees.

(b) Notwithstanding s. 120.54(5), the uniform rules of procedure do not apply to appeal proceedings conducted under chapter 443 by the Reemployment Assistance Appeals Commission, special deputies, or reemployment assistance appeals referees.

(c) Notwithstanding s. 120.57(1)(a), hearings under chapter 443 may not be conducted by an administrative law judge assigned by the division, but instead shall be conducted by the Reemployment Assistance Appeals Commission in reemployment assistance appeals, reemployment assistance appeals referees, and the Department of Economic Opportunity or its special deputies under s. 443.141.

(11) NATIONAL GUARD.—Notwithstanding s. 120.52(16), the enlistment, organization, administration, equipment, maintenance, training, and discipline of the militia, National Guard, organized militia, and unorganized militia, as provided by s. 2, Art. X of the State Constitution, are not rules as defined by this chapter.

(12) PUBLIC EMPLOYEES RELATIONS COMMISSION.—

(a) Notwithstanding s. 120.57(1)(a), hearings within the jurisdiction of the Public Employees Relations Commission need not be conducted by an administrative law judge assigned by the division.

(b) Section 120.60 does not apply to certification of employee organizations pursuant to s. 447.307.

(13) FLORIDA PUBLIC SERVICE COMMISSION.—

(a) Agency statements that relate to cost-recovery clauses, factors, or mechanisms implemented pursuant to chapter 366, relating to public utilities, are exempt from the provisions of s. 120.54(1)(a).

(b) Notwithstanding ss. 120.569 and 120.57, a hearing on an objection to proposed action of the Florida Public Service Commission may only address the issues in dispute. Issues in the proposed action which are not in dispute are deemed stipulated.

(c) The Florida Public Service Commission is exempt from the time limitations in s. 120.60(1) when issuing a license.

(d) Notwithstanding the provisions of this chapter, in implementing the Telecommunications Act of 1996, Pub. L. No. 104-104, the Public Service Commission is authorized to employ procedures consistent with that act.

(e) Notwithstanding the provisions of this chapter, s. 350.128, or s. 364.381, appellate jurisdiction for Public Service Commission decisions that implement the Telecommunications Act of 1996, Pub. L. No. 104-104, shall be consistent with the provisions of that act.

(f) Notwithstanding any provision of this chapter, all public utilities and companies regulated by the Public Service Commission shall be entitled to proceed under the interim rate provisions of chapter 364 or the

procedures for interim rates contained in chapter 74-195, Laws of Florida, or as otherwise provided by law.

(14) DEPARTMENT OF REVENUE.—

(a) *Assessments.*—An assessment of tax, penalty, or interest by the Department of Revenue is not a final order as defined by this chapter. Assessments by the Department of Revenue shall be deemed final as provided in the statutes and rules governing the assessment and collection of taxes.

(b) *Taxpayer contest proceedings.*—

1. In any administrative proceeding brought pursuant to this chapter as authorized by s. 72.011(1), the taxpayer shall be designated the “petitioner” and the Department of Revenue shall be designated the “respondent,” except that for actions contesting an assessment or denial of refund under chapter 207, the Department of Highway Safety and Motor Vehicles shall be designated the “respondent,” and for actions contesting an assessment or denial of refund under chapters 210, 550, 561, 562, 563, 564, and 565, the Department of Business and Professional Regulation shall be designated the “respondent.”

2. In any such administrative proceeding, the applicable department’s burden of proof, except as otherwise specifically provided by general law, shall be limited to a showing that an assessment has been made against the taxpayer and the factual and legal grounds upon which the applicable department made the assessment.

3.a. Prior to filing a petition under this chapter, the taxpayer shall pay to the applicable department the amount of taxes, penalties, and accrued interest assessed by that department which are not being contested by the taxpayer. Failure to pay the uncontested amount shall result in the dismissal of the action and imposition of an additional penalty of 25 percent of the amount taxed.

b. The requirements of s. 72.011(2) and (3)(a) are jurisdictional for any action under this chapter to contest an assessment or denial of refund by the Department of Revenue, the Department of Highway Safety and Motor Vehicles, or the Department of Business and Professional Regulation.

4. Except as provided in s. 220.719, further collection and enforcement of the contested amount of an assessment for nonpayment or underpayment of any tax, interest, or penalty shall be stayed beginning on the date a petition is filed. Upon entry of a final order, an agency may resume collection and enforcement action.

5. The prevailing party, in a proceeding under ss. 120.569 and 120.57 authorized by s. 72.011(1), may recover all legal costs incurred in such proceeding, including reasonable attorney’s fees, if the losing party fails to raise a justiciable issue of law or fact in its petition or response.

6. Upon review pursuant to s. 120.68 of final agency action concerning an assessment of tax, penalty, or interest with respect to a tax imposed under chapter 212, or the denial of a refund of any tax imposed under chapter 212, if the court finds that the Department of Revenue improperly rejected or modified a conclusion of law, the court may award reasonable attorney’s fees and reasonable costs of the appeal to the prevailing appellant.

(c) Proceedings to establish paternity or paternity and child support; orders to appear for genetic testing; proceedings for administrative support orders.—In proceedings to establish paternity or paternity and child support pursuant to s. 409.256 and proceedings for the establishment of administrative support orders pursuant to s. 409.2563, final orders in cases referred by the Department of Revenue to the Division of Administrative Hearings shall be entered by the division’s administrative law judge and transmitted to the Department of Revenue for filing and rendering. The Department of Revenue has the right to seek judicial review under s. 120.68 of a final order entered by an administrative law judge. The Department of Revenue or the person ordered to appear for genetic testing may seek immediate judicial review under s. 120.68 of an order issued by an administrative law judge pursuant to s. 409.256(5)(b). Final orders that adjudicate paternity or paternity and child support pursuant to s. 409.256 and administrative support orders rendered pursuant to s. 409.2563 may be enforced pursuant to s. 120.69 or, alternatively, by any method prescribed by law for the enforcement of judicial support orders, except contempt. Hearings held by the Division of Administrative Hearings pursuant to ss. 409.256, 409.2563, and 409.25635 shall be held in the judicial circuit where the person receiving services under Title IV-D resides or, if the person receiving services under Title IV-D does not reside in this state, in the judicial circuit where the respondent resides. If the department and the respondent agree, the hearing may be held in another location. If ordered by the administrative law judge, the hearing may be conducted telephonically or by videoconference.

(15)DEPARTMENT OF HEALTH.—Notwithstanding s. 120.57(1)(a), formal hearings may not be conducted by the State Surgeon General, the Secretary of Health Care Administration, or a board or member of a board within the Department of Health or the Agency for Health Care Administration for matters relating to the regulation of professions, as defined by chapter 456. Notwithstanding s. 120.57(1)(a), hearings conducted within the Department of Health in execution of the Special Supplemental Nutrition Program for Women, Infants, and Children; Child Care Food Program; Children’s Medical Services Program; the Brain and Spinal Cord Injury Program; and the exemption from disqualification reviews for certified nurse assistants program need not be conducted by an administrative law judge assigned by the division. The Department of Health may contract with the Department of Children and Family Services for a hearing officer in these matters.

(16)FLORIDA BUILDING COMMISSION.—

(a)Notwithstanding the provisions of s. 120.542, the Florida Building Commission may not accept a petition for waiver or variance and may not grant any waiver or variance from the requirements of the Florida Building Code.

(b)The Florida Building Commission shall adopt within the Florida Building Code criteria and procedures for alternative means of compliance with the code or local amendments thereto, for enforcement by local governments, local enforcement districts, or other entities authorized by law to enforce the Florida Building Code. Appeals from the denial of the use of alternative means shall be heard by the local board, if one exists,

and may be appealed to the Florida Building Commission.

(c)Notwithstanding ss. 120.565, 120.569, and 120.57, the Florida Building Commission and hearing officer panels appointed by the commission in accordance with s. 553.775(3)(c)1. may conduct proceedings to review decisions of local building code officials in accordance with s. 553.775(3)(c).

(d)Section 120.541(3) does not apply to the adoption of amendments and the triennial update to the Florida Building Code expressly authorized by s. 553.73.

(17)STATE FIRE MARSHAL.—Section 120.541(3) does not apply to the adoption of amendments and the triennial update to the Florida Fire Prevention Code expressly authorized by s. 633.0215.

(18)DEPARTMENT OF TRANSPORTATION.—Sections 120.54(3)(b) and 120.541 do not apply to the adjustment of tolls pursuant to s. 338.165(3).

History.—s. 41, ch. 96-159; s. 13, ch. 98-166; s. 10, ch. 99-8; s. 4, ch. 99-397; s. 1, ch. 2000-141; s. 17, ch. 2000-151; s. 2, ch. 2000-160; s. 11, ch. 2000-304; s. 4, ch. 2000-305; ss. 2, 11, ch. 2000-312; s. 4, ch. 2000-355; s. 3, ch. 2000-367; s. 18, ch. 2001-158; s. 2, ch. 2001-279; s. 8, ch. 2002-173; s. 1, ch. 2002-239; s. 3, ch. 2003-36; s. 139, ch. 2003-261; s. 1, ch. 2004-52; s. 7, ch. 2004-334; ss. 12, 13, ch. 2005-39; s. 1, ch. 2005-96; s. 13, ch. 2005-147; s. 1, ch. 2005-209; s. 5, ch. 2006-45; s. 9, ch. 2008-6; s. 16, ch. 2008-104; s. 5, ch. 2009-187; s. 1, ch. 2011-64; s. 50, ch. 2011-142; s. 8, ch. 2011-225; s. 43, ch. 2012-30.

120.81 Exceptions and special requirements; general areas.—

(1) EDUCATIONAL UNITS.—

(a)Notwithstanding s. 120.536(1) and the flush left provisions of s. 120.52(8), district school boards may adopt rules to implement their general powers under s. 1001.41.

(b)The preparation or modification of curricula by an educational unit is not a rule as defined by this chapter.

(c)Notwithstanding s. 120.52(16), any tests, test scoring criteria, or testing procedures relating to student assessment which are developed or administered by the Department of Education pursuant to s. 1003.43, s. 1003.438, s. 1008.22, or s. 1008.25, or any other statewide educational tests required by law, are not rules.

(d)Notwithstanding any other provision of this chapter, educational units shall not be required to include the full text of the rule or rule amendment in notices relating to rules and need not publish these or other notices in the Florida Administrative Weekly, but notice shall be made:

1. By publication in a newspaper of general circulation in the affected area;
2. By mail to all persons who have made requests of the educational unit for advance notice of its proceedings and to organizations representing persons affected by the proposed rule; and
3. By posting in appropriate places so that those particular classes of persons to whom the intended action is directed may be duly notified.

(e)Educational units, other than the Florida School for the Deaf and the Blind, shall not be required to

make filings with the committee of the documents required to be filed by s. 120.54 or s. 120.55(1)(a)4.

(f)Notwithstanding s. 120.57(1)(a), hearings which involve student disciplinary suspensions or expulsions may be conducted by educational units.

(g)Sections 120.569 and 120.57 do not apply to any proceeding in which the substantial interests of a student are determined by a state university or a community college.

(h)Notwithstanding ss. 120.569 and 120.57, in a hearing involving a student disciplinary suspension or expulsion conducted by an educational unit, the 14-day notice of hearing requirement may be waived by the agency head or the hearing officer without the consent of parties.

(i)For purposes of s. 120.68, a district school board whose decision is reviewed under the provisions of s. 1012.33 and whose final action is modified by a superior administrative decision shall be a party entitled to judicial review of the final action.

(j)Notwithstanding s. 120.525(2), the agenda for a special meeting of a district school board under authority of s. 1001.372(1) shall be prepared upon the calling of the meeting, but not less than 48 hours prior to the meeting.

(k)Students are not persons subject to regulation for the purposes of petitioning for a variance or waiver to rules of educational units under s. 120.542.

(l)Sections 120.54(3)(b) and 120.541 do not apply to the adoption of rules pursuant to s. 1012.22, s. 1012.27, s. 1012.335, s. 1012.34, or s. 1012.795.

(2)LOCAL UNITS OF GOVERNMENT.—

(a)Local units of government with jurisdiction in only one county or part thereof shall not be required to make filings with the committee of the documents required to be filed by s. 120.54.

(b)Notwithstanding any other provision of this chapter, units of government with jurisdiction in only one county or part thereof need not publish required notices in the Florida Administrative Weekly, but shall publish these notices in the manner required by their enabling acts for notice of rulemaking or notice of meeting. Notices relating to rules are not required to include the full text of the rule or rule amendment.

(3)PRISONERS AND PAROLEES.—

(a)Notwithstanding s. 120.52(13), prisoners, as defined by s. 944.02, shall not be considered parties in any proceedings other than those under s. 120.54(3)(c) or (7), and may not seek judicial review under s. 120.68 of any other agency action. Prisoners are not eligible to seek an administrative determination of an agency statement under s. 120.56(4). Parolees shall not be considered parties for purposes of agency action or judicial review when the proceedings relate to the rescission or revocation of parole.

(b)Notwithstanding s. 120.54(3)(c), prisoners, as defined by s. 944.02, may be limited by the Department of Corrections to an opportunity to present evidence and argument on issues under consideration by submission of written statements concerning intended action on any department rule.

(c) Notwithstanding ss. 120.569 and 120.57, in a preliminary hearing for revocation of parole, no less than 7 days' notice of hearing shall be given.

(4) REGULATION OF PROFESSIONS.—Notwithstanding s. 120.569(2)(g), in a proceeding against a licensed professional or in a proceeding for licensure of an applicant for professional licensure which involves allegations of sexual misconduct:

(a) The testimony of the victim of the sexual misconduct need not be corroborated.

(b) Specific instances of prior consensual sexual activity between the victim of the sexual misconduct and any person other than the offender is inadmissible, unless:

1. It is first established to the administrative law judge in a proceeding in camera that the victim of the sexual misconduct is mistaken as to the identity of the perpetrator of the sexual misconduct; or

2. If consent by the victim of the sexual misconduct is at issue and it is first established to the administrative law judge in a proceeding in camera that such evidence tends to establish a pattern of conduct or behavior on the part of such victim which is so similar to the conduct or behavior in the case that it is relevant to the issue of consent.

(c) Reputation evidence relating to the prior sexual conduct of a victim of sexual misconduct is inadmissible.

(5) HUNTING AND FISHING REGULATION.—Agency action which has the effect of altering established hunting or fishing seasons, or altering established annual harvest limits for saltwater fishing if the procedure for altering such harvest limits is set out by rule of the Fish and Wildlife Conservation Commission, is not a rule as defined by this chapter, provided such action is adequately noticed in the area affected through publishing in a newspaper of general circulation or through notice by broadcasting by electronic media.

(6) RISK IMPACT STATEMENT.—The Department of Environmental Protection shall prepare a risk impact statement for any rule that is proposed for approval by the Environmental Regulation Commission and that establishes or changes standards or criteria based on impacts to or effects upon human health. The Department of Agriculture and Consumer Services shall prepare a risk impact statement for any rule that is proposed for adoption that establishes standards or criteria based on impacts to or effects upon human health.

(a) This subsection does not apply to rules adopted pursuant to federally delegated or mandated programs where such rules are identical or substantially identical to the federal regulations or laws being adopted or implemented by the Department of Environmental Protection or Department of Agriculture and Consumer Services, as applicable. However, the Department of Environmental Protection and the Department of Agriculture and Consumer Services shall identify any risk analysis information available to them from the Federal Government that has formed the basis of such a rule.

(b) This subsection does not apply to emergency rules adopted pursuant to this chapter.

(c)The Department of Environmental Protection and the Department of Agriculture and Consumer Services shall prepare and publish notice of the availability of a clear and concise risk impact statement for all applicable rules. The risk impact statement must explain the risk to the public health addressed by the rule and shall identify and summarize the source of the scientific information used in evaluating that risk.

(d)Nothing in this subsection shall be construed to create a new cause of action or basis for challenging a rule nor diminish any existing cause of action or basis for challenging a rule.

History.—s. 42, ch. 96-159; s. 17, ch. 97-176; s. 49, ch. 99-2; s. 65, ch. 99-245; s. 7, ch. 99-379; s. 28, ch. 99-398; s. 4, ch. 2000-214; s. 897, ch. 2002-387; s. 17, ch. 2008-104; s. 4, ch. 2010-78; s. 9, ch. 2011-225.

**CHAPTER 64B16-25
ORGANIZATION AND PURPOSE**

- 64B16-25.130 Executive Director (Repealed)
- 64B16-25.170 Probable Cause Panel
- 64B16-25.340 Meetings and Workshops

64B16-25.130 Executive Director.

Rulemaking Authority 465.005 FS. Law Implemented 48.111(2), 456.004, 456.009 FS. History—New 10-17-79, Formerly 21S-8.04, 21S-8.004, Amended 7-30-91, Formerly 21S-25.130, 61F10-25.130, 59X-25.130, Amended 10-29-97, 11-2-03, Repealed 3-28-12.

64B16-25.170 Probable Cause Panel.

(1) The determination as to whether probable cause exists to believe that a violation of Chapter 456, Part II, 465, 499, or 893, F.S., or of the rules promulgated thereunder, has occurred shall be made by the probable cause panel. The panel shall meet as necessary.

(2) The probable cause panel shall be composed of two (2) persons, either current or former board members appointed by the chairman of the Board. One appointee must be a current board member. The panel must include a former or current board member who is a licensed pharmacist. An appointee may be a former board member.

Rulemaking Authority 465.005 FS. Law Implemented 456.073 FS. History—New 10-17-79, Formerly 21S-8.08, 21S-8.008, 21S-25.170, 61F10-25.170, 59X-25.170, Amended 11-24-09.

64B16-25.340 Meetings and Workshops.

The following are considered to be official meetings of the Board:

- (1) Board Meetings.
- (2) Examination Committee Meetings.
- (3) Tripartite Continuing Education Committee Meeting.
- (4) Meetings of committees set out in the official minutes of the Board where statutory authority is given by the practice act.
- (5) Meetings of a Board member with Department staff or contractors of the Department at the Department's or Board's request. Any participation or meeting of members noticed or unnoticed will be on file in the Board office.
- (6) Where a Board member has been requested by the State Surgeon General to participate in a meeting.
- (7) Probable Cause Panel meetings.
- (8) All activity of Board members, if authorized by the Board, when grading, proctoring or reviewing examinations given by the Department.
- (9) All participation in Board authorized meetings with professional associations of which the Board is a member or invitee. This would include all meetings of the National Association of Boards of Pharmacy of which the Board is a member as well as Board authorized participation in meetings of national or professional associations or organizations involved in educating, regulating and reviewing the profession over which the Board has statutory authority.
- (10) Any and all other activities which are Board approved and which are necessary for Board members to attend in order to further protect the public health, safety and welfare, through the regulation of which the Board has statutory authority.

Rulemaking Authority 456.011(4) FS. Law Implemented 456.011(4) FS. History—New 9-30-81, Amended 11-13-81, 12-31-81, Formerly 21S-10.05, 21S-10.005, Amended 7-30-91, Formerly 21S-25.340, 61F10-25.340, 59X-25.340, Amended 2-18-08.

**CHAPTER 64B16-26
PHARMACISTS LICENSURE**

- 64B16-26.100 Pharmacists Newly Licensed (Repealed)
- 64B16-26.101 Fees and License Renewal Application
- 64B16-26.1001 Examination and Application Fees
- 64B16-26.1002 Initial License Fees
- 64B16-26.1003 Active License Renewal Fees
- 64B16-26.1004 Inactive License Election; Renewal; Fees
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- 64B16-26.1012 Approved Continuing Education Provider Renewal Fee
- 64B16-26.102 Inactive License Renewal (Repealed)
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- 64B16-26.1022 Permit Fees
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- 64B16-26.1031 Influenza Immunization Certification Program
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- 64B16-26.104 Exemptions for Members of the Armed Forces; Spouses
- 64B16-26.105 Consultant Pharmacists Initial Registration Fee and Renewal Fee (Repealed)
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- 64B16-26.200 Examination Requirements
- 64B16-26.201 Reexamination (Repealed)
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- 64B16-26.203 Licensure by Examination; Application
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- 64B16-26.2032 Pharmacy Intern Registration Internship Requirements (U.S. Pharmacy Students/Graduates)
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- 64B16-26.300 Consultant Pharmacist Licensure
- 64B16-26.301 Subject Matter for Consultant Pharmacist Training Program
- 64B16-26.302 Subject Matter for Consultant Pharmacist Licensure Renewal Continuing Education
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- 64B16-26.320 Subject Matter for Continuing Education to Order and Evaluate Laboratory Tests
- 64B16-26.350 Requirements for Pharmacy Technician Registration
- 64B16-26.351 Standards for Approval of Registered Pharmacy Technician Training Programs
- 64B16-26.355 Subject Matter for Registered Pharmacy Technician Continuing Education
- 64B16-26.400 Pharmacy Interns; Registration; Employment
- 64B16-26.401 Requirements for an Internship Program Sufficient to Qualify an Applicant for Licensure by Examination (Repealed)
- 64B16-26.600 Tripartite Continuing Education Committee
- 64B16-26.601 Standards for Approval of Courses and Providers
- 64B16-26.6012 Guidelines for Board Ordered Disciplinary Continuing Education Courses
- 64B16-26.603 Continuing Education Records Requirements
- 64B16-26.602 Recommendation by the Tripartite Continuing Education Committee (Repealed)
- 64B16-26.606 Number of Required Hours (Repealed)

64B16-26.100 Pharmacists Newly Licensed.

Rulemaking Authority 456.013(2), 465.005 FS. Law Implemented 456.013(2), 465.008 FS. History—New 3-19-79, Formerly 21S-6.04, Amended 1-7-87, 12-29-88, 10-16-90, Formerly 21S-6.004, Amended 1-10-93, Formerly 21S-26.100, 61F10-26.100, 59X-26.100, Amended 4-17-01, Repealed 3-10-05.

64B16-26.101 Fees and License Renewal Application.

Rulemaking Authority 465.005 FS. Law Implemented 456.036, 456.064, 465.008 FS. History—New 3-19-79, Formerly 21S-6.05, Amended 1-7-87, 4-21-87, 12-29-88, Formerly 21S-6.005, Amended 7-31-91, 1-10-93, Formerly 21S-26.101, 61F10-26.101, Amended 3-10-96, Formerly 59X-26.101, Amended 12-31-97, 12-3-00, 3-18-01, 10-15-01, Repealed 3-10-05.

64B16-26.1001 Examination and Application Fees.

(1) The non-refundable examination fee for licensure by examination shall be \$100, payable to the Board. Examination fees for the National Practice Examination and jurisprudence examination are payable to the examination vendor.

(2) The non-refundable application fee licensure by endorsement shall be \$100, payable to the Board.

(3) The non-refundable application fee for a continuing education provider seeking approved provider status shall be \$150, payable to the Board.

(4) The non-refundable application fee for the Influenza Immunization Certification shall be \$55, payable to the Board.

(5) The non-refundable application fee for registered pharmacy technicians shall be \$50, payable to the Board.

Rulemaking Authority 465.005, 465.009 FS. Law Implemented 456.025(7), 465.007, 465.0075, 465.009, 465.014 FS. History—New 1-11-05, Amended 10-30-07, 11-15-09, 7-7-10.

64B16-26.1002 Initial License Fees.

(1) The initial license fee for a pharmacist license shall be \$190 plus a \$5 unlicensed activity fee pursuant to Section 456.065(3), F.S.

(2) The initial license fee for a consultant pharmacist license shall be \$50 plus a \$5 unlicensed activity fee pursuant to Section 456.065(3), F.S.

(3) The initial license fee for a nuclear pharmacist license shall be \$50 plus a \$5 unlicensed activity fee pursuant to Section 456.065(3), F.S.

(4) The initial registration fee for a registered pharmacy technician shall be \$50 plus a \$5 unlicensed activity fee pursuant to Section 456.065(3), F.S.

Rulemaking Authority 465.005, 465.0125, 465.0126 FS. Law Implemented 456.013(2), 456.065(3), 465.0125, 465.0126, 465.014 FS. History—New 1-11-05, Amended 11-24-09.

64B16-26.1003 Active License Renewal Fees.

(1) The biennial license renewal fee for an active pharmacist license shall be \$200 plus a \$5 unlicensed activity fee pursuant to Section 456.065(3), F.S.

(2) The biennial license renewal fee for a consultant pharmacist active license shall be \$100 plus a \$5 unlicensed activity fee pursuant to Section 456.065(3), F.S.

(3) The biennial license renewal fee for a nuclear pharmacist active license shall be \$100 plus a \$5 unlicensed activity fee pursuant to Section 456.065(3), F.S.

(4) The biennial registration renewal fee for a registered pharmacy technician shall be \$50 plus \$5 unlicensed activity fee pursuant to Section 456.065(3), F.S.

Rulemaking Authority 456.036, 465.005, 465.008, 465.0125, 465.0126 FS. Law Implemented 456.036, 456.065(3), 465.008, 465.0125, 465.0126, 465.014 FS. History—New 1-11-05, Amended 2-24-10, 2-1-12.

64B16-26.1004 Inactive License Election; Renewal; Fees.

(1) A pharmacist licensee may elect:

(a) At the time of license renewal to place the license on inactive status by submitting a written request with the board for inactive status and submitting the inactive status renewal fee of \$245 plus a \$5 unlicensed activity fee pursuant to Section 456.065(3), F.S.

(b) At the time of license renewal, if the license is inactive, to continue the license on inactive status by submitting a written request with the board for inactive status and submitting the inactive status renewal fee of \$245 plus a \$5 unlicensed activity fee pursuant to Section 456.065(3), F.S.

(c) At the time of license renewal to change the inactive status license to active status, provided the licensee meets the continuing education requirements of Rule 64B16-26.103, F.A.C., for each biennium the license was on inactive status, submits the reactivation fee of \$70, and the current active renewal fee set forth in Rule 64B16-26.1001, F.A.C.

(d) At a time other than license renewal to change the inactive status license to active status, provided the licensee meets the continuing education requirements of Rule 64B16-26.103, F.A.C., for each biennium the license was on inactive status and submits the reactivation fee of \$70, a change of status fee of \$25 and the difference between the inactive status renewal fee and the active status renewal fee, if any exists.

(2) A consultant pharmacist licensee may elect:

(a) At the time of license renewal to place the license on inactive status by submitting a written request with the board for inactive status and submitting the inactive status renewal fee of \$100 plus a \$5 unlicensed activity fee pursuant to Section 456.065(3), F.S.

(b) At the time of license renewal, if the consultant pharmacist license is inactive, to continue the license on inactive status by submitting a written request with the board for inactive status and submitting the inactive status renewal fee of \$100 plus a \$5 unlicensed activity fee pursuant to Section 456.065(3), F.S.

(c) At the time of license renewal to change the inactive status consultant pharmacist license to active status, provided the consultant pharmacist licensee meets the continuing education requirements of subsection 64B16-26.103(2), F.A.C., for each biennium the license was on inactive status and by submitting a reactivation fee of \$25, and the active consultant pharmacist renewal fee set forth in Rule 64B16-26.1003, F.A.C.

(d) At a time other than license renewal to change the inactive status license to active status, provided the licensee meets the continuing education requirements of Rule 64B16-26.103, F.A.C., for each biennium the license was on inactive status, and submits the reactivation fee of \$25, a change of status fee of \$25 and the difference between the inactive status renewal fee and the active status renewal fee, if any exists.

(3) A nuclear pharmacist licensee may elect:

(a) At the time of license renewal to place the nuclear pharmacist license on inactive status by submitting a written request with the board for inactive status and submitting the inactive status renewal fee of \$100 plus a \$5 unlicensed activity fee pursuant to Section 456.065(3), F.S.

(b) At the time of license renewal, if the nuclear pharmacist license is inactive, to continue the license on inactive status by submitting a written request with the board for inactive status and submitting the inactive status renewal fee of \$100 plus a \$5 unlicensed activity fee pursuant to Section 456.065(3), F.S.

(c) At the time of license renewal to change the inactive status license to active status, provided the nuclear pharmacist meets the continuing education requirements of Rule 64B16-26.304, F.A.C., for each biennium the license was on inactive status, and by submitting a reactivation fee of \$50, and the active nuclear license renewal fee set forth in Rule 64B16-26.1003, F.A.C.

(d) At a time other than license renewal to change the inactive status license to active status, provided the nuclear pharmacist licensee meets the continuing education requirements of Rule 64B16-26.304, F.A.C., for each biennium the license was on inactive status and by submitting a reactivation fee of \$50, a change of status fee of \$25 and the difference between the inactive status renewal fee and the active status renewal fee, if any exists.

(4) A registered pharmacy technician may elect:

(a) At the time of renewal to place the registered pharmacy technician registration on inactive status by submitting a written request with the board for inactive status and submitting the inactive status renewal fee of \$50 plus a \$5 unlicensed activity fee pursuant to Section 456.065(3), F.S.

(b) At the time of renewal, if the registered pharmacy technician registration is inactive, to continue the registration on inactive status by submitting a written request with the board for inactive status and submitting the inactive status renewal fee of \$50 plus a \$5 unlicensed activity fee pursuant to Section 456.065(3), F.S.

(c) At the time of renewal to change the inactive status registration to active status, provided the registered pharmacy technician meets the continuing education requirements of Rule 64B16-26.103, F.A.C., for each biennium the registration was on inactive status, and by submitting a reactivation fee of \$50, and the active registration fee set forth in Rule 64B16-26.1003, F.A.C.

(d) At a time other than renewal to change the inactive status registration to active status, provided the registered pharmacy technician meets the continuing education requirements of Rule 64B16-26.103, F.A.C., for each biennium the registration was on inactive status and by submitting a reactivation fee of \$50, a change of status fee of \$25 and the difference between the inactive

status renewal fee and the active status renewal fee, if any exists.

Rulemaking Authority 456.036, 465.005, 465.012, 465.0125, 465.0126 FS. Law Implemented 456.036, 456.065(3), 465.012, 465.0125, 465.0126 FS. History—New 1-11-05, Amended 10-30-07, 10-27-09.

64B16-26.1005 Retired License Election; Renewal; Fees.

(1) A licensee may elect to place his or her license on retired status.

(a) At the time of license renewal, to place the license on retired status, the licensee must submit a written request with the board for retired status and submit the retired status fee of \$50.00 pursuant to Section 456.036(4)(b), F.S., and the current unlicensed activity fee.

(b) At a time other than license renewal, to place the license on retired status, the licensee must submit a written request to the Board for the retired status plus submit the retired status fee of \$50.00 pursuant to Section 456.036(4)(b), F.S., plus a change of status fee of \$25.00, plus the current unlicensed activity fee.

(c) Before the license of a retired status licensee is reactivated, the licensee must meet the continuing education requirements in Rule 64B16-26.103, F.A.C., and pay any renewal fees imposed on an active status licensee for all biennial licensure periods, plus the current unlicensed activity fee during which the licensee was on retired status.

(2) Any pharmacist applying for an active status license who has been on retired status for 5 years or more, or if licensed elsewhere, has not been active during the past 5 years, shall as a condition of licensure, demonstrate that he or she is able to practice with the care and skill sufficient to protect the health, safety, and welfare of the public by:

(a) If inactive for less than 5 years, the licensee must pass a jurisprudence examination;

(b) If inactive for 5 or more years, in addition to paragraph (a), the licensee must pass the NAPLEX.

Rulemaking Authority 456.036(15) FS. Law Implemented 456.013, 456.036(4)(b) FS. History—New 11-29-06, Amended 12-22-09.

64B16-26.1012 Approved Continuing Education Provider Renewal Fee.

The biennial fee to renew as an approved continuing education provider shall be \$150.

Rulemaking Authority 456.013(9), 465.005 FS. Law Implemented 456.013(9), 465.009, 465.012 FS. History—New 1-11-05.

64B16-26.1021 Delinquent License Reversion; Reinstatement; Fees.

(1) An active or inactive license that is not renewed by midnight of the expiration date of the license shall automatically revert to delinquent status.

(2) A pharmacist may request that a delinquent license be reinstated to active or inactive status, provided the licensee meets the continuing education requirements of Rule 64B16-26.103, F.A.C., for each biennium the license was on inactive status, and by submitting a reactivation fee of \$100 plus the current fee for an active status or inactive status license set forth in Rule 64B16-26.1003 or 64B16-26.1004, F.A.C.

(3) A consultant pharmacist may request that a delinquent consultant pharmacist license be reinstated to an active or inactive status by submitting a delinquent fee of \$100 plus the current fee for an active or inactive status consultant pharmacist license set forth in Rule 64B16-26.1003 or 64B16-26.1004, F.A.C.

(4) A nuclear pharmacist may request that a delinquent nuclear pharmacist license be reinstated to an active or inactive license status by submitting a delinquent fee of \$100 plus the current fee for an active or inactive nuclear pharmacist license set forth in Rule 64B16-26.1003 or 64B16-26.1004, F.A.C.

(5) A registered pharmacy technician may request that a delinquent registered pharmacy technician registration be reinstated to an active or inactive status provided the registered pharmacy technician meets the continuing education requirements of Rule 64B16-26.103, F.A.C., for each biennium the registration was on inactive status, and by submitting a reactivation fee of \$25 plus the current fee for an active or inactive status registered pharmacy technician registration set forth in Rule 64B16-26.1003 or 64B16-26.1004, F.A.C.

(6) A license in delinquent status that is not renewed prior to midnight of the expiration date of the current licensure cycle shall be rendered null without any further action by the Department. Any subsequent license shall be the result of applying for and meeting all requirements imposed on an applicant for new licensure.

Rulemaking Authority 456.036, 465.005, 465.012 FS. Law Implemented 456.036, 465.012 FS. History—New 1-11-05, Amended 10-27-09.

64B16-26.102 Inactive License Renewal.

Rulemaking Authority 465.005 FS. Law Implemented 465.008, 465.012 FS. History—New 3-19-79, Formerly 21S-6.06, Amended 1-7-87, 12-29-88, Formerly 21S-6.006, Amended 7-31-91, 1-10-93, Formerly 21S-26.102, 61F10-26.102, Amended 3-10-96, Formerly 59X-26.102, Amended 3-18-01, Repealed 3-10-05.

64B16-26.1022 Permit Fees.

- (1) The initial permit fee for a pharmacy, as provided by Section 465.022(8)(a), F.S., shall be \$250.
- (2) The biennial permit renewal fee for a pharmacy, as provided by Section 465.022(8)(b), F.S., shall be \$250.
- (3) The change of location fee for a pharmacy, as provided by Section 465.022(8)(d), F.S., shall be \$100.
- (4) The delinquent fee for a pharmacy permit, as provided by Section 465.022(8)(c), F.S., shall be \$100.

Rulemaking Authority 465.005, 465.022(8) FS. Law Implemented 465.022(8) FS. History—New 1-11-05.

64B16-26.103 Continuing Education Credits; Renewal.

(1) Prior to biennial renewal of pharmacist licensure, a licensee shall complete no less than 30 hours of approved courses of continued professional pharmaceutical education within the 24 month period prior to the expiration date of the license. The following conditions shall apply.

(a) Upon a licensee's first renewal of licensure, the licensee must document the completion of one (1) hour of board approved continuing education which includes the topics of Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome; the modes of transmission, including transmission from a healthcare worker to a patient and the patient to the healthcare worker; infection control procedures, including universal precautions; epidemiology of the disease; related infections including tuberculosis (TB); clinical management; prevention; and current Florida law on AIDS and its impact on testing, confidentiality of test results, and treatment of patients. In order to meet this requirement, licensees must demonstrate that the course includes information on the State of Florida law on HIV/AIDS and its impact on testing, reporting, the offering of HIV testing to pregnant women, and partner notification issues pursuant to Sections 381.004 and 384.25, F.S. Any HIV/AIDS continuing education course taken during the second or subsequent renewal of licensure may be applied to satisfy the general continuing education hours requirement.

(b) The initial renewal of a pharmacist license will not require completion of courses of continued professional pharmaceutical education hours if the license was issued less than 12 months prior to the expiration date of the license. If the initial renewal occurs 12 months or more after the initial licensure, then 15 hours of continued professional pharmaceutical education hours shall be completed prior to the renewal of the license but no earlier than the date of initial licensure.

(c) Prior to renewal a licensee must complete, within the 24 month period prior to the expiration date of the license, a two-hour continuing education course approved in advance by the Board on medication errors that covers the study of root-cause analysis, error reduction and prevention, and patient safety. Hours obtained pursuant to this section may be applied by the licensee to the requirements of subsection (1).

(d) Five hours of continuing education in the subject area of risk management may be obtained by attending one full day or eight (8) hours of a board meeting at which disciplinary hearings are conducted by the Board of Pharmacy in compliance with the following:

1. The licensee must sign in with the Executive Director or designee of the Board before the meeting day begins;
2. The licensee must remain in continuous attendance;
3. The licensee cannot receive continuing education credit for attendance at a board meeting if required to appear before the board; and
4. The maximum continuing education hours allowable per biennium under this paragraph shall be ten (10).

(e) A member of the Board of Pharmacy may obtain five (5) hours of continuing education in the subject area of risk management for attendance at one Board meeting at which disciplinary hearings are conducted. The maximum continuing education hours allowable per biennium under this paragraph shall be ten (10).

(f) Up to five hours per biennium of continuing education credit may be fulfilled by the performance of volunteer services to the indigent as provided in Section 456.013(9), F.S., or to underserved populations, or in areas of critical need within the state where the licensee practices. In order to receive credit, the licensee must make application to and receive approval in advance from the Board. Application shall be made on form DH-MQA 1170 (Rev. 02/09), Individual Request for Continuing Education for Volunteers, which is hereby incorporated by reference. The form can be obtained from the Board of Pharmacy, 4052 Bald Cypress Way, Bin

#C04, Tallahassee, Florida 32399-3254. One hour credit shall be given for each two hours volunteered in the 24 months prior to the expiration date of the license. In the application for approval, the licensee shall disclose the type, nature and extent of services to be rendered, the facility where the services will be rendered, the number of patients expected to be serviced, and a statement indicating that the patients to be served are indigent. If the licensee intends to provide services in underserved or critical need areas, the application shall provide a brief explanation as to those facts. A licensee who is completing community service as a condition of discipline imposed by the board cannot use such service to complete continuing education requirements.

(g) Continuing education credit shall be granted for completion of post professional degree programs provided by accredited colleges or schools of pharmacy. Credit shall be awarded at the rate of 5 hours of continuing education credit per semester hour completed within the 24 months prior to the expiration date of the license.

(h) Continuing education may consist of post-graduate studies, institutes, seminars, lectures, conferences, workshops, correspondence courses, or other educational opportunities which advance the practice of the profession of pharmacy if approved by the Board. A course shall be approved prior to completion and will be evaluated by the Tripartite Committee using the standards found in Rule 64B16-26.601, F.A.C. Individuals must submit requests for course approval at least 45 days in advance of the program or course by completing the approved application form DOH/MQA/PH 112, (Rev. 6/12), entitled Individual Requests for Continuing Education Credit, which is incorporated by reference, and which can be obtained from <http://www.flrules.org/Gateway/reference.asp?No=Ref-01636> and the Board of Pharmacy, 4052 Bald Cypress Way, Bin #C04, Tallahassee, Florida 32399-3254, or from the website located at <http://www.doh.state.fl.us/mqa/pharmacy>. Individuals seeking course approval must attach to the application a detailed program outline, overview or syllabus which describes the educational content, objectives and faculty qualifications.

(i) Any volunteer expert witness who is providing expert witness opinions for cases being reviewed by the Department of Health pursuant to Chapter 465, F.S., shall receive five (5) hours of credit in the area of risk management for each case reviewed in the 24 months prior to the expiration date of the license, up to a maximum of ten (10) hours per biennium.

(j) The presenter of a live seminar, a live video teleconference or through an interactive computer-based application shall receive 1 credit for each course credit hour presented, however presenter will not receive additional credit for multiple same course presentations.

(k) All programs approved by the ACPE for continuing education for pharmacists are deemed approved by the Board for general continuing education hours for pharmacists. Any course necessary to meet the continuing education requirement for HIV/AIDS, medication errors, or consultant pharmacist license renewal shall be Board approved.

(l) General continuing education earned by a non-resident pharmacist in another state that is not ACPE approved, but is approved by the board of pharmacy in the state of residence can be applied to meet the requirements of license renewal in subsection (1) above.

(m) At least ten (10) of the required 30 hours must be obtained either at a live seminar, a live video teleconference, or through an interactive computer-based application.

(2) Prior to renewal a consultant pharmacist shall complete no less than 24 hours of Board approved continuing education in the course work specified in Rule 64B16-26.302, F.A.C., within the 24 month period prior to the expiration date of the consultant license. The hours earned to satisfy this requirement cannot be used to apply toward the 30 hours required in subsection (1) above. However, if consultant recertification hours are earned and not used to meet the requirements of this paragraph, they may be applied by the licensee to the 30 hours required in subsection (1).

(a) If the initial renewal of a consultant pharmacist license occurs less than 12 months after the initial licensure, then completion of consultant courses of continuing education hours will not be required.

(b) If the initial renewal of a consultant pharmacist license occurs 12 months or more after the initial licensure, then 12 hours of consultant continuing education hours must be completed prior to the renewal date of the license but no earlier than the date of initial licensure.

(3) Prior to renewal a nuclear pharmacist shall complete no less than 24 hours of Board approved continuing education in the course work specified in Rule 64B16-26.304, F.A.C., within the 24 month period prior to the expiration date of the nuclear pharmacist license. The hours earned to satisfy this requirement cannot be used to apply toward the 30 hours required in subsection (1) above. However, if nuclear pharmacist license renewal hours are earned and not used to meet the requirements of this paragraph, they may be applied by the licensee to the 30 hours required in subsection (1).

(a) If the initial renewal of a nuclear pharmacist license occurs less than 12 months after the initial licensure, then completion of

courses of nuclear pharmacy continuing education hours will not be required.

(b) If the initial renewal of a nuclear pharmacist license occurs 12 months or more after the initial licensure, then 12 hours of nuclear pharmacy continuing education hours must be completed prior to the renewal date of the license but no earlier than the date of initial licensure.

(c) All programs approved by the ACPE for continuing education for nuclear pharmacists are deemed approved by the Board for general continuing education hours for nuclear pharmacists.

(4) Prior to renewal a registered pharmacy technician shall complete no less than twenty (20) hours of Board approved continuing education in the course work specified in Rule 64B16-26.355, F.A.C., within the 24 month period prior to the expiration date of the pharmacy technician registration.

(a) Upon a pharmacy technician's first renewal, registrant must document the completion of one (1) hour of board approved continuing education which includes the topics of Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome; the modes of transmission, including transmission from a healthcare worker to a patient and the patient to the healthcare worker; infection control procedures, including universal precautions; epidemiology of the disease; related infections including tuberculosis (TB); clinical management; prevention; and current Florida law on AIDS and its impact on testing, confidentiality of test results, and treatment of patients. In order to meet this requirement, licensees must demonstrate that the course includes information on the State of Florida law on HIV/AIDS and its impact on testing, reporting, the offering of HIV testing to pregnant women, and partner notification issues pursuant to Sections 381.004 and 384.25, F.S. Any HIV/AIDS continuing education course taken during the second or subsequent renewal of registration may be applied to satisfy the general continuing education hours requirement.

(b) If the initial renewal of a pharmacy technician registration occurs less than 12 months after the initial licensure, then completion of courses of a pharmacy technician registration education hours will not be required.

(c) If the initial renewal of a pharmacy technician registration occurs 12 months or more after the initial licensure, then 12 hours of registered pharmacy technician continuing education hours must be completed prior to the renewal date of the license but no earlier than the date of initial licensure.

(d) All programs approved by the ACPE for continuing education for pharmacy technicians are deemed approved by the Board for general continuing education hours for registered pharmacy technicians. Any course necessary to meet the continuing education requirement for HIV/AIDS license renewal shall be Board approved.

(e) Prior to renewal a licensee must complete, within the 24 month period prior to the expiration date of the license, a two-hour continuing education course approved in advance by the Board on medication errors that covers the study of root-cause analysis, error reduction and prevention, and patient safety. Hours obtained pursuant to this section may be applied by the licensee to the requirements of subsection (1).

(f) Five hours of continuing education in the subject area of risk management may be obtained by attending one full day or eight (8) hours of a board meeting at which disciplinary hearings are conducted by the Board of Pharmacy in compliance with the following:

1. The registrant must sign in with the Executive Director or designee of the Board before the meeting day begins;
2. The registrant must remain in continuous attendance;
3. The registrant cannot receive continuing education credit for attendance at a board meeting if required to appear before the board; and
4. The maximum continuing education hours allowable per biennium under this paragraph shall be ten (10).

(g) At least four (4) of the required 20 hours must be obtained either at a live seminar, a live video teleconference, or through an interactive computer-based application.

Rulemaking Authority 456.033, 465.009 FS. Law Implemented 456.013(7), (9), 456.033, 465.009 FS. History—New 3-19-79, Formerly 21S-6.07, Amended 1-7-87, Formerly 21S-6.007, Amended 7-31-91, 10-14-91, Formerly 21S-26.103, 61F10-26.103, Amended 7-1-97, Formerly 59X-26.103, Amended 7-11-00, 10-15-01, 1-2-02, 1-12-03, 4-12-05, 5-26-09, 5-27-10, 9-20-12.

64B16-26.1031 Influenza Immunization Certification Program.

(1) All applications for immunization certification programs shall be made on board approved form DH-MQA 1234, "Immunization Certification Program Application", effective 04/10, which is hereby incorporated by reference. To obtain an application, contact the Board of Pharmacy at 4052 Bald Cypress Way, Bin #C04, Tallahassee, FL 32399-3254 or (850) 488-0595, or download the application from the board's website at <http://www.doh.state.fl.us/mqa/pharmacy>.

(2) The Board shall approve for initial certification of pharmacist administration of influenza immunizations, programs of study not less than 20 hours that include coursework covering all of the following;

- (a) Mechanisms of action for vaccines, contraindications, drug interactions, and monitoring after vaccine administration;
- (b) Immunization Schedules;
- (c) Immunization screening questions, provision of risk/benefit information, informed consent, recordkeeping, and electronic reporting into the statewide immunization registry through enrollment application DH Form 1997 (effective 10/07) herein incorporated by reference and may be obtained from the Board office by writing to the Board of Pharmacy, 4052 Bald Cypress Way, Bin #C04, Tallahassee, Florida 32399-3254 or by telephoning 1(877)888-7468;
- (d) Vaccine storage and handling;
- (e) Bio-Hazardous waste disposal and sterile techniques;
- (f) Entering, negotiating and performing pursuant to physician oversight protocols;
- (g) Community immunization resources and programs;
- (h) Identifying, managing and responding to adverse incidents including but not limited to potential allergic reactions associated with vaccine administration;
- (i) Procedures and policies for reporting adverse events to the Vaccine Adverse Event Reporting System (VAERS);
- (j) Reimbursement procedures and vaccine coverage by federal, state and local governmental jurisdictions and private third party payors;
- (k) Administration techniques;
- (l) The current influenza immunization guidelines and recommendations of the United States Department of Health Centers for Disease Control and Prevention published in the Morbidity Weekly Report (MMWR) December 1, 2006, Vol. 55 No. RR-15 and updated MMWR July 13, 2007, Vol. 56, No. RR-6;
- (m) Review of Section 465.189, F.S.; and
- (n) Cardiopulmonary Resuscitation (CPR) training.

Successful completion of the certification program must include a successful demonstration of competency in the administration technique and a cognitive examination.

Rulemaking Authority 465.005 FS. Law Implemented 465.189 FS. History—New 3-20-08, Amended 8-30-10.

64B16-26.1032 Influenza Immunization Administration Certification Application.

All applications for immunization certification shall be made on board approved form DH-MQA 1125, "Immunization Administration Certification Application," effective February 2010, which is hereby incorporated by reference. To obtain an application, contact the Board of Pharmacy at 4052 Bald Cypress Way, Bin #C04, Tallahassee, FL 32399-3254, or (850) 488-0595, or download the application from the board's website at <http://www.doh.state.fl.us/mqa/pharmacy>. The application must be accompanied with a non-refundable application fee as set forth in Rule 64B16-26.1001, F.A.C.

Rulemaking Authority 465.005 FS. Law Implemented 465.189 FS. History—New 9-21-10.

64B16-26.104 Exemptions for Members of the Armed Forces; Spouses.

(1) Any pharmacist or registered pharmacy technician on active duty with the Armed Forces of the United States who at the time of becoming a member of the Armed Forces of the United States was in good standing with the Board and was entitled to practice the profession of pharmacy or registered as a pharmacy technician in Florida shall be exempt from all license renewal provisions so long as the licensee is on active duty with the Armed Forces and for a period of six months after discharge so long as the licensee is not engaged in the practice of pharmacy in the private sector for profit.

(2) A pharmacist or registered pharmacy technician who is a spouse of a member of the Armed Forces of the United States and who was caused to be absent from the State of Florida because of the spouse's duties with the Armed Forces shall be exempt from all license renewal provisions.

Rulemaking Authority 465.005 FS. Law Implemented 456.024 FS. History—New 3-19-79, Amended 4-30-85, Formerly 21S-6.09, 21S-6.009, Amended 7-31-91, Formerly 21S-26.104, 61F10-26.104, 59X-26.104, Amended 1-11-05, 10-27-09.

64B16-26.105 Consultant Pharmacists Initial Registration Fee and Renewal Fee.

Rulemaking Authority 465.005, 465.008, 465.0125 FS. Law Implemented 456.036, 465.0125 FS. History—New 10-26-83, Amended 2-21-84, Formerly 21S-6.10, 21S-6.010, 21S-26.105, 61F10-26.105, Amended 3-28-95, Formerly 59X-26.105, Repealed 3-10-05.

64B16-26.106 Nuclear Pharmacists Initial Registration Fee and Renewal Fee

Rulemaking Authority 465.005, 465.0126 FS. Law Implemented 456.036, 465.0126 FS. History—New 12-29-88, Formerly 21S-6.011, 21S-26.106, 61F10-26.106, Amended 6-26-95, 3-11-96, Formerly 59X-26.106, Repealed 3-10-05.

64B16-26.107 Inactive Nuclear Pharmacist License Renewal.

Rulemaking Authority 465.005, 465.008, 465.012, 465.022(8) FS. Law Implemented 465.008, 465.012, 465.022(8) FS. History—New 6-26-95, Formerly 59X-26.107, Repealed 3-10-05.

64B16-26.200 Examination Requirements.

The examination provided in Section 465.007, F.S., shall be as follows:

- (1) Part A – North American Pharmacist Licensure Examination (NAPLEX).
- (2) Part B – Multistate Pharmacy Jurisprudence Examination – Florida Version.

Rulemaking Authority 456.017, 465.005 FS. Law Implemented 456.017 FS. History—New 10-17-79, Amended 2-8-81, 6-22-82, 8-16-84, 4-30-85, Formerly 21S-12.01, Amended 5-6-86, Formerly 21S-12.001, Amended 1-10-93, Formerly 21S-26.200, 61F10-26.200, Amended 7-1-97, Formerly 59X-26.200, Amended 3-22-99, 1-11-05.

64B16-26.201 Reexamination.

Rulemaking Authority 456.017, 465.005 FS. Law Implemented 456.017 FS. History—New 10-17-79, Amended 2-8-81, 11-27-84, 4-30-85, Formerly 21S-12.02, Amended 5-6-86, Formerly 21S-12.002, 21S-26.201, 61F10-26.201, 59X-26.201, Repealed 3-10-05.

64B16-26.202 Examination Review Procedure.

Rulemaking Authority 456.017(2) FS. Law Implemented 456.017(2) FS. History—New 10-17-79, Amended 12-27-82, Formerly 21S-12.03, Amended 12-24-89, Formerly 21S-12.003, 21S-26.202, 61F10-26.202, 59X-26.202, Repealed 3-10-05.

64B16-26.203 Licensure by Examination; Application.

Applicants who are at least 18 years of age and a recipient of a degree from a school or college of pharmacy accredited by an accrediting agency recognized and approved by the United States Office of Education may apply to take the licensure examination.

(1) All applications for licensure by examination must be made on board approved form DOH/MQA/101, Pharmacist Examination Application for U.S. and Puerto Rico Graduates and Instructions, (Rev 9/09), which is hereby incorporated by reference, and which can be obtained from the Board of Pharmacy, 4052 Bald Cypress Way, Bin #C04, Tallahassee, Florida 32399-3254, or (850)488-0595 to request an application or download the application from the board's website at <http://www.doh.state.fl.us/mqa/pharmacy>. The application must be accompanied with a non-refundable examination fee and an initial license fee as set forth in Rules 64B16-26.1001 and 64B16-26.1002, F.A.C.

(2) The applicant must submit proof of having met the following requirements:

(a) Completion of an internship program provided by either an accredited school or college of pharmacy or a state board of pharmacy or jointly by both provided that the program meets requirements of Rule 64B16-26.2032, F.A.C.

(b) Completion of a board approved course not less than 2 hours on medication errors that covers the study of root-cause analysis, error reduction and prevention, and patient safety. For those applicants who apply within one year following receipt of their pharmacy degree, completed academic course work on medication errors will be accepted by the Board as an educational course under this section, provided such course work is no less than 2 contact hours and that it covers the study of root-cause analysis, error reduction and prevention, and patient safety, as evidenced by a letter attesting to subject matter covered from the Dean of the University.

(3) An applicant must reapply if all requirements for licensure are not met within one year of the receipt of the application.

(4) Passing examination scores may be used upon reapplication only if the examination was completed within 3 years of the reapplication.

Rulemaking Authority 456.033, 465.005 FS. Law Implemented 456.013(1), (7), 456.025(3), 456.033, 465.007, 465.022 FS. History—New 10-17-79, Formerly 21S-12.04, 21S-12.004, Amended 7-31-91, 10-14-91, Formerly 21S-26.203, 61F10-26.203, Amended 7-1-97, Formerly 59X-26.203, Amended 8-17-99, 10-15-01, 1-2-02, 1-12-03, 1-11-05, 2-18-08, 5-26-09, 5-11-10.

64B16-26.2031 Licensure by Examination; Foreign Pharmacy Graduates.

In order for a foreign pharmacy graduate to be admitted to the professional licensure examination, the applicant must be a graduate of a four year undergraduate pharmacy program at a school or college outside the United States and have completed an internship program approved by the Board.

(1) All applications for licensure by examination must be made on form DH-MQA 103 (Rev. 09/09), Pharmacist Examination Application For Foreign Graduates and Instructions, which is hereby incorporated by reference. Contact the Board of Pharmacy, 4052 Bald Cypress Way, Bin #C04, Tallahassee, Florida 32399-3254, or (850) 488-0595 to request an application or download the application from the Board's website at <http://www.doh.state.fl.us/mqa/pharmacy>. The application must be accompanied with a non-refundable examination fee and an initial license fee set forth in Rules 64B16-26.1001 and 64B16-26.1002, F.A.C.

(a) For applications received at the Board of Pharmacy on or before June 30, 2009, the applicant must:

1. Successfully pass the foreign pharmacy graduate equivalency examination which is given by the Foreign Pharmacy Graduate Equivalency Commission with a minimum score of 75%.

2. Demonstrate proficiency in the use of English by passing the Test of English as a Foreign Language (TOEFL), which is administered by the Educational Testing Service, Inc., with a score of at least 500 for the pencil and paper test or 173 for the computer version and by passing the Test of Spoken English (TSE) with a score of 45 on the recalibrated TSE; or

3. Demonstrate proficiency in the use of English by passing the Test of English as a Foreign Language Internet-based test (TOEFL ibt) with scores of: Listening – 18; Reading – 21; Speaking – 26; and Writing – 24.

(b) For applications received at the Board of Pharmacy on or after July 1, 2009, the applicant must:

1. Successfully pass the foreign pharmacy graduate equivalency examination which is given by the Foreign Pharmacy Graduate Equivalency Commission with a minimum score of 75%;

2. Demonstrate proficiency in the use of English by passing the Test of English as a Foreign Language (TOEFL), which is administered by the Educational Testing Service, Inc., with a score of at least 550 for the pencil and paper test or 213 for the computer version and by passing the Test of Spoken English (TSE) with a score of 50 on the recalibrated TSE; or

3. Demonstrate proficiency in the use of English by passing the Test of English as a Foreign Language Internet-based test (TOEFL ibt) with scores of: Listening – 18; Reading – 21; Speaking – 26; and Writing – 24.

(2) Complete 2080 hours of supervised work activity, of which a minimum of 500 hours must be completed within the State of Florida. Such experience must be equivalent to that required in the internship program as set forth in Rule 64B16-26.2032, F.A.C. The work experience program including both the preceptor and the permittee must be approved by the Board of Pharmacy. The work experience shall be documented on form DH-MQA 1153 (Rev. 01/10), Foreign Graduate Intern Work Activity Manual, which is hereby incorporated by reference. Contact the Board of Pharmacy, 4052 Bald Cypress Way, Bin #C04, Tallahassee, Florida 32399-3254 or (850)488-0595 to request a manual or download the manual from the Board's website at <http://www.doh.state.fl.us/mqa/pharmacy>. Further, no program of supervised work activity shall be approved for any applicant until said applicant has obtained the specified passing scores on the Foreign Pharmacy Graduate Equivalency Examination.

(3) Completion of a Board approved course not less than 2 hours on medication errors that covers the study of root-cause analysis, error reduction and prevention, and patient safety. For applicants who apply within one year following receipt of their pharmacy degree, completed academic course work on medication errors will be accepted by the Board as an educational course under this section, provided such course work is no less than 2 contact hours and that it covers the study of root-cause analysis, error reduction and prevention, and patient safety as evidence by a letter attesting to subject matter covered from the Dean of the University.

Rulemaking Authority 465.005, 465.007 FS. Law Implemented 465.007 FS. History—New 1-11-05, Amended 8-8-07, 6-10-09, 5-27-10.

64B16-26.2032 Pharmacy Intern Registration Internship Requirements (U.S. Pharmacy Students/Graduates).

A U.S. pharmacy student or graduate is required to be registered with the Department of Health as an intern before being employed as an intern in a pharmacy in Florida.

(1) All applications for registration must be made on form DH-MQA 104, Pharmacy Intern Application for U.S. Pharmacy Students/Graduates and Instructions, (Rev. 09/09), which is hereby incorporated by reference. Contact the Board of Pharmacy, 4052 Bald Cypress Way, Bin #C04, Tallahassee, Florida 32399-3254, or (850) 488-0595 to request an application or download the application from the board's website at <http://www.doh.state.fl.us/mqa/pharmacy>.

(2) An applicant for pharmacy intern registration must submit proof of:

(a) Enrollment in an intern program at a college or school of pharmacy accredited by the Accreditation Council of Pharmaceutical Education (ACPE); or

(b) Graduation from a college or school of pharmacy accredited by the ACPE.

(3) Upon the receipt of proof satisfactory to the Board that the intern applicant meets the requirement of either paragraph (2)(a) or (2)(b), unless there exists good cause for the Board's refusal to certify an applicant as set forth in Section 465.013, F.S., the Board shall certify the applicant to the Department for registration as an intern.

(4) No intern shall perform any acts relating to the filing, compounding, or dispensing of medicinal drugs unless it is done under the direct and immediate personal supervision of a person actively licensed to practice pharmacy in this state.

(5) All internship experience for the purpose of qualifying for the examination pursuant to Section 465.007(1)(c), F.S., shall be obtained in a community pharmacy, institutional pharmacy or any Florida Board of Pharmacy approved pharmacy practice, which includes significant aspects of the practice of pharmacy as defined in Section 465.003(13), F.S.

(6) An internship program at college or school of pharmacy accredited by the ACPE shall assure that community or institutional pharmacies utilized for the obtaining of internship experience meet the following minimum requirements:

(a) The pharmacy shall hold a current license or permit issued by the state in which they are operating and shall have available all necessary equipment for professional services, necessary reference works, in addition to the official standards and current professional journals.

(b) The pharmacy shall be operated at all times under the supervision of a pharmacist and shall be willing to train persons desiring to obtain professional experience.

(c) The pharmacy shall establish to the program's satisfaction that the pharmacy fills, compounds and dispenses a sufficient number, kind and variety of prescriptions during the course of a year so as to afford to an intern a broad experience in the filling, compounding and dispensing of prescription drugs.

(d) The pharmacy shall have a clear record as to observance of federal, state and municipal laws and ordinances covering any phase of activity in which it is engaged.

(7) The program shall assure that all preceptors meet the following requirements:

(a) The pharmacist shall willingly accept the responsibility for professional guidance and training of the intern and be able to devote time to preceptor training sessions and to instruction of the intern.

(b) The pharmacist shall hold current licensure in the state in which pharmacy is practiced.

(c) The pharmacist shall be ineligible to serve as a preceptor during any period in which the pharmacist's license to practice pharmacy is revoked, suspended, on probation, or subject to payment of an unpaid fine levied by lawful Board order, or during any period in which the pharmacist's license is the subject of ongoing disciplinary proceedings.

(d) The pharmacist shall agree to assist the school or college of pharmacy in the achievement of the educational objectives set forth and to provide a professional environment for the training of the intern.

(e) Evidence shall be provided of the pharmacist's desire to continue broadening professional education and of an active involvement in a patient-oriented practice.

(8) In the event a program meets all the requirements set forth in subsection (6) of this rule, except for prior approval by the Florida Board of Pharmacy, any applicant submitting it for the purpose of qualifying for licensure by examination must show in addition to successful completion of the internship:

(a) Approval of the program by a state board of pharmacy; and

(b) Sufficient hours to total 2080 hours; or

(c) Licensure in another state and work performed as a pharmacist for a sufficient number of hours to total 2080 hours when combined with the internship hours.

(9) All internship hours may be obtained prior to the applicant's graduation.

(10) Proof of completion of an internship program shall consist of a certification that the applicant has completed the program. If additional hours are required to total 2080 hours, satisfactory proof of the additional hours shall be constituted by the program's certification of completion of the additional hours.

(11) Hours worked in excess of 50 hours per week prior to the applicant's graduation or in excess of 60 hours per week after an applicant's graduation, will not be credited toward meeting the required internship hours.

(12) The Board approves all internships that are required to obtain the doctor of pharmacy degree from institutions which are accredited as provided by Section 465.007(1)(b)1., F.S. Applicants graduating after January 1, 2001 with the doctor of pharmacy degree from such institutions shall be deemed to have met the requirements of this section with documentation of graduation.

(13) The Board may conduct periodic review of programs to assure compliance with these rules.

(14) Proof of current licensure in another state and work as a pharmacist for up to 2080 hours may substitute for all or part of the internship requirement.

(15) Governmental and private radiopharmacy internship programs shall not apply to the pharmacy internship required under subsection (5) of this rule.

Rulemaking Authority 465.005 FS. Law Implemented 465.003(12), 465.007, 465.0075, 465.013 FS. History--New 4-1-07, Amended 7-7-10, 10-7-12.

64B16-26.2033 Pharmacy Intern Registration and Internship Requirements (Foreign Pharmacy Graduates).

A foreign pharmacy graduate is required to be registered with the Department of Health as an intern before being employed as an intern in a pharmacy in Florida.

(1) All applicants for intern registration must be made on form DH-MQA 102, "Pharmacy Intern Application for Foreign Graduates and Instructions," effective September 2009, which is incorporated by reference. Contact the Board of Pharmacy at 4052 Bald Cypress Way, Bin #C04, Tallahassee, Florida 32399-3254 or (850) 488-0595 to request a form or download the form from the board's website at <http://www.doh.state.fl.us/mqa/pharmacy>.

(2) An applicant for foreign pharmacy graduate intern registration in Florida must submit proof of:

(a) Eligibility by the Foreign Pharmacy Graduate Equivalency Committee to sit for the Foreign Pharmacy Graduate Equivalency Examination, or

(b) A passing score on the Foreign Pharmacy Graduate Equivalency Examination to be considered a graduate of an accredited college or school of pharmacy.

(3) Upon the receipt of proof satisfactory to the Board that the intern applicant meets the requirements of either paragraph (a) or (b) of subsection (1), and submitted a completed application as required in subsection (2) unless there exists good cause for the Board's refusal to certify an applicant as set forth in Section 465.013, F.S., the Board shall certify the applicant to the Department for registration as an intern.

(4) No intern shall perform any acts relating to the filling, compounding, or dispensing of medicinal drugs unless it is done under the direct and immediate personal supervision of a person actively licensed to practice pharmacy in this state.

(5) All internship experience for the purpose of qualifying for the examination pursuant to Section 465.007(1)(c), F.S., shall be obtained in a community pharmacy, institutional pharmacy or any Florida Board of Pharmacy approved pharmacy practice, which includes significant aspects of the practice of pharmacy as defined in Section 465.003(13), F.S.

(6) An internship program at an accredited college or school of pharmacy shall assure that community or institutional pharmacies utilized for the obtaining of internship experience meet the following minimum requirements:

(a) The pharmacy shall hold a current license or permit issued by the state in which they are operating and shall have available all necessary equipment for professional services, necessary reference works, in addition to the official standards and current professional journals.

(b) The pharmacy shall be operated at all times under the supervision of a pharmacist and shall be willing to train persons desiring to obtain professional experience.

(c) The pharmacy shall establish to the program's satisfaction that the pharmacy fills, compounds and dispenses a sufficient number, kind and variety of prescriptions during the course of a year so as to afford to an intern a broad experience in the filling, compounding and dispensing of prescription drugs.

(d) The pharmacy shall have a clear record as to observance of federal, state and municipal laws and ordinances covering any phase of activity in which it is engaged.

- (e) No pharmacist may be responsible for the supervision of more than one intern at any one time.
- (7) The program shall assure that all preceptors meet the following requirements:
- (a) The pharmacist shall willingly accept the responsibility for professional guidance and training of the intern and be able to devote time to preceptor training sessions and to instruction of the intern.
- (b) The pharmacist shall hold current licensure in the state in which pharmacy is practiced.
- (c) The pharmacist shall be ineligible to serve as a preceptor during any period in which the pharmacist's license to practice pharmacy is revoked, suspended, on probation, or subject to payment of an unpaid fine levied by lawful Board order, or during any period in which the pharmacist's license is the subject of ongoing disciplinary proceedings.
- (d) The pharmacist shall agree to assist the school or college of pharmacy in the achievement of the educational objectives set forth and to provide a professional environment for the training of the intern.
- (e) Evidence shall be provided of the pharmacist's desire to continue broadening professional education and of an active involvement in a patient-oriented practice.
- (8) In the event a program meets all the requirements set forth in subsection (2) of this rule, except for prior approval by the Florida Board of Pharmacy, any applicant submitting it for the purpose of qualifying for licensure by examination must show in addition to successful completion of the internship:
- (a) Approval of the program by a state board of pharmacy; and
- (b) Sufficient hours to total 1580 hours; or
- (c) Licensure in another state and work performed as a pharmacist for a sufficient number of hours to total 1580 hours when combined with the internship hours.
- (9) All internship hours may be obtained prior to the applicant's graduation.
- (10) Proof of completion of an internship program shall consist of a certification that the applicant has completed the program. If additional hours are required to total 2080 hours, satisfactory proof of the additional hours shall be constituted by the program's certification of completion of the additional hours.
- (11) Hours worked in excess of 50 hours per week prior to the applicant's graduation or in excess of 60 hours per week after an applicant's graduation, will not be credited toward meeting the required internship hours.
- (12) The Board approves all internships that are required to obtain the doctor of pharmacy degree from institutions which are accredited as provided by Section 465.007(1)(b)1., F.S. Applicants graduating after January 1, 2001 with the doctor of pharmacy degree from such institutions shall be deemed to have met the requirements of this section with documentation of graduation.
- (13) The Board may conduct periodic review of programs to assure compliance with these rules.
- (14) Proof of current licensure in another state and work as a pharmacist for up to 1580 hours may substitute for all or part of the internship hours requirement.
- (15) Governmental and private radiopharmacy internship programs shall not apply to the pharmacy internship required under subsection (1) of this rule.
- (16) All foreign pharmacy graduates must complete 500 hours of supervised work activity within the state of Florida as provided by Section 465.007(1)(b)2., F.S. The supervised work activity program experience shall be documented on form DH-MQA 1153, "Foreign Graduate Registered Intern Work Activity Manual," effective 01/10. Contact the Board of Pharmacy at 4052 Bald Cypress Way, Bin #C04, Tallahassee, Florida 32399-3254 or (850)488-0595 to request a form or download the form from the board's website at <http://www.doh.state.fl.us/mqa/pharmacy>. Further, this 500 hours of work activity program shall not be recognized for any applicant until said applicant has obtained the passing score on the Foreign Pharmacy Graduate Equivalency Exam as provided in Section 465.007, F.S.

Rulemaking Authority 465.005 FS. Law Implemented 456.013(1), 465.002, 465.007, 465.0075, 465.013 FS. History—New 5-27-10.

64B16-26.2035 Examination Fees.

Rulemaking Authority 465.005 FS. Law Implemented 465.007 FS. History—New 9-19-94, Amended 3-10-96, Formerly 59X-26.2035, Amended 3-22-99, 10-30-00, Repealed 3-10-05

64B16-26.204 Licensure by Endorsement.

An applicant for licensure by endorsement must be at least 18 years of age and a recipient of a degree from a school or college of pharmacy accredited by an accrediting agency recognized and approved by the United States Office of Education.

(1) All applications for licensure by endorsement shall be made on board approved form DOH/MQA100 effective June 2010. Pharmacist Licensure by Endorsement Application and Instructions (U.S. and territories), which is hereby incorporated by reference, can be obtained from the Board of Pharmacy, 4052 Bald Cypress Way, Bin #C04, Tallahassee, Florida 32399-3254, or (850) 488-0595 to request a form or download the form from the board's website at <http://www.doh.state.fl.us/mqa/pharmacy>. The application must be accompanied with a non-refundable application fee and initial licensure fee as set forth in Rules 64B16-26.1001 and 64B16-26.1002, F.A.C.

(2) The applicant must submit satisfactory proof that one of the following requirements has been met:

(a) Two (2) years of active practice, as defined in Section 465.0075(1)(c), F.S., within the immediately preceding five (5) years. If the applicant meets the requirements of this section, proof of completion of 30 hours of Florida Board of Pharmacy, ACPE, or other state board of pharmacy approved continuing education obtained in the two calendar years immediately preceding application, must also be submitted.

(b) Successful completion of an internship meeting the requirements of Section 465.007(1)(c), F.S., within the immediately preceding two (2) years.

(3) Completion of a Board approved course not less than 2 hours on medication errors that covers the study of root-cause analysis, error reduction and prevention, and patient safety. For applicants who apply within one year following receipt of their pharmacy degree, completed academic course work on medication errors will be accepted by the Board as an educational course under this section, provided such course work is no less than 2 contact hours and that it covers the study of root-cause analysis, error reduction and prevention, and patient safety as evidenced by a letter attesting to subject matter covered from an official of the university where the course was taken.

(4) Applicants qualifying under the education requirements of Section 465.007(1)(b)2., F.S., (foreign graduates), must complete the requirements of Rule 64B16-26.2031, F.A.C., prior to certification for the examination required in subsection (6) of this rule.

(5) All requirements for licensure by endorsement must be met within one (1) year of the receipt of the application. Applicants failing to meet this requirement must reapply.

(6) Applicants applying under the provisions of Section 465.0075, F.S., must have obtained a passing score on the licensure examination as described in subsection 64B16-26.200(1), F.A.C.

(7) Applicants applying under the provisions of Section 465.0075, F.S., shall cause the National Association of Boards of Pharmacy, or other similar organization to issue a Transfer of Pharmaceutical Licensure certificate showing examination date, examination results, states of licensure, disciplinary actions, and licensure status.

(8) Applicants deemed qualified for licensure by endorsement shall be required to complete the Multistate Pharmacy Jurisprudence Examination – Florida Version. Passing scores on this examination may be used upon reapplication only if the examination was completed within three (3) years of the reapplication.

Rulemaking Authority 465.005, 465.0075 FS. Law Implemented 456.013(1), 465.007, 465.0075, 465.022 FS. History–New 11-8-01, Amended 1-11-05, 2-18-08, 5-26-09, 10-10-10.

64B16-26.205 Requirements for Foreign Pharmacy Graduates to Be Admitted to the Pharmacist Licensure Examination.

Rulemaking Authority 465.005, 465.007 FS. Law Implemented 465.007 FS. History–New 4-18-84, Formerly 21S-12.06, Amended 9-17-87, Formerly 21S-12.006, Amended 7-31-91, 1-10-93, 4-8-93, Formerly 21S-26.205, 61F10-26.205, Amended 3-10-96, Formerly 59X-26.205, Amended 8-17-99, Repealed 3-10-05.

64B16-26.300 Consultant Pharmacist Licensure.

(1) No person shall serve as consultant pharmacist as defined in Section 465.003(3), F.S., unless that person holds a license as a consultant pharmacist.

(2) Application for consultant pharmacist licensure shall be made on form DOH-MQA 1109, 02/09, Consultant Pharmacist Application and Information, which is hereby incorporated by reference. Contact the Board of Pharmacy at 4052 Bald Cypress Way, Bin #C04, Tallahassee, Florida 32399-3254, or (850) 488-0595 to request an application or download the application from the board's website at www.doh.state.fl.us/mqa/pharmacy. The application shall be accompanied by a non-refundable application fee.

(3) In order to be licensed as a consultant pharmacist, a person must meet the following requirements:

(a) Hold a license as a pharmacist which is active and in good standing,

(b) Successfully complete a consultant pharmacist course of no fewer than twelve (12) hours, sponsored by an accredited college of pharmacy located within the State of Florida, and approved by the Florida Board of Pharmacy Tripartite Continuing Education Committee which is based on the Statement of the Competencies Required in Institutional Pharmacy Practice and subject matter set forth in Rule 64B16-26.301, F.A.C. The course shall be instructionally designed to include a cognitive test on which the applicant must score a passing grade for certification of successful completion of the course.

(c) Successfully complete a period of assessment and evaluation under the supervision of a preceptor within one (1) year of completion of the course set forth in paragraph (b) above. This period of assessment and evaluation shall be completed over no more than three (3) consecutive months and shall include at least 40 hours of training in the following practice areas, 60% of which shall occur on-site at an institution that holds a pharmacy permit. The training shall include:

| <u>Minimum Skills Required</u> | <u>Percent of Time</u> | <u>Hours</u> |
|---|------------------------|--------------|
| Minimum of 40 Hours in Maximum of Three Months | | |
| 1. Regimen review, documentation and communication. | 60% | 24 |
| a. Demonstrate ability to carry out process and understand documentation functions. | | |
| b. Understand and perform drug regimen review. Communicate findings to appropriate individuals or groups. | | |
| c. The applicant is responsible for learning other skills needed to perform in his/her type of facility where he/she is or will be the consultant Pharmacist of Record. | | |
| 2. Facility review. | 20% | 8 |
| Demonstrate areas that should be evaluated, documentation, and reporting procedures. | | |
| 3. Committee and Reports. | 5% | 2 |
| Review quarterly Quality of Care Committee minutes and preparation and delivery of pharmacist quarterly report. | | |
| 4. Policy and Procedures. | 5% | 2 |
| Preparation, review, updating Policy and Methods. | | |
| 5. Principles of formulary management. | 5% | 2 |
| Demonstrate ability to manage formulary. | | |
| 6. Professional Relationships. | 5% | 2 |
| Knowledge and interaction of facility administration and professional staff. | | |

(4) In order to act as a preceptor, a person shall:

(a) Be a consultant pharmacist of record at an institutional pharmacy which is required to have a consultant pharmacist under

the provisions of Chapter 465, F.S., and these rules.

(b) Have a minimum of one (1) year of experience as a consultant pharmacist of record.

(c) Maintain all pharmacist licenses in good standing with the Board.

(d) Not act as a preceptor to more than two (2) applicants at the same time.

(5) Upon completion of the requirements set forth above, the applicant's preceptor shall confirm that the applicant's assessment and evaluation have met the requirements and that the applicant has successfully completed all required assignments under the preceptor's guidance and supervision.

(6) After licensure a consultant pharmacist's license shall be renewed biennially upon payment of the fee set forth in Rule 64B16-26.1003, F.A.C., and upon completing twenty-four (24) hours of board approved continuing education based upon the provisions of Rule 64B16-26.302, F.A.C.

(7) The number of hours earned in recertification programs by a consultant pharmacist, if applied to the twenty-four (24) hours required for consultant pharmacist license renewal, may not be used toward the thirty (30) hours of continued professional pharmaceutical education credits as set forth in Rule 64B16-26.103, F.A.C.

(8) An applicant who applies for a consultant pharmacist license after the effective date of this rule shall be required to complete the assessment and evaluation required in paragraph (3)(c) prior to being licensed as a consultant pharmacist.

Rulemaking Authority 465.005, 465.0125 FS. Law Implemented 465.0125 FS. History—New 5-19-72, Revised 4-19-74, Repromulgated 12-18-74, Amended 10-17-79, 4-8-80, 7-29-81, 7-1-83, 4-10-84, 4-30-85, Formerly 21S-1.26, 21S-1.026, Amended 7-31-91, 10-14-91, Formerly 21S-26.300, 61F10-26.300, Amended 9-19-94, 3-28-95, 3-10-96, Formerly 59X-26.300, Amended 5-22-01, 5-5-05, 11-29-06, 3-29-10.

64B16-26.301 Subject Matter for Consultant Pharmacist Training Program.

(1) Jurisprudence.

(a) Laws and regulations, state and federal, pertaining to institutional pharmacy and health care facilities.

(b) Laws and regulations, state and federal, pertaining to the safe and controlled storage of alcohol and other related substances, and relating to fire and health-hazard control.

(2) Policy and Procedures.

(a) Written procedures for outlining the medication system in effect.

1. Traditional systems.

2. Unit-dose systems.

a. Centralized.

b. Decentralized.

c. Automated medication systems.

3. Routine and emergency use of drugs.

4. After hours procedure for medication dispensing.

5. Managing drug shortages.

(b) Record keeping and reports.

1. Controlled substance control and record-of-usage.

2. Alcohol inventory and record-of-usage.

3. Patient drug use control and records.

a. Recalls.

b. Medication use evaluation.

c. Medication errors.

4. Drug charges, methods, accountability, and reports.

5. Statistical reports of usage, volume, etc.

(3) Administrative Responsibilities.

(a) Fiscal Control.

1. Perpetual and traditional inventory systems.

2. Application of EDP techniques.

(b) Personnel Management, orientation and training.

(c) Intra-professional relations pertaining to medication use.

- (d) Inter-professional relations with other members of the institutional health care team.
 - 1. Pharmacy & Therapeutic Committee.
 - a. Rational drug therapy; review of medication use and prescribing.
 - b. Formulary development – evaluation, appraisal, selection, procurement, storage, distribution, medication safety, criteria for use development and safety.
 - c. Automatic stop orders on potent and dangerous drugs.
 - d. Controls on storage and use of investigational drugs.
 - 2. In-service education of nurses and other health-related personnel.
 - 3. Infectious Disease Committee.
- (4) Professional Responsibilities.
 - (a) Drug information retrieval and methods of dispersal.
 - (b) Development of pharmacy practice.
 - (c) Development of an IV Admixture service.
 - (d) Procedures to enhance medication safety.
 - 1. Availability of equipment, technique, etc., to prepare special dosage forms for pediatric and geriatric patients.
 - 2. Preparation of sterile dosage forms.
 - 3. Proper writing, transcribing and initiating and/or transferring patient medication orders; development of physician's chart order copy system.
 - 4. Safety of patient self-medication and control of drugs at bedside.
 - 5. Reporting and trending adverse drug reactions.
 - 6. Screening for potential drug interactions.
 - 7. Development and maintenance of up-to-date emergency kits.
 - (e) Maintain drug quality and safe storage.
 - 1. Procedures for eliminating out-dated drugs.
 - 2. Requirements for safe and appropriate storage conditions.
 - (f) Maintain drug identity.
 - 1. Procedures for labeling, transferring of bulk medications, etc.
 - 2. Manufacturing and packaging procedures.
 - 3. Pre-packaging control and supervision.
- (5) The Institutional Environment.
 - (a) The institution's pharmacy function and purpose.
 - (b) Interdepartmental relationships important to the institutional pharmacy.
 - (c) Understanding of scope of service and in-patient care mission of the institution.
 - (d) Special training with respect to the operation of nursing homes and Extended Care Facilities (ECF)/pharmacy relationship and special procurement procedures.
- (6) Nuclear pharmacy.
 - (a) Procurement.
 - (b) Compounding.
 - (c) Quality control procedures.
 - (d) Dispensing.
 - (e) Distribution.
 - (f) Basic radiation protection and practices.
 - (g) Consultation and education to the nuclear medicine community; including patients, pharmacists, other health professionals, and the general public.
 - (h) Research and development of new formulations.
 - (i) Record keeping.
 - (j) Reporting adverse drug reactions and medication errors.
 - (k) Screening for potential drug interaction.

1.27, 21S-1.027, Amended 7-31-91, Formerly 21S-26.301, 61F10-26.301, 59X-26.301, Amended 5-5-05.

64B16-26.302 Subject Matter for Consultant Pharmacist Licensure Renewal Continuing Education.

A Consultant Pharmacist License Renewal Continuing Education Program must contain at least three (3) hours of training in any of the subjects specified below. Duplicate courses are not acceptable.

- (1) Drug Therapy – Disease State. Patient Drug Therapy – management and monitoring.
 - (a) Drug, Disease State Information – In-depth disclosure of the drug or therapeutic class of drugs or disease state including pharmacology, side effects and interaction.
 - (b) New Therapeutic Modalities: Expansion of current drug therapy or treatment.
 - (c) Patient Assessment: Assessment techniques by consultant pharmacist to determine the need and effectiveness of indicated drug therapy along with identification and assessment of side effects on patient’s well-being.
 - (d) Pertinent Laboratory Tests.
 - (e) Therapeutic Dosing.
- (2) Administrative Responsibilities.
 - (a) Update on Administrative Responsibilities.
 1. Legal requirements including statutes, rules and regulation (Federal and State).
 2. The Joint Commission on the Accreditation of Healthcare Organizations.
 3. Personnel requirements.
 4. Health Insurance Portability and Accountability.
 - (b) Focus on Consultant Pharmacist Practice Issues/Concerns.
 1. How to get things accomplished in complex organizations.
 2. Key contacts to be effective as a consultant pharmacist.
 3. Considerations and preparation for site inspections.
 - (3) Consultant Pharmacist Facility Responsibilities. This segment details the requirements in one of the facility types for which a consultant pharmacist is required. Only one practice setting may be included in each program.
 - (a) Pharmacist-Medication Responsibilities – Assessment mechanism for delivery system, review procedures and monitoring processes.
 - (b) Pharmacist-Patient Responsibilities – Patient assessment, laboratory test monitoring and therapeutic dosing.
 - (c) Committee Responsibilities – Make-up and responsibilities for various facility committees.
 - (d) Reporting requirements.

Rulemaking Authority 465.005, 465.0125 FS. Law Implemented 465.0125 FS. History–New 10-14-91, Formerly 21S-26.302, 61F10-26.302, 59X-26.302, Amended 5-5-05, 7-21-09.

64B16-26.303 Nuclear Pharmacist Licensure.

- (1) A pharmacist licensed to practice pharmacy in this state who performs a radiopharmaceutical service shall, prior to engaging in such specialized practice, be actively licensed as a nuclear pharmacist.
- (2) A pharmacist seeking licensure as a nuclear pharmacist in this state shall submit to the Board of Pharmacy a course outline from an accredited college of pharmacy or other program recognized by the Florida Department of Health and the Florida Board of Pharmacy (a program comparable to those offered by accredited colleges of pharmacy for the training of nuclear pharmacists), and a certificate of training which provides a minimum of 200 clock hours of formal didactic training, which includes:
 - (a) Radiation physics and instrumentation (85 hours).
 - (b) Radiation protection (45 hours).
 - (c) Mathematics pertaining to the use and measurement of radioactivity (20 hours).
 - (d) Radiation biology (20 hours).
 - (e) Radiopharmaceutical chemistry (30 hours).
- (3) Such academic training programs will be submitted to the Board of Pharmacy for approval by an accredited educational institution which operates under the auspices of or in conjunction with an accredited college of pharmacy.
- (4) The minimum on-the-job training which shall be included in a radiopharmacy internship is 500 hours of training and experience in the handling of unsealed radioactive material under the supervision of a licensed nuclear pharmacist. The training and

experience shall include but shall not be limited to the following:

(a) Ordering, receiving and unpackaging in a safe manner, radioactive material, including the performance of related radiation surveys.

(b) Calibrating dose calibrators, scintillation detectors, and radiation monitoring equipment.

(c) Calculating, preparing and verifying patient doses, including the proper use of radiation shields.

(d) Following appropriate internal control procedures to prevent mislabeling.

(e) Learning emergency procedures to safely handle and contain spilled materials, including related decontamination procedures and surveys.

(f) Eluting technetium-99m from generator systems, assaying the eluate for technetium-99m and for molybdenum-99 contamination, and processing the eluate with reagent kits to prepare technetium-99m labeled radiopharmaceuticals.

(g) Clinical practice concepts.

(5) If the didactic and experiential training required in this section have not been completed within the last seven (7) years, the applicant must have been engaged in the lawful practice of nuclear pharmacy in another jurisdiction at least 1080 hours during the last seven (7) years.

Rulemaking Authority 465.005, 465.0126 FS. Law Implemented 465.0126 FS. History—New 1-18-05.

64B16-26.304 Subject Matter for Nuclear Pharmacist License Renewal Continuing Education Programs.

(1) A licensee completing the continuing education requirement for nuclear pharmacist license renewal pursuant to Rule 64B16-26.103, F.A.C., shall complete twenty-four (24) additional hours per biennium of coursework each two year period by or through a Committee approved provider, instructionally designed to provide in-depth treatment of nuclear pharmacy practice with suggested subject matter set out in subsection (2) of this rule.

(2) Content of nuclear pharmacist continuing education program.

(a) Application of radiopharmaceutical theory in a practice or a research setting with respect to the drug products and their clinical application. Provision of drug and radiopharmaceutical information as it pertains to optimal handling and use of these products in a clinical setting.

(b) Effective communication skills in a multi-disciplinary environment with patients, nuclear medicine physicians, nuclear medicine technologists, radiation safety personnel and other nuclear pharmacists. The multi-faceted regulatory environment requires such skills in the preparation and maintenance of a radioactive by-product materials license, the identification and reporting of adverse reactions and misadministration, instances of poor product performance, environmental and personnel radiation safety.

(c) Application of the most rigorous and up-to-date principles of radiation safety and quality assurance in order to assure regulatory compendia, and operational standards for drug and radiopharmaceutical products and equipment. Record-keeping and other documentation activities essential to procurement, storage, compounding, handling and use, distribution and disposal should be emphasized.

(d) Management of a nuclear pharmacy unit in accordance with regulatory and administrative agencies' requirements.

(e) Advances in drug, radiopharmaceutical or related technology (including, but not limited to: monoclonal antibodies, magnetic resonance imaging, computed tomography, positron-emission tomography, radioplaque and other contact enhancement agents, radioimmunoassay) with emphasis on paragraphs (a)-(d) above for such new agents.

Rulemaking Authority 465.005, 465.0126 FS. Law Implemented 465.0126 FS. History—New 1-18-05.

64B16-26.320 Subject Matter for Continuing Education to Order and Evaluate Laboratory Tests.

(1) Consultant pharmacists and pharmacists holding the Doctor of Pharmacy degree that wish to order and evaluate laboratory tests under the provisions of Section 465.0125, F.S., shall successfully complete the requirements of a continuing education course set forth herein prior to such practice. Successful completion of the course will certify the pharmacist for this practice for two (2) years from date of completion.

(2) Providers of courses seeking approval under this section shall meet the procedures and standards provided for in Rule 64B16-26.601, F.A.C. Courses approved under this section shall be at least three (3) hours in duration for initial certification and at least one (1) hour for recertification, and shall cover the following subjects:

(a) Requirements for monitoring laboratory values,

(b) Interpretation of laboratory values,

- (c) Use of laboratory data to monitor and improve drug therapy,
- (d) Legal aspects, restrictions, and requirements for obtaining laboratory studies,
- (e) Use of laboratory data and therapeutic outcomes,
- (f) Documentation of interventions, and
- (g) Laboratory studies as an element of complete patient care.

(3) A consultant pharmacist may apply the three (3) hour initial certification course and the one (1) hour recertification course toward the continuing education requirement for renewal of a consultant pharmacist license under Rule 64B16-26.300, F.A.C., or may apply such continuing education hours toward the continuing education requirement for renewal of a pharmacist license under Rule 64B16-26.103, F.A.C., but may not use the same continuing education hours to satisfy both requirements. A Doctor of Pharmacy who is not a consultant pharmacist may apply the three (3) hour initial certification course and the one (1) hour recertification course toward the continuing education requirement for renewal of a pharmacist license under Rule 64B16-26.103, F.A.C.

Rulemaking Authority 465.009, 465.0125(3) FS. Law Implemented 465.009, 465.0125(2) FS. History—New 2-23-98, Amended 6-15-98, 1-12-03, 3-10-05.

64B16-26.350 Requirements for Pharmacy Technician Registration.

Applicants who are at least 17 years of age may apply to become a registered pharmacy technician.

(1) All applicants for registration must be made on form DH-MQA PH1183, "Pharmacy Technician Registration Application and Instructions" effective September 2009, which is incorporated by reference. Contact the Board of Pharmacy at 4052 Bald Cypress Way, Bin #C04, Tallahassee, FL 32399-3254, or (850) 488-0595 to request an application or download the application from the board's website at <http://www.doh.state.fl.us/mqa/pharmacy>. The application must be accompanied with a non-refundable application fee and an initial registration fee set forth in Rules 64B16-26.1001 and 64B16-26.1002, F.A.C.

(2) Prior to January 1, 2011, a registered pharmacy technician must submit proof of having met one of the following requirements:

- (a) Completed a Board approved training course as outlined in Rule 64B16-26.351, F.A.C; or
- (b) Worked as a registered pharmacy technician for a minimum of 1500 hours under the supervision of a pharmacist; or
- (c) Received certification as a pharmacy technician by a certification program accredited by the National Commission for Certifying Agencies.

(3) Applicants applying for registration after January 1, 2011 must submit proof of completion of a Board approved training course as outlined in Rule 64B16-26.351, F.A.C.

Rulemaking Authority 465.014 FS. Law Implemented 465.014 FS. History—New 8-5-10.

64B16-26.351 Standards for Approval of Registered Pharmacy Technician Training Programs.

(1) The following programs are approved Registered Pharmacy Technician Training programs:

- (a) Pharmacy technician training programs accredited, on or before January 1, 2011 by the American Society of Health-System Pharmacists,
- (b) Pharmacy technician training programs at institutions accredited, on or before January 1, 2011 by the Southern Association of Colleges and Schools,
- (c) Pharmacy technician training programs approved on or before January 1, 2011 by the Florida Commission for Independent Education,
- (d) Pharmacy technician training programs provided by a branch of the federal armed services on or before January 1, 2011.
- (e) Pharmacy technician training programs at institutions accredited on or before January 1, 2011 by the Council on Occupational Education.

(2) All programs not listed in paragraphs (1)(a) through (e) and which are not employer based programs, must:

(a) Meet the requirements of and be licensed by the Commission for Independent Education pursuant to Chapter 1005, F.S., or the equivalent licensing authority of another state or be within the public school system of the State of Florida; and:

(b) Offer a course of study that includes classroom study and clinical instruction that includes the following:

1. Introduction to pharmacy and health care systems:

a. Confidentiality,

b. Patient rights and Health Insurance Portability and Accountability Act (HIPAA),

2. Pharmacy law:

a. Federal law,

b. Florida State law,

c. Florida State rules,

d. Pharmacy technician Florida rules and law,

3. Pharmaceutical – medical terminology, abbreviations, and symbols:

a. Medication safety and error prevention,

b. Prescriptions and medication orders,

4. Records management and inventory control:

a. Pharmaceutical supplies,

b. Medication labeling,

c. Medication packaging and storage,

d. Controlled substances,

e. Adjudication and billing,

5. Interpersonal relations, communications, and ethics:

a. Diversity of communications,

b. Empathetic communications,

c. Ethics governing pharmacy practice,

d. Patient and caregiver communication,

6. Pharmaceutical calculations.

(c) Apply directly to the Board of Pharmacy on approved form DH-MQA 1239 “Board of Pharmacy Application for Registered Pharmacy Technician Training Programs,” effective December 2010, <https://www.flrules.org/gateway/reference.asp?NO=Ref-00717>, which is hereby incorporated by reference. To obtain an application, contact the Board of Pharmacy at 4052 Bald Cypress Way, Bin #C04, Tallahassee, FL 32399-3254, or (850) 488-0595, or download the application from the board’s website at <http://www.doh.state.fl.us/mqa/pharmacy> and provide the following information:

1. Sample transcript and diploma;

2. Copy of curriculum, catalog or other course descriptions; and

3. Faculty credentials.

(d) Use materials and methods that demonstrate that:

1. Learning experiences and teaching methods convey the content stated above.

2. Time allocated for each participant shall be sufficient to meet the objectives of each activity.

3. Principles of adult education are utilized in determining teaching strategies and learning activities.

(e) Demonstrate that the faculty is qualified to teach the subject-matter by complying with the following:

1. The program shall provide evidence of academic preparation or experience in the subject matter by submitting a job description, resume or curriculum vitae which describes the faculty member’s work experience and level of academic preparation.

2. When the subject matter of an offering includes pharmacy technician practice, a licensed pharmacist or registered pharmacy technician with expertise in the content area must be involved in the planning and instruction.

3. Pharmacy technician faculty supervising learning experiences in a clinical area in this State shall be licensed or registered.

(3) All other training programs must be employer based. Any pharmacy technician training program sponsored by a Florida permitted pharmacy or affiliated group of pharmacies under common ownership, must contain a minimum of 160 hours of training, that extends over a period not to exceed 6 months; is provided solely to employees of said pharmacy or affiliated group; and has been approved by the Board. An application for approval of a Registered Pharmacy Technician Training Program shall be made on Board of Pharmacy approved form DH-MQA 1239 “Board of Pharmacy Application for Registered Pharmacy Technician Training Programs,” effective December 2010. The applicant must attach to the application copy of curriculum, catalog or other course description. All employer based programs must:

(a) Offer a course of study that includes a classroom study and clinical instruction that includes the following:

1. Introduction to pharmacy and health care systems:

a. Confidentiality,

- b. Patient rights and Health Insurance Portability and Accountability Act (HIPAA).
 - 2. Pharmacy law:
 - a. Federal law,
 - b. Florida State law,
 - c. Florida State rules,
 - d. Pharmacy technician Florida rules and law.
 - 3. Pharmaceutical-medical terminology, abbreviations, and symbols:
 - a. Medication safety and error prevention,
 - b. Prescriptions and medication orders.
 - 4. Records management and inventory control:
 - a. Pharmaceutical supplies,
 - b. Medication labeling,
 - c. Medication packaging and storage,
 - d. Controlled substances,
 - e. Adjudication and billing.
 - 5. Interpersonal relations, communications, and ethics:
 - a. Diversity of communications,
 - b. Empathetic communications,
 - c. Ethics governing pharmacy practice,
 - d. Patient and caregiver communication.
 - 6. Pharmaceutical calculations.
- (b) Use materials and methods that demonstrate that:
- 1. Learning experiences and teaching methods convey the content stated above.
 - 2. Time allocated for each participant shall be sufficient to meet the objectives of each activity.
 - 3. Principles of adult education are utilized in determining teaching strategies and learning activities.
- (c) Demonstrate that the faculty is qualified to teach the subject matter by complying with the following:
- 1. The program shall provide evidence of academic preparation or experience in the subject matter by submitting a job description, resume or curriculum vitae which describes the faculty member's work experience and level of academic preparation.
 - 2. When the subject matter of an offering includes pharmacy technician practice, a licensed pharmacist or registered pharmacy technician with expertise in the content area must be involved in the planning and instruction.
 - 3. Pharmacy technician faculty supervising learning experiences in a clinical area in this State shall be licensed or registered.
 - 4. When an offering includes clinical practice training in Florida, a Florida licensed pharmacist competent in the practice area shall provide supervision.
- (d) Give participants an opportunity to evaluate learning experiences, instructional methods, facilities and resources used for the offering. To ensure participants will be given an opportunity to evaluate the program, the applicant must submit a sample evaluation to be reviewed by the Board.
- (e) Ensure that self-directed learning experiences, including but not limited to home study, computer programs, internet or web-based courses evaluate participant knowledge at the completion of the learning experience. The evaluation must include a minimum of 100 questions. The participant must achieve a minimum score of 70% on the evaluation to receive the certificate of completion. The evaluation must be graded by the provider.
- (f) Designate a person to assume responsibility for registered pharmacy technician training program. If the contact person is not a licensed pharmacist or registered pharmacy technician, provision should be made for insuring licensed pharmacist or registered pharmacy technician input in overall program planning and evaluation.
- (g) Establish written policies and procedures for implementation of the registered pharmacy technician training program.
- (h) Maintain a system of record-keeping which provides for storage of program information.
- (i) Maintain program records for a period not less than three years during which time the records must be available for inspection by the board or department.
- (j) Furnish each participant with an authenticated individual Certificate of Completion.

Rulemaking Authority 465.014 FS. Law Implemented 465.014 FS. History—New 6-23-10, Amended 11-17-11.

64B16-26.355 Subject Matter for Registered Pharmacy Technician Continuing Education.

A Registered Pharmacy Technician Continuing Education Program must contain subject matter specifically designed to meet the objectives and the stated level and learning needs of the participants. The content shall be planned in logical order and reflect input from experts in the subject matter. Appropriate subject matter for continuing education offering shall reflect the professional educational needs for the learner in order to meet the health care needs of the consumer and consist of content from one or more of the following:

- (1) Pharmacy technician practice areas and special health care problems.
- (2) Biological, physical, behavioral and social sciences.
- (3) Legal aspects of health care.
- (4) Management/administration of health care personnel and patient care.
- (5) Teaching/learning process of health care personnel and patients.
- (6) Subjects which are taken at an accredited educational institution as verified by an official transcript, that meet any one of the criteria in Rule 64B16-26.351, F.A.C., and are advanced beyond that completed for original registration shall be approved for continuing education under this rule.

Rulemaking Authority 465.005, 465.014 FS. Law Implemented 465.014 FS. History—New 10-10-10.

64B16-26.400 Pharmacy Interns; Registration; Employment.

(1) A pharmacy intern is required to be registered with the Department of Health as an intern before being employed as an intern in a pharmacy in Florida.

(2) An applicant for pharmacy intern registration must submit proof of:

- (a) Enrollment in an intern program at an accredited college or school of pharmacy or;
- (b) Graduation from an accredited college or school of pharmacy and not yet licensed in the state. For purposes of this rule only, any individual who has been accepted by the Foreign Pharmacy Graduate Examination Commission to sit for the Foreign Pharmacy Graduate Equivalency Examination shall be considered a graduate of an accredited college or school of pharmacy. The internship experience allowed under this provision shall not count toward the 500-hours internship required subsequent to passage of the Foreign Pharmacy Graduate Equivalency Examination as mandated in Section 465.007(1)(b)2., F.S., and as defined in Rule 64B16-26.203, F.A.C.

(3) Upon the receipt of proof satisfactory to the Board that the intern applicant meets the requirements of either paragraph (a) or (b) of subsection (2), and unless there exists good cause for the Board's refusal to certify an applicant as set forth in Section 465.013, F.S., the Board shall certify the applicant to the Department for registration as an intern.

(4) No intern shall perform any acts relating to the filling, compounding, or dispensing of medicinal drugs unless it is done under the direct and immediate personal supervision of a person actively licensed to practice pharmacy in this state.

Rulemaking Authority 465.005 FS. Law Implemented 465.013 FS. History—Amended 8-20-63, 5-19-72, 8-18-73, Repromulgated 12-18-74, Amended 11-10-80, 4-30-85, Formerly 21S-1.21, Amended 10-20-88, Formerly 21S-1.021, Amended 7-31-91, 1-10-93, Formerly 21S-26.400, 61F10-26.400, 59X-26.400, Amended 3-10-05.

64B16-26.401 Requirements for an Internship Program Sufficient to Qualify an Applicant for Licensure by Examination.

Rulemaking Authority 465.005 FS. Law Implemented 465.007 FS. History—New 8-20-83, Amended 5-19-72, 8-18-73, 12-18-74, 11-10-80, 10-25-84, Formerly 21S-1.22, 21S-1.022, Amended 7-31-91, Formerly 21S-26.401, Amended 12-27-93, Formerly 61F10-26.401, 59X-26.401, Amended 4-19-01, Repealed 3-10-05.

64B16-26.600 Tripartite Continuing Education Committee.

(1) The Tripartite Continuing Education Committee will be composed of equal representation from the Board of Pharmacy, each College or School of Pharmacy in the State, and practicing pharmacists within the State. The members of the Committee shall be selected by the Board of Pharmacy and shall serve for a period of two years. The chairman of the committee shall be selected by the Chair of the Board.

(2) The Tripartite Continuing Education Committee shall perform the following duties pursuant to Rule 64B16-26.601, F.A.C.:

(a) Review continuing education providers and make recommendations to the Board;

(b) Approve continuing education course or program for approved providers or individuals that are non-approved providers for the following:

1. General;
2. Initial Consultant Pharmacist Certification;
3. Consultant Recertification;
4. Nuclear Recertification;
5. Medication Errors;
6. HIV/AIDS;
7. Laboratory Tests;
8. Laws and Rules;
9. Quality Related Events.

(3) The Tripartite Continuing Education Committee shall perform auditing and monitoring activities pursuant to Rule 64B16-26.601, F.A.C. The Tripartite Committee shall perform an audit on each approved continuing education provider 90 days prior to the end of the biennium. The approved provider shall submit the following information for one program of the provider's choosing and one program selected by the Board:

(a) Title, date and location of the program;

(b) Program Number;

(c) Any Co-sponsors;

(d) Total number of pharmacists attending;

(e) Rosters of attendees with appropriate license numbers;

(f) Brochures of program announcement;

(g) CV's of each speaker;

(h) Handouts, Copy of CE Credit statement, educational materials distributed as part of the program; and

(i) Summary report of program evaluations.

(4) The Committee shall hold meetings as may be convened at the call of the Chairman of the Committee.

Rulemaking Authority 465.005, 465.009(5) FS. Law Implemented 465.009 FS. History—New 10-18-79, Amended 7-29-81, Formerly 21S-13.01, 21S-13.001, 21S-26.600, 61F10-26.600, 59X-26.600, Amended 10-15-01, 3-10-05, 6-11-09.

64B16-26.601 Standards for Approval of Courses and Providers.

(1) Each proposal for program or course approval submitted by a qualified provider must contain a detailed outline of the content of said program or course on forms which will be provided by the Board of Pharmacy upon request, and must build upon Standards of Practice and a basic course or courses offered in the curricula of accredited colleges or schools of pharmacy. Continuing education may consist of post-baccalaureate degree programs offered by accredited colleges or schools of pharmacy, post-graduate studies, institutes, seminars, lectures, conferences, workshops, correspondence courses, or other such committee-approved educational methods.

(2) All offerings must meet the following standards:

(a) Education Content Development.

1. Continuing education offerings shall involve advance planning that includes a statement of measurable educational goals and behavioral objectives.

2. Continuing education offerings shall be designed to reflect the educational needs of the pharmacist and build on the standards for practice and courses in the curricula of accredited colleges or schools of pharmacy.

3. Each continuing education offering shall be designed to explore one subject or a group of closely related subjects or

standards.

(b) Methods of Delivery.

1. The method of delivery of a course shall be determined by giving appropriate consideration to such factors as educational content, objectives, and composition of the audience.

2. The method of delivery must encourage active participation and involvement on the part of the pharmacist.

(c) Program Faculty Qualifications.

1. The program faculty for a particular continuing education offering shall be competent in the subject matter and qualified by experience.

2. An appropriate number of program faculty for each activity shall be utilized.

3. There shall be adequate personnel to assist with administrative matters and personnel with competencies outside content areas in cases where the method of delivery requires technical or other special expertise.

(d) Facilities.

1. The facilities to be utilized shall be appropriate and adequate to the content, method of delivery, size of the audience and promote the attainment of the objectives of the offering.

(e) Evaluation. The provider must make provision for evaluation of the participants' attainment of the stated learner objectives through in-process activities that provide a measurable demonstration of the learner's achievement(s).

2. The provider must develop and employ an evaluation mechanism for the purpose of allowing the participant to assess his/her achievement of personal objectives.

3. The provider shall develop and employ an evaluation mechanism that will assess the effectiveness of the learning experiences, instructional methods, facilities, and resources used for the offering.

(f) Contact Hour Criteria. The number of contact hours or Continuing Education Units shall be determined by the provider in advance of the offering subject to approval by the committee and awarded upon the successful completion of the entire planned education experience.

(g) Record Keeping.

1. Records of individual offerings shall be maintained by the provider for inspection by the Board. The records shall be adequate to serve the needs of the participants and to permit the Board to monitor for adherence to the standards for continuing education offerings as outlined in the rules.

2. An individual certificate of attendance specifying title of offering, provider number, date of offering, and number of contact hours earned shall be furnished to each participant by the provider.

3. Records shall be maintained by the provider for a minimum of three (3) years.

(3) Providers seeking board approval shall meet each of the standards outlined herein:

(a) All continuing education offerings conducted by the provider shall meet the standards for continuing education offerings as outlined in these rules.

(b) There shall be a visible, continuous, and identifiable authority charged with administration of continuing education programs. The person or persons in whom the administrative function is vested shall be qualified by virtue of background and experience and approval by the committee.

(4) All programs approved by the Accreditation Council on Pharmacy Education (ACPE) for continuing education for pharmacists may be deemed approved by this Board for general continuing education hours for pharmacists.

(5) Entities or individuals who wish to become approved providers of continuing education must submit an initial approval fee of \$150 and provide information to demonstrate compliance with the requirements of this rule. A provider seeking to renew approved provider status shall pay a renewal fee of \$150.

(6) Entities or individuals applying for approval of an individual program shall submit a fee of \$50 and provide information to demonstrate compliance with this rule.

Rulemaking Authority 465.005, 465.009 FS. Law Implemented 456.025(7), 465.009 FS. History—New 10-17-79, Amended 7-29-81, Formerly 21S-13.02, 21S-13.002, Amended 1-10-93, Formerly 21S-26.601, 61F10-26.601, 59X-26.601, Amended 1-29-03.

64B16-26.6012 Guidelines for Board Ordered Disciplinary Continuing Education Courses.

Any continuing education course being taken as part of a disciplinary order, unless otherwise ordered by the Board, may be conducted by any method, including live, correspondence, or distant education.

(1) Laws and Rules courses shall be at least twelve (12) hours in length. The program shall include review and analysis of the laws regulating the profession of pharmacy in the State of Florida with discussion of recent changes to Florida Statutes and Board of Pharmacy rules. The remainder of the continuing education program shall be derived from the following areas:

- (a) Federal laws related to:
 - 1. Handling, management, and dispensing of controlled substances;
 - 2. Protected patient information; and
 - 3. Medicare.
- (b) Chapters 456, 499 and 893, F.S.;
- (c) Florida Medicaid program;
- (d) Nursing home and Assisted Living Facility regulations;
- (e) Prescriber laws and regulations;
- (f) Pharmacy ethics;
- (g) The Joint Commission (TJC) standards;
- (h) Food and Drug Administration policies and procedures;
- (i) Implementation of disaster and emergency preparedness plans by Florida pharmacists and pharmacy services providers; and
- (j) Occupational Safety and Health Administration (OSHA) and National Institute for Occupational Safety and Health (NIOSH) guidelines and requirements for pharmacy employers.

(2) Quality Related Event (QRE) courses shall be at least eight (8) hours in length.

(a) Course material shall include:

- 1. Pharmacy error detection;
- 2. Pharmacy error prevention; and
- 3. Case studies of pharmacists who have made dosing calculation, checking/interpreting prescriptions, or dispensing errors.

(b) Course material shall include the following specific subject areas:

- 1. Common error types and causes;
- 2. Root cause analysis;
- 3. Process mapping and management;
- 4. System analysis;
- 5. Failure mode and effects analysis;
- 6. Human factors, cognitive and personality impacts;
- 7. Practice management and effective delegation tools;
- 8. Stress management;
- 9. Effective communication;
- 10. Continuous Quality Improvement (CQI) rules;
- 11. CQI implementation tools;
- 12. Individual self assessment, planning, and goal setting. The individual self assessment shall include a requirement that the pharmacist prepare a written report, in essay form, summarizing the impact of the course, what the pharmacist learned, and the changes that the pharmacist will implement in practice as a result of the course.

Rulemaking Authority 456.072(2) 465.005, 465.016(4) FS. Law Implemented 456.072(2), 465.016(4) FS. History—New 7-21-09.

64B16-26.602 Recommendation by the Tripartite Continuing Education Committee.

Rulemaking Authority 465.005 FS. Law Implemented 465.009 FS. History—New 10-17-79, Amended 7-29-81, Formerly 21S-13.03, 21S-13.003, 21S-26.602, Amended 7-18-94, Formerly 61F10-26.602, 59X-26.602, Repealed 8-16-01

64B16-26.603 Continuing Education Records Requirements.

Each pharmacist shall retain documentation of participation in continuing education programs required for license renewal for not less than two years after the license is renewed for audit purposes if and when such audit is undertaken by the Department of Health and the Board of Pharmacy. Such documentation shall consist of statements of credit for lecture attendance, certification forms from instructors, or course completion slips from correspondence courses.

Rulemaking Authority 465.005 FS. Law Implemented 465.009 FS. History—New 10-17-79, Formerly 21S-13.04, Amended 5-10-89, Formerly 21S-13.004, 21S-26.603, 61F10-26.603, 59X-26.603, Amended 1-11-05.

64B16-26.606 Number of Required Hours.

Rulemaking Authority 465.005 FS. Law Implemented 465.009 FS. History—New 10-17-79, Formerly 21S-13.07, 21S-13.007, Amended 7-31-91, Formerly 21S-26.606, 61F10-26.606, 59X-26.606, Amended 2-23-98, 1-12-03, Repealed 3-10-05.

**CHAPTER 64B16-27
PHARMACY PRACTICE**

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64B16-27.100 Display of Current License; Pharmacist, Registered, Intern, and Registered Pharmacy Technician Identification.

(1) The current license of each pharmacist engaged in the practice of the profession of pharmacy as defined by Section 465.003(13), F.S., in any pharmacy shall be displayed, when applicable, in a conspicuous place in or near the prescription department, and in such manner that said license can be easily read by patrons of said establishment. Pharmacists employed in secondary practice sites shall present a valid wallet license as evidence of licensure upon request.

(2) No pharmacist shall display, cause to be displayed or allow to be displayed, their license in any pharmacy where said pharmacist is not engaged in the practice of the profession as defined in Section 465.003(13), F.S.

(3) A pharmacist and registered pharmacy intern must be clearly identified by a means such as an identification badge or monogrammed smock showing their name and if they are a pharmacist or a registered pharmacy intern.

(4) The current registration of each registered pharmacy technician shall be displayed, when applicable, in a conspicuous place in or near the prescription department, and in such a manner that can be easily read by patrons of said establishment. Registered

pharmacy technicians employed in a secondary practice site shall present a valid wallet registration as evidence of registration upon request.

Rulemaking Authority 465.005, 465.0155, 465.022 FS. Law Implemented 465.022 FS. History—Amended 5-19-72, Repromulgated 12-18-74, Formerly 21S-1.06, 21S-1.006, Amended 7-30-91, Formerly 21S-27.100, 61F10-27.100, Amended 1-30-96, Formerly 59X-27.100, Amended 11-18-07, 1-1-10.

64B16-27.1001 Practice of Pharmacy.

Those functions within the definition of the practice of the profession of pharmacy, as defined by Section 465.003(13), F.S., are specifically reserved to a pharmacist or a duly registered pharmacy intern in this state acting under the direct and immediate personal supervision of a pharmacist. The following subjects come solely within the purview of the pharmacist.

- (1) A pharmacist or registered pharmacy intern must:
 - (a) Supervise and be responsible for the controlled substance inventory.
 - (b) Receive verbal prescriptions from a practitioner.
 - (c) Interpret and identify prescription contents.
 - (d) Engage in consultation with a practitioner regarding interpretation of the prescription and date in patient profile.
 - (e) Engage in professional communication with practitioners, nurses or other health professionals.
 - (f) Advise or consult with a patient, both as to the prescription and the patient profile record.
- (2) When parenteral and bulk solutions of all sizes are prepared, regardless of the route of administration, the pharmacist must:
 - (a) Interpret and identify all incoming orders.
 - (b) Mix all extemporaneous compounding or be physically present and give direction to the registered pharmacy technician for reconstitution, for addition of additives, or for bulk compounding of the parenteral solution.
 - (c) Physically examine, certify to the accuracy of the final preparation, thereby assuming responsibility for the final preparation.
 - (d) Systemize all records and documentation of processing in such a manner that professional responsibility can be easily traced to a pharmacist.
- (3) Only a pharmacist may make the final check of the completed prescription thereby assuming the complete responsibility for its preparation and accuracy.
- (4) The pharmacist, as an integral aspect of dispensing, shall be directly and immediately available to the patient or the patient's agent for consultation and shall not dispense to a third party. No prescription shall be deemed to be properly dispensed unless the pharmacist is personally available.
- (5) The pharmacist performing in this state any of the acts defined as "the practice of the profession of pharmacy" in Section 465.003(13), F.S., shall be actively licensed as a pharmacist in this state, regardless of whether the practice occurs in a permitted location (facility) or other location.
- (6) The pharmacist may take a meal break, not to exceed 30 minutes in length, during which the pharmacy department of a permittee shall not be considered closed, under the following conditions:
 - (a) The pharmacist shall be considered present and on duty during any such meal break if a sign has been prominently posted in the pharmacy indicating the specific hours of the day during which meal breaks may be taken by the pharmacist and assuring patients that a pharmacist is available on the premises for consultation upon request during a meal break.
 - (b) The pharmacist shall be considered directly and immediately available to patients during such meal breaks if patients to whom medications are delivered during meal breaks are verbally informed that they may request that a pharmacist contact them at the pharmacist's earliest convenience after the meal break, and if a pharmacist is available on the premises during the meal break for consultation regarding emergency matters. Only prescriptions with the final certification by the pharmacist may be delivered.
 - (c) The activities of registered pharmacy technicians during such a meal break shall be considered to be under the direct and immediate personal supervision of a pharmacist if the pharmacist is available on the premises during the meal break to respond to questions by the technicians, and if at the end of the meal break the pharmacist certifies all prescriptions prepared by the registered pharmacy technicians during the meal break.
- (7) The delegation of any duties, tasks or functions to registered pharmacy interns and registered pharmacy technicians must be performed subject to a continuing review and ultimate supervision of the pharmacist who instigated the specific task, so that a continuity of supervised activity is present between one pharmacist and one registered pharmacy technician. In every pharmacy, the

pharmacist shall retain the professional and personal responsibility for any delegated act performed by registered pharmacy interns and registered pharmacy technicians in the licensee's employ or under the licensee's supervision.

Rulemaking Authority 465.005, 465.0155 FS. Law Implemented 465.003(11)(b), (13), 465.014, 465.026 FS. History—New 11-18-07, Amended 1-1-10.

64B16-27.1003 Transmission of Prescription Orders.

Prescriptions may be transmitted from prescriber to dispenser in written form or by any means of communication. Prescriptions may be transmitted by facsimile systems as provided in Section 465.035, F.S., and federal law. Any direct transmission of prescriptions, including verbal, facsimile, telephonic or electronic data transmission, shall only be with the approval of the patient or patient's agent. The pharmacist receiving any such transmitted prescription shall not participate in any system that the pharmacist knows or should have reason to know restricts the patient's choice of pharmacy. The pharmacist shall take such measures necessary to ensure the validity of all prescriptions received.

Rulemaking Authority 465.005, 465.0155, 465.022 FS. Law Implemented 465.022, 465.026, 893.07 FS. History—New 11-18-07.

64B16-27.101 Counterfeit Drugs.

No pharmacist or pharmacy employee or proprietor shall knowingly purchase, sell, possess or distribute drugs which are commonly called counterfeit, or which are misbranded, or improperly labeled as described by the Florida Drug and Cosmetic Law.

Rulemaking Authority 465.005, 465.0155, 465.022 FS. Law Implemented 465.022 FS. History—Amended 5-19-72, Repromulgated 12-18-74, Formerly 21S-1.15, 21S-1.015, Amended 7-30-91, Formerly 21S-27.101, 61F10-27.101, 59X-27.101.

64B16-27.103 Oral Prescriptions and Copies.

(1) Only a pharmacist or registered pharmacy intern acting under the supervision of a pharmacist may, in the State of Florida, accept an oral prescription of any nature.

(2) Only a pharmacist or registered pharmacy intern acting under the supervision of a pharmacist may, in the State of Florida, prepare a copy of a prescription or read a prescription to any person for purposes of providing reference concerning treatment of the person or animal for whom the prescription was written, and when said copy is given a notation shall be made upon the prescription that a copy has been given, the date given, and to whom given.

Rulemaking Authority 465.005, 465.0155, 465.014, 465.022 FS. Law Implemented 465.003(13), 465.014, 465.022, 893.07(1)(b) FS. History—Amended 5-19-72, Repromulgated 12-18-74, Formerly 21S-1.18, 21S-1.018, 21S-27.103, 61F10-27.103, Amended 9-19-94, Formerly 59X-27.103, Amended 10-15-01, 11-18-07.

64B16-27.104 Conduct Governing Pharmacists and Pharmacy Permittees.

(1) A pharmacist or pharmacy shall be permitted to advertise medicinal drugs other than those controlled substances specified in Chapter 893, F.S., and patent and proprietary preparations so long as such advertising is not false, misleading or deceptive.

(2) No pharmacist, employer or employee of a pharmacy shall maintain a location, other than a pharmacy for which a permit has been issued by the Florida Board of Pharmacy, from which to solicit, accept or dispense prescriptions.

(3) No pharmacist or pharmacy, or employee or agent thereof, shall enter into or engage in any agreement or arrangement with any physician or other practitioner or nursing home or extended care facility for the payment or acceptance of compensation in any form or type for the recommending of the professional services of either; or enter into a rebate or percentage rental agreement of any kind, whereby in any way a patient's free choice of a pharmacist or pharmacy is or may be limited.

(4) No pharmacist, employer or employee of a pharmacy may knowingly place in stock of any pharmacy any part of any prescription compounded for, or dispensed to, any customer of any pharmacy and returned by said customer, unless otherwise permitted by Rule 64B16-28.118, F.A.C.

(5) Pursuant to Section 465.018, F.S., a permit for a community pharmacy may not be issued unless a licensed pharmacist is designated as the prescription department manager responsible for maintaining all drug records, providing for the security of the prescription department and following such other rules as relate to the practice of the profession of pharmacy. The Board shall not register a prescription department manager as the manager of more than one pharmacy. The Board shall grant an exception to this requirement upon application by the permittee and the prescription department manager showing circumstances such as proximity of

permits and limited pharmacist workload that would allow the manager to carry out all duties and responsibilities required of a prescription department manager.

Rulemaking Authority 465.005, 465.0155, 465.018, 465.022 FS. Law Implemented 465.018, 465.022, 465.024 FS. History—New 10-20-81, Formerly 21S-1.20, 21S-1.020, Amended 7-30-91, Formerly 21S-27.104, 61F10-27.104, 59X-27.104, Amended 11-18-07.

64B16-27.1042 Rebates Prohibited; Violations Defined.

As provided in Section 465.185(1), F.S., acts which will be considered as falling within the range of activities which would justify discipline against a pharmacist or permittee as provided in Section 465.016(1)(e) or Section 465.023(1)(c), F.S., shall include:

(1) Offering or providing cash, or goods, or entertainment (including, money, food or decorations) to a health care facility (as defined in Section 408.032(7), F.S.) or its representative in exchange for favorable consideration in obtaining or maintaining the business of the facility;

(2) Offering or providing supplies or equipment to a health care facility (as defined in Section 408.032(7), F.S.) at no charge or below market value when these items are not integral elements of the medication distribution system;

(3) Paying rent to a health care facility (as defined in Section 408.032(7), F.S.) for space that is not used or is unusable or paying a rental rate for space that is significantly greater than the usual and customary rental rate for similar space;

(4) Offering or providing computers, FAX machines, or other electronic devices to a health care facility (as defined in Section 408.032(7), F.S.) when that equipment is not an integral element in providing pharmacy or consultant services;

(5) Offering or providing a health care facility (as defined in Section 408.032(7), F.S.) consultant pharmacist services, or providing patient medical record systems, or any personnel services outside the practice of pharmacy, at no charge, below market value, or below cost in exchange for obtaining or maintaining the business of the facility.

Rulemaking Authority 465.005, 465.0155 FS. Law Implemented 465.185, 465.0155 FS. History—New 3-9-94, Formerly 61F10-27.1042, 59X-27.1042.

64B16-27.105 Transfer of Prescriptions.

(1) A pharmacist or registered pharmacy intern acting under the direct personal supervision of a Florida registered pharmacist may transfer a valid prescription which is on file in another pharmacy in this state or any other state if such transfer is consistent with the conditions set forth in Section 465.026, F.S. Prior to dispensing, the pharmacist or pharmacy where the prescription is on file shall be notified verbally, or by any electronic means that the former prescription must be voided.

(2) In processing a transferred prescription pursuant to Section 465.026, F.S., the pharmacist has the option of substituting a generically equivalent product if such substitution is consistent with the provisions of Section 465.025, F.S.

Rulemaking Authority 465.005, 465.0155 FS. Law Implemented 465.026 FS. History—New 1-3-79, Formerly 21S-1.33, 21S-1.033, Amended 7-30-91, Formerly 21S-27.105, 61F10-27.105, Amended 9-19-94, Formerly 59X-27.105, Amended 6-15-98.

64B16-27.120 Ordering and Evaluation of Laboratory Tests.

Those consultant pharmacists and pharmacists holding the Doctor of Pharmacy degree that meet the continuing education requirements of Rule 64B16-26.320, F.A.C., may order and evaluate laboratory tests to the extent allowed by the provisions of Section 465.0125, F.S. Evidence of such training and authorization to perform these tasks shall be furnished to the board, the patient, or the patient's physician upon request.

Rulemaking Authority 465.0125(3) FS. Law Implemented 465.0125(2) FS. History—New 2-23-98.

64B16-27.200 Purpose and Effect.

The purpose of this rule chapter is to set forth pursuant to the requirements of Section 465.186, F.S., the medicinal drug products which may be ordered and dispensed by pharmacists to the public and to set forth the terms and conditions under which such ordering and dispensing by the pharmacist may take place. The list of drugs set forth below and the conditions under which said drugs may be ordered and dispensed have been determined pursuant to a joint committee of medical, osteopathic and pharmacy professionals as created by Section 465.186, F.S.

Rulemaking Authority 465.186(2) FS. Law Implemented 465.186 FS. History—New 5-1-86, Formerly 21S-18.001, 21S-27.200, 61F10-27.200, 59X-

27.200.

64B16-27.210 General Terms and Conditions to Be Followed by a Pharmacist When Ordering and Dispensing Approved Medicinal Drug Products.

Pursuant to the authority of the Formulary Committee in Section 465.186, F.S., a pharmacist may order the medicinal drug products listed in Rule 64B16-27.220, F.A.C., subject to the following terms and limitations:

- (1) Injectable products shall not be ordered by the pharmacist.
- (2) No oral medicinal drugs shall be ordered by a pharmacist for a pregnant patient or nursing mother.
- (3) In any case of dispensing hereunder, the amount or quantity of drug dispensed shall not exceed a 34-day supply or standard course of treatment unless subject to the specific limitations in this rule. Patients shall be advised that they should seek the advice of an appropriate health care provider if their present condition, symptom, or complaint does not improve upon the completion of the drug regimen.
- (4) The directions for use of all prescribed medicinal drugs shall not exceed the manufacturer's recommended dosage.
- (5) The pharmacist may only perform the acts of ordering and dispensing in a pharmacy which has been issued a permit by the Board of Pharmacy.
- (6) The pharmacist shall create a prescription when ordering and dispensing medicinal drug products which shall be maintained in the prescription files of the pharmacy. The pharmacist shall place the trade or generic name and the quantity dispensed on the prescription label, in addition to all other label requirements.
- (7) The pharmacist shall maintain patient profiles, separate from the prescription order, for all patients for whom the pharmacist orders and dispenses medicinal drug products and shall initial and date each profile entry. Such profiles shall be maintained at the pharmacy wherein the ordering and dispensing originated for a period of two (2) years.
- (8) In the patient profiles, the pharmacist shall record as a minimum the following information if a medicinal drug product is ordered and dispensed.
 - (a) Patient's chief complaint or condition in the patient's own words.
 - (b) A statement regarding the patient's medical history.
 - (c) A statement regarding the patient's current complaint which may include, onset, duration and frequency of the problem.
 - (d) The medicinal drug product ordered and dispensed.
 - (e) The pharmacist ordering and dispensing the medicinal drug product shall initial the profile.
 - (f) The prescription number shall be recorded in the patient's profile.
- (9) A medicinal drug product may be ordered, and dispensed only by the pharmacist so ordering.
- (10) Only legend medicinal drugs may be prescribed by a pharmacist. Over-the-counter drugs are exempt from the requirements of this rule and shall be recommended as over-the-counter products.
- (11) Pharmacy interns and technicians may not be involved in the ordering of the medicinal drugs permitted in this rule.

Rulemaking Authority 465.186(2) FS. Law Implemented 465.186 FS. History—New 5-1-86, Formerly 21S-18.002, 21S-27.210, 61F10-27.210, 59X-27.210, Amended 11-18-07.

64B16-27.211 Prescription Refills.

No prescription may be filled or refilled in excess of one (1) year from the date of the original prescription was written. No prescription for a controlled substance listed in Schedule II may be refilled. No prescription for a controlled substance listed in Schedules III, IV, or V may be filled or refilled more than five (5) times within a period of six (6) months after the date on which the prescription was written.

Rulemaking Authority 465.005, 465.016(1), 465.022(1)(a), 893.04 FS. Law Implemented 465.022 FS. History—New 11-18-07.

64B16-27.220 Medicinal Drugs Which May Be Ordered by Pharmacists.

A Pharmacist may order and dispense from the following formulary, within their professional judgment, subject to the stated conditions.

- (1) Oral analgesics for mild to moderate pain. The pharmacist may order these drugs for minor pain and menstrual cramps for patients with no history of peptic ulcer disease. The prescription shall be limited to a six (6) day supply for one treatment. If appropriate, the prescription shall be labeled to be taken with food or milk.

- (a) Magnesium salicylate/phenyltoloxamine citrate.
 - (b) Acetylsalicylic acid (Zero order release, long acting tablets).
 - (c) Choline salicylate and magnesium salicylate.
 - (d) Naproxen sodium.
 - (e) Naproxen.
 - (f) Ibuprofen.
- (2) Urinary analgesics. Phenazopyridine, not exceeding a two (2) day supply. The prescriptions shall be labeled about the tendency to discolor urine. If appropriate, the prescription shall be labeled to be taken after meals.
- (3) Otic analgesics. Antipyrine 5.4%, benzocaine 1.4%, glycerin, if clinical signs or symptoms of tympanic membrane perforation do not exist. The product shall be labeled for use in the ear only.
- (4) Anti-nausea preparations.
- (a) Meclizine up to 25 mg., except for a patient currently using a central nervous system (CNS) depressant. The prescription shall be labeled to advise the patient of drowsiness and to caution against concomitant use with alcohol or other depressants.
- (b) Scopolamine not exceeding 1.5 mg. per dermal patch. Patient shall be warned to seek appropriate medical attention if eye pain, redness or decreased vision develops.
- (5) Antihistamines and decongestants. The following, including their salts, either as a single ingredient product or in combination, including nasal decongestants, may be ordered for a patient above 6 years of age.
- (a) Antihistamines. The pharmacist shall warn the patient that an antihistamine should not be used by patients with bronchial asthma or other lower respiratory symptoms, glaucoma, cardiovascular disorders, hypertension, prostate conditions and urinary retention. An antihistamine shall be labeled to advise the patient of drowsiness and caution against the concomitant use with alcohol or other depressants.
- 1. Diphenhydramine.
 - 2. Carbinoxamine.
 - 3. Pyrilamine.
 - 4. Dexchlorpheniramine.
 - 5. Brompheniramine.
- (b) Decongestants. The pharmacist shall not order an oral decongestant for use by a patient with coronary artery disease, angina, hyperthyroidism, diabetes, glaucoma, prostate conditions, hypertension, or a patient currently using a monoamine oxidase inhibitor.
- 1. Phenylephrine.
 - 2. Azatadine.
- (6) Topical antifungal/antibacterials. The pharmacist shall warn the patient that any of the products should not be used near deep or puncture wounds and contact with eyes or mucous membranes should be avoided. Iodochlorhydroxyquin preparations shall be labeled with staining potential.
- (a) Iodochlorhydroxyquin with 0.5% Hydrocortisone (not exceeding 20 grams).
 - (b) Haloprogin 1%.
 - (c) Clotrimazole topical cream and lotion.
 - (d) Erythromycin topical.
- (7) Topical anti-inflammatory. The pharmacist shall warn the patient that hydrocortisone should not be used on bacterial infections, viral infections, fungal infections, or by patients with impaired circulation. The prescription shall be labeled to advise the patient to avoid contact with eyes, mucous membranes or broken skin. Preparations containing hydrocortisone not exceeding 2.5%.
- (8) Otic antifungal/antibacterial. Acetic acid 2% in aluminum acetate solution which shall be labeled for use in ears only.
- (9) Keratolytics. Salicylic acid 16.7% and lactic acid 16.7% in flexible collodion, to be applied to warts, except for patients under two (2) years of age, and those with diabetes or impaired circulation. Prescriptions shall be labeled to avoid contact with normal skin, eyes and mucous membranes.
- (10) Vitamins with fluoride. (This does not include vitamins with folic acid in excess of 0.9 mg.)
- (11) Medicinal drug shampoos containing Lindane. The pharmacist shall:
- (a) Limit the order to the treatment of head lice only;
 - (b) Order no more than four (4) ounces per person; and
 - (c) Provide the patient with the appropriate instructions and precautions for use.

- (12) Ophthalmics. Naphazoline 0.1% ophthalmic solution.
- (13) Histamine H2 antagonists. The pharmacist shall advise the patient to seek medical attention if symptom persist longer than 14 days while using the medication or if stools darken or contain blood.
 - (a) Cimetidine.
 - (b) Famotidine.
 - (c) Ranitidine HCl.
- (14) Acne products. Benzoyl Peroxide. The prescription shall be labeled to advise the patient to avoid use on the eye, eyelid, or mucous membranes.
- (15) Topical Antiviral.
 - (a) Acyclovir ointment may be ordered for the treatment of herpes simplex infections of the lips.
 - (b) Penciclovir.

Rulemaking Authority 465.186(2) FS. Law Implemented 465.186 FS. History—New 5-1-86, Amended 10-7-90, Formerly 21S-18.003, Amended 7-30-91, Formerly 21S-27.220, 61F10-27.220, Amended 3-12-97, Formerly 59X-27.220, Amended 6-15-98, 11-30-99, 11-18-07.

64B16-27.230 Fluoride Containing Products That May Be Ordered by Pharmacists.

Oral medicinal drug products containing fluoride may be ordered by pharmacists for their patients who do not have fluoride supplement in their drinking water, pursuant to the following limitations:

- (1) The fluoride content of drinking water does not exceed 0.5 ppm.
- (2) Once a fluoride treatment has been initiated with one specific fluoride medicinal drug product it should not be interchanged with a product of a different manufacturer for the course of the treatment.
- (3) If the fluoride content is less than 0.5 ppm then the following dosage schedule for oral usage shall be followed.
 - (a)1. For ages 0-6 months.
 - a. Less than 0.3 ppm in water – no supplementation,
 - b. 0.3-0.6 ppm in water – no supplementation,
 - c. 0.6 ppm in water – no supplementation,
 - 2. For ages 6 months – 3 years,
 - a. Less than 0.3 ppm in water – supplement with 0.25 mg. F/day,
 - b. 0.3-0.6 ppm in water – no supplementation,
 - c. 0.6 ppm in water – no supplementation.
 - 3. For ages 3-6 years.
 - a. Less than 0.3 ppm in water – supplement with 0.5 mg. F/day,
 - b. 0.3-0.6 ppm in water – supplement with 0.25 mg. F/day,
 - c. 0.6 ppm in water – no supplementation.
 - 4. For ages 6-16 years.
 - a. Less than 0.3 ppm in water – supplement with 1.00 mg. F/day,
 - b. 0.3-0.6 ppm in water – supplement with 0.5 mg. F/day,
 - c. 0.6 ppm in water – no supplementation.
- (b) No more than 264 mg. of sodium fluoride may be dispensed at any one time to a patient.
- (c) Notwithstanding the provisions of subsection 64B16-27.210(3), F.A.C., a pharmacist may continue a course of therapy with fluoride products until appropriate referral to another health care practitioner is indicated or in no event shall the course of therapy be more than one (1) year.

Rulemaking Authority 465.186(2) FS. Law Implemented 465.186 FS. History—New 5-1-86, Formerly 21S-18.004, 21S-27.230, 61F10-27.230, 59X-27.230, Amended 6-15-98.

64B16-27.300 Standards of Practice - Continuous Quality Improvement Program.

- (1) “Continuous Quality Improvement Program” means a system of standards and procedures to identify and evaluate quality-related events and improve patient care.
- (2) “Quality-Related Event” means the inappropriate dispensing or administration of a prescribed medication including:
 - (a) A variation from the prescriber’s prescription order, including, but not limited to:

1. Incorrect drug;
2. Incorrect drug strength;
3. Incorrect dosage form;
4. Incorrect patient; or
5. Inadequate or incorrect packaging, labeling, or directions.

(b) A failure to identify and manage:

1. Over-utilization or under-utilization;
2. Therapeutic duplication;
3. Drug-disease contraindications;
4. Drug-drug interactions;
5. Incorrect drug dosage or duration of drug treatment;
6. Drug-allergy interactions; or
7. Clinical abuse/misuse.

(3)(a) Each pharmacy shall establish a Continuous Quality Improvement Program which program shall be described in the pharmacy's policy and procedure manual and, at a minimum shall contain:

1. Provisions for a Continuous Quality Improvement Committee that may be comprised of staff members of the pharmacy, including pharmacists, registered pharmacy interns, registered pharmacy technicians, clerical staff, and other personnel deemed necessary by the prescription department manager or the consultant pharmacist of record;

2. Provisions for the prescription department manager or the consultant pharmacist of record to ensure that the committee conducts a review of Quality Related Events at least every three months.

3. A planned process to record, measure, assess, and improve the quality of patient care; and

4. The procedure for reviewing Quality Related Events.

(b) As a component of its Continuous Quality Improvement Program, each pharmacy shall assure that, following a Quality-Related Event, all reasonably necessary steps have been taken to remedy any problem for the patient.

(c) At a minimum, the review shall consider the effects on quality of the pharmacy system due to staffing levels, workflow, and technological support.

(4) Each Quality-Related Event that occurs, or is alleged to have occurred, as the result of activities in a pharmacy, shall be documented in a written record or computer database created solely for that purpose. The Quality-Related Event shall be initially documented by the pharmacist to whom it is described, and it shall be recorded on the same day of its having been described to the pharmacist. Documentation of a Quality-Related Event shall include a description of the event that is sufficient to permit categorization and analysis of the event. Pharmacists shall maintain such records at least until the event has been considered by the committee and incorporated in the summary required in subsection (5) below.

(5) Records maintained as a component of a pharmacy Continuous Quality Improvement Program are confidential under the provisions of Section 766.101, F.S. In order to determine compliance the Department may review the policy and procedures and a Summarization of Quality-Related Events. The summarization document shall analyze remedial measures undertaken following a Quality-Related Event. No patient name or employee name shall be included in this summarization. The summarization shall be maintained for two years. Records are considered peer-review documents and are not subject to discovery in civil litigation or administrative actions.

Rulemaking Authority 465.0155 FS. Law Implemented 465.0155 FS. History—New 7-15-99, Amended 1-2-02, 6-16-03, 11-18-07, 1-1-10.

64B16-27.400 Practice of Pharmacy.

Rulemaking Authority 465.005, 465.0155 FS. Law Implemented 465.003(11)(b), (13), 465.014, 465.026 FS. History—New 2-14-77, Formerly 21S-4.01, 21S-4.001, Amended 7-30-91, Formerly 21S-27.400, 61F10-27.400, Amended 1-30-96, 10-1-96, Formerly 59X-27.400, Amended 4-13-00, Repealed 10-5-09.

64B16-27.410 Registered Pharmacy Technician, to Pharmacist Ratio.

(1) Registered pharmacy technicians may assist a pharmacist in performing professional services within a pharmacy environment provided that no pharmacist shall supervise more than one registered pharmacy technician unless otherwise permitted by the Florida Board of Pharmacy. A pharmacist's supervision of a registered pharmacy technician in a working environment

requires that a registered pharmacy technician be under the direct personal supervision of a pharmacist.

(2) The prescription department manager or consultant pharmacist of record is required to submit a written request and receive approval prior to the pharmacy's allowing a pharmacist to supervise more than one registered pharmacy technician as permitted by law. Such requests shall be reviewed and pre-approved by Board staff according to the guidelines adopted herein, and submitted to the Board for ratification.

(3) The request to practice with a ratio greater than 1:1 shall include a brief description of the workflow needs that justify the ratio request. The brief description of workflow needs shall include the operating hours of the pharmacy, number of pharmacists, registered interns, and registered pharmacy technicians employed.

(4) A pharmacy that employs pharmacy technicians shall meet the following conditions:

(a) Establish written job descriptions, task protocols, and policies and procedures that pertain to duties performed by the registered pharmacy technician and provide this information to the Board upon request;

(b) Establish that each registered pharmacy technician is knowledgeable in the established job descriptions, task protocols, and policy and procedures in the pharmacy setting in which the technician is to perform his or her duties;

(c) Ensure that the duties assigned to any registered pharmacy technician do not exceed the established job descriptions, task protocols, and policy and procedures, nor involve any of the prohibited tasks in Rule 64B16-27.420, F.A.C.; or

(d) Ensure that each registered pharmacy technician receives employer-based or on-the-job training in order for the registered pharmacy technician to assume his or her responsibilities and maintain documentation of the training.

(5) The pharmacy shall maintain a policy and procedure manual with regard to registered pharmacy technicians which shall include the following:

(a) Supervision by a pharmacist;

(b) Minimum qualifications as established by law;

(c) Documentation of in-service education and/or on-going training and demonstration of competency, specific to practice site and job function;

(d) General duties and responsibilities of registered pharmacy technicians;

(e) Retrieval of prescription files, patient files, patient profile information and other records pertaining to the practice of pharmacy;

(f) All functions related to prescription processing;

(g) All functions related to prescription legend drug and controlled substance ordering and inventory control, including procedures for documentation and recordkeeping;

(h) rescription refill and renewal authorization;

(i) Registered pharmacy technician functions related to automated pharmacy systems; and

(j) Continuous quality improvement program.

Rulemaking Authority 465.005 FS. Law Implemented 465.014, 893.07(1)(b) FS. History—New 2-14-77, Amended 3-31-81, Formerly 21S-4.02, Amended 8-31-87, Formerly 21S-4.002, Amended 9-9-92, Formerly 21S-27.410, 61F10-27.410, Amended 1-30-96, Formerly 59X-27.410, Amended 2-23-98, 10-15-01, 1-1-10.

64B16-27.420 Registered Pharmacy Technician Responsibilities.

(1) Registered pharmacy technicians may assist the pharmacist in performing the following tasks:

(a) Retrieval of prescription files, patient files and profiles and other such records pertaining to the practice of pharmacy;

(b) Data Entry;

(c) Label preparation;

(d) The counting, weighing, measuring, pouring and mixing of prescription medication or stock legend drugs and controlled substances, including the filling of an automated medication system;

(e) Initiate communication to a prescribing practitioner or their medical staffs (or agents) regarding patient prescription refill authorization requests. For the purposes of this section “prescription refill” means the dispensing of medications pursuant to a prescriber’s authorization provided on the original prescription;

(f) Initiate communication to confirm the patient’s name, medication, strength, quantity, directions and date of last refill;

(g) Initiate communication to a prescribing practitioner or their medical staff (or agents) to obtain clarification on missing or illegible dates, prescriber name, brand/generic preference, quantity, DEA registration number or license numbers; and

(h) May accept authorization for a prescription renewal. For the purposes of this section, “prescription renewal” means the dispensing of medications pursuant to a practitioner’s authorization to fill an existing prescription that has no refill remaining.

(2) Registered Pharmacy technicians shall not:

(a) Receive new verbal prescriptions or any change in the medication, strength or directions;

(b) Interpret a prescription or medication order for therapeutic acceptability and appropriateness;

(c) Conduct a final verification of dosage and directions;

(d) Engage in prospective drug review;

(e) Provide patient counseling;

(f) Monitor prescription usage; and

(g) Override clinical alerts without first notifying the pharmacist.

(3) Nuclear pharmacy permits allow the registered pharmacy technician to receive diagnostic orders only. The pharmacist must receive therapy or blood product procedure orders.

(4)(a) All registered pharmacy technicians shall identify themselves as registered pharmacy technicians by wearing a type of identification badge that is clearly visible which specifically identifies the employee by name and by status as a “registered pharmacy technician”; and

(b) All registered pharmacy technicians shall state their names and verbally identify themselves as registered pharmacy technicians in the context of telephone or other forms of communication.

Rulemaking Authority 465.005, 465.014 FS. Law Implemented 465.014 FS. History—New 8-31-87, Formerly 21S-4.0025, Amended 7-30-91, Formerly 21S-27.420, 61F10-27.420, 59X-27.420, Amended 2-23-98, 1-1-10, 8-26-12.

64B16-27.430 Responsibilities of the Pharmacist.

The delegation of any duties, tasks or functions to registered pharmacy interns and registered pharmacy technicians must be performed subject to a continuing review and ultimate supervision of the pharmacist who instigated the specific task, so that a continuity of supervised activity is present between one (1) pharmacist and one (1) registered pharmacy technician. In every pharmacy, the licensed pharmacist shall retain the professional and personal responsibility for any delegated act performed by registered pharmacy interns and registered pharmacy technicians in his employ and under his supervision.

Rulemaking Authority 465.005 FS. Law Implemented 465.014 FS. History—New 2-14-77, Formerly 21S-4.03, Amended 9-1-87, Formerly 21S-4.003, 21S-27.430, 61F10-27.430, 59X-27.430, Amended 1-1-10.

64B16-27.440 Policies and Procedures.

Any pharmacy utilizing registered pharmacy technicians shall be required to have written policies and procedures regarding the number of positions and their utilization, including the specific scope of responsibilities of technicians, available for inspection by the Florida Board of Pharmacy or its authorized agents and representatives.

Rulemaking Authority 465.005 FS. Law Implemented 465.014 FS. History—New 2-14-77, Formerly 21S-4.04, 21S-4.004, Amended 9-9-92, Formerly 21S-27.440, 61F10-27.440, 59X-27.440, Amended 1-1-10.

64B16-27.500 Negative Drug Formulary.

The negative drug formulary is composed of medicinal drugs which have been specifically determined by the Board of Pharmacy and the Board of Medicine to demonstrate clinically significant biological or therapeutic inequivalence and which, if substituted, could produce adverse clinical effects, or could otherwise pose a threat to the health and safety of patients receiving such prescription medications. Except where certain dosage forms are included on the negative drug formulary as a class, all medicinal drugs are listed by their official United States Pharmacopoeia Non-Proprietary (generic) name. The generic name of a drug shall be applicable to and include all brand-name equivalents of such drug for which a prescriber may write a prescription. Substitution by a dispensing pharmacist on a prescription written for any brand name equivalent of a generic named drug product listed on the negative formulary or for a drug within the class of certain dosage forms as listed, is strictly prohibited. In cases where the prescription is written for a drug listed on the negative drug formulary but a brand name equivalent is not specified by the prescriber, the drug dispensed must be one obtained from a manufacturer or distributor holding an approved new drug application or abbreviated new drug application issued by the Food and Drug Administration, United States Department of Health and Welfare permitting that manufacturer or distributor to market those medicinal drugs or when the former is non-applicable, those manufacturers or distributors supplying such medicinal drugs must show compliance with other applicable Federal Food and Drug Administration marketing requirements. The following are included on the negative drug formulary:

- (1) Digitoxin.
- (2) Conjugated Estrogen.
- (3) Dicumarol.
- (4) Chlorpromazine (Solid Oral Dosage Forms).
- (5) Theophylline (Controlled Release).
- (6) Pancrelipase (Oral Dosage Forms).

Rulemaking Authority 465.005, 465.025(6) FS., Ch. 2001-146, Laws of Florida. Law Implemented 465.025(6) FS., Ch. 2001-146, Laws of Florida. History—New 12-14-76, Amended 3-17-77, 7-2-79, 4-9-81, 9-14-82, 9-26-84, Formerly 21S-5.01, Amended 3-30-89, 7-1-90, Formerly 21S-5.001, Amended 12-25-90, 10-1-92, Formerly 21S-27.500, Amended 2-21-94, Formerly 61F10-27.500, 59X-27.500, Amended 12-4-01, 3-18-10.

64B16-27.510 Identification of Manufacturer.

Each formulary of generic and brand name drug products established by each community pharmacy pursuant to the provisions of Section 465.025, F.S., shall include the name of the manufacturer of the generic drug listed in said formulary.

Rulemaking Authority 465.005 FS. Law Implemented 465.025 FS. History—New 3-16-77, Formerly 21S-5.02, 21S-5.002, 21S-27.510, 61F10-27.510, 59X-27.510.

64B16-27.520 Positive Drug Formulary.

A positive formulary of generic and brand name drug products is required of each community pharmacy pursuant to subsection 465.025(5), F.S. Those medicinal drugs on the positive formulary shall be obtained from manufacturers or distributors holding an approved new drug application or abbreviated new drug application issued by the Food and Drug Administration, U.S. Department of Health, Education and Welfare permitting that manufacturer or distributor to market those medicinal drugs or when the former is non-applicable, those manufacturers or distributors supplying those medicinal drugs must show compliance with other applicable Federal Food and Drug Administration marketing requirements.

Rulemaking Authority 465.005 FS. Law Implemented 465.025(6) FS. History—New 12-7-77, Formerly 21S-5.03, 21S-5.003, 21S-27.520, 61F10-27.520, 59X-27.520.

64B16-27.530 Duty of Pharmacist to Inform Regarding Drug Substitution.

Prior to the delivery of the prescription, a pharmacist must inform the person presenting a prescription of any substitution of a generic drug product for a brand name drug product, of any retail price difference between the two, and of the person's right to refuse the substitution. This information must be communicated at a meaningful time such as to allow the person to make an informed choice as to whether to exercise the option to refuse substitution without undue inconvenience to the presenter of the prescription or to the consumer of the drug. This information shall be communicated to the person presenting the prescription in a manner determined to be appropriate by the pharmacist using professional discretion and judgment.

Rulemaking Authority 465.005 FS. Law Implemented 465.025(3)(a) FS. History—New 11-10-80, Formerly 21S-5.04, 21S-5.004, 21S-27.530, 61F10-27.530, 59X-27.530, Amended 11-18-07.

64B16-27.615 Possession and Disposition of Sample Medicinal Drugs.

(1) Pharmacies may not be in possession of sample medicinal drugs except:

(a) Pharmacies may possess the sample medicinal drugs that are listed within Rule 64B16-27.220, F.A.C., Medicinal Drugs That May be Ordered by Pharmacists.

(b) Institutional pharmacies may possess sample medicinal drugs upon the written request of the prescribing practitioner. Such possession must be in accordance with the provisions of Section 499.028(3)(e)2., F.S.

(c) Those community pharmacies that are pharmacies of health care entities, as defined by Sections 499.003(3) and (14), F.S., may possess sample medicinal drugs upon the written request of the prescribing practitioner. Such possession must be in accordance with the provisions of Section 499.028(3)(e)2., F.S.

(2) Sample packages of medicinal drugs that are found to be unsuitable for dispensing by reason of physical condition or failure to meet requirements of state or federal law shall be returned to the company of origin in accordance with the requirements of Chapter 499, F.S.

Rulemaking Authority 465.005, 465.022, 499.028 FS. Law Implemented 465.018, 465.019, 465.022, 465.186, 499.028 FS. History—New 11-4-93, Formerly 61F10-27.615, 59X-27.615, Amended 11-18-07.

64B16-27.620 Disposition of Complimentary or Sample Medicinal Drugs Which Are Unsuitable for Dispensing.

Rulemaking Authority 465.005, 465.022, 499.028 FS. Law Implemented 465.022 FS. History—New 12-26-79, Formerly 21S-15.03, 21S-15.003, 21S-27.620, Amended 11-4-93, Formerly 61F10-27.620, 59X-27.620, Repealed 10-5-09.

64B16-27.700 Definition of Compounding.

“Compounding” is the professional act by a pharmacist or other practitioner authorized by law, employing the science or art of any branch of the profession of pharmacy, incorporating ingredients to create a finished product for dispensing to a patient or for administration by a practitioner or the practitioner's agent; and shall specifically include the professional act of preparing a unique finished product containing any ingredient or device defined by Sections 465.003(7) and (8), F.S. The term also includes the preparation of nuclear pharmaceuticals and diagnostic kits incident to use of such nuclear pharmaceuticals. The term “commercially available products,” as used in this section, means any medicinal product as defined by Sections 465.003(7) and (8), F.S., that are legally distributed in the State of Florida by a drug manufacturer or wholesaler.

(1) Compounding includes:

(a) The preparation of drugs or devices in anticipation of prescriptions based on routine, regularly observed prescribing patterns.

(b) The preparation pursuant to a prescription of drugs or devices which are not commercially available.

(c) The preparation of commercially available products from bulk when the prescribing practitioner has prescribed the compounded product on a per prescription basis and the patient has been made aware that the compounded product will be prepared by the pharmacist. The reconstitution of commercially available products pursuant to the manufacturer's guidelines is permissible without notice to the practitioner.

(2) The preparation of drugs or devices for sale or transfer to pharmacies, practitioners, or entities for purposes of dispensing or distribution is not compounding and is not within the practice of the profession of pharmacy. Except that the supply of patient specific compounded prescriptions to another pharmacy under the provisions of Section 465.0265, F.S., and Rule 64B16-28.450, F.A.C., is authorized.

(3) Office use compounding, “Office use” means the provision and administration of a compounded drug to a patient by a practitioner in the practitioner’s office or by the practitioner in a health care facility or treatment setting, including a hospital, ambulatory surgical center, or pharmacy. A pharmacist may dispense and deliver a quantity of a compounded drug to a practitioner for office use by the practitioner in accordance with this section provided:

(a) The quantity of compounded drug does not exceed the amount a practitioner anticipates may be used in the practitioner’s office before the expiration date of the drug;

(b) The quantity of compounded drug is reasonable considering the intended use of the compounded drug and the nature of the practitioner’s practice;

(c) The quantity of compounded drug for any practitioner and all practitioners as a whole, is not greater than an amount the pharmacy is capable of compounding in compliance with pharmaceutical standards for identity, strength, quality, and purity of the compounded drug that are consistent with United States Pharmacopoeia guidelines and accreditation practices.

Rulemaking Authority 465.005 FS. Law Implemented 465.003(12), 465.0155, 465.0265 FS. History—New 10-1-92, Formerly 21S-27.700, 61F10-27.700, 59X-27.700, Amended 11-2-03, 10-7-08.

64B16-27.797 Standards of Practice for Compounding Sterile Preparations (CSPs).

The purpose of this section is to assure positive patient outcomes through the provision of standards for 1) pharmaceutical care; 2) the preparation, labeling, and distribution of sterile pharmaceuticals by pharmacies, pursuant to or in anticipation of a prescription drug order, and 3) product quality and characteristics. These standards are intended to apply to all sterile pharmaceuticals, notwithstanding the location of the patient (e.g., home, hospital, nursing home, hospice, doctor’s office).

(1) Definitions:

(a) “Anteroom” means an area where personnel perform hand hygiene and garbing procedures, staging of components, order entry, CSP labeling, and other high-particulate generating activities. It is also a transition area that provides assurance that pressure relationships are constantly maintained so that air flows from clean to dirty areas. The Anteroom area is to be maintained within ISO Class 8 level of particulate contamination.

(b) “Antineoplastic” means a pharmaceutical agent that has the intent of causing cell death targeted to cancer cells, metastatic cells, or other cells involved in a severe inflammatory or autoimmune response.

(c) “Beyond-use-date” means the date after which a compounded preparation should not be used and is determined from the date the preparation was compounded.

(d) “Biological safety cabinet” means a containment unit suitable for the preparation of low, moderate, and high risk agents where there is a need for protection of the product, personnel, and environment.

(e) “Bulk Compounding” means the compounding of CSPs in increments of twenty-five (25) or more doses from a single source.

(f) “Buffer area” (Clean room) is an area where the activities of CSP take place; it shall not contain sinks or drains. In High-Risk compounding this must be a separate room. The Buffer area is to be maintained within ISO Class 7 level of particulate contamination.

(g) “Class 100 environment” means an atmospheric environment which contains no more than one hundred particles of 0.5 microns in diameter or larger per cubic foot of air. A class 100 environment is equivalent to ISO Class 5 level of particulate contamination.

(h) “Compounding Aseptic Isolator” (CAI) – is a form of barrier isolator specifically designed for compounding pharmaceutical ingredients or preparations. It is designed to maintain an aseptic compounding environment within the isolator throughout the compounding and material transfer process. Air exchange into the isolator from the surrounding environment should not occur unless it is first passed through a microbially retentive filter (HEPA minimum 0.2 microns).

(i) “High-Risk Level CSPs” – are products compounded under any of the following conditions are either non-sterile or at high risk to become non-sterile with infectious microorganisms.

1. Non-sterile ingredients, including manufactured products for routes of administration other than sterile parenteral administration are incorporated or a non-sterile device is employed before terminal sterilization.

2. Sterile contents of commercially manufactured products, CSP that lack effective antimicrobial preservatives, sterile surfaces of devices and containers for the preparation, transfer, sterilization, and packaging of CSPs are exposed to air quality worse than ISO Class 5 for more than one (1) hour.

3. Before sterilization, non-sterile procedures such as weighing and mixing are conducted in air quality worse than ISO Class 7, compounding personnel are improperly garbed and gloved, or water-containing preparations are stored for more than 6 hours.

4. For properly stored sterilized high-risk preparation, in the absence of passing a sterility test, the storage periods cannot exceed the following time periods: before administration, the CSPs are properly stored and exposed for not more than 24 hours at controlled room temperature, and for not more than 3 days at a cold temperature (2-8 degrees Celsius) and for not more than 45 days in solid frozen state at -20 degrees Celsius or colder.

5. Examples of high-risk compounding include: (1) dissolving non-sterile bulk drug and nutrient powders to make solutions, which will be terminally sterilized; (2) exposing the sterile ingredients and components used to prepare and package CSPs to room air quality worse than ISO Class 5 for more than one (1) hour; (3) measuring and mixing sterile ingredients in non-sterile devices before sterilization is performed; (4) assuming, without appropriate evidence or direct determination, that packages of bulk ingredients contain at least 95% by weight of their active chemical moiety and have not been contaminated or adulterated between uses.

6. All high risk category products must be rendered sterile by heat sterilization, gas sterilization, or filtration sterilization in order to become a CSP.

7. Quality assurance practices for high-risk level CSPs include all those for low-risk level CSPs. In addition, each person authorized to compound high-risk level CSPs demonstrates competency by completing a media-filled test that represents high-level compounding semiannually.

(j) Immediate Use CSPs:

1. Requires only simple aseptic measuring and transfer manipulations are performed with not more than three (3) sterile non-hazardous drug or diagnostic radiopharmaceutical drug preparations, including an infusion or dilution solution.

2. The preparation procedure occurs continuously without delays or interruptions and does not exceed 1 hour.

3. At no point during preparation and prior to administration are critical surfaces and ingredients of the CSP directly exposed to contact contamination such as human touch, cosmetic flakes or particulates, blood, human body substances (excretions and secretions, e.g., nasal or oral) and non-sterile inanimate sources.

4. Administration begins not later than one (1) hour following the start of preparing the CSP.

5. When the CSP is not administered by the person who prepared it, or its administration is not witnessed by the person who prepared it, the CSP container shall bear a label listing patient identification information (name, identification numbers), and the names and amounts of all active ingredients, and the name or identifiable initials of the person who prepared the CSP, and one (1) hour beyond-use time and date.

6. If administration has not begun within one (1) hour following the start of preparing the CSP, the CSP is promptly and safely discarded. Immediate use CSPs shall not be stored for later use.

(k) ISO Class 5 guidelines are met when particulate contamination is measured at “not more than 3,520 particles 0.5 micron size or larger per cubic meter of air for any laminar airflow workbench (LAWF), BSC, or CAI. (Also referred to as a “Class 100 environment.”)

(l) ISO Class 7 guidelines are met when particulate contamination is measured at “not more than 352,000 particles 0.5 micron size or larger per cubic meter of air for any buffer area (room).”

(m) ISO Class 8 guidelines are met when particulate contamination is measured at “not more than 3,520,000 particles 0.5 micron size or larger per cubic meter of air for any anteroom (area).”

(n) Low-Risk Level CSPs compounded under all of the following are at a low risk of contamination:

1. The CSPs are compounded with aseptic manipulations entirely within ISO Class 5 (class 100) or better air quality using only sterile ingredients, products, components, and devices.

2. The compounding involves only transfer, measuring, and mixing manipulations using no more than three commercially manufactured sterile products and entries into one container (e.g., bag, vial) of sterile product to make the CSP.

3. Manipulations are limited to aseptically opening ampoules, penetrating sterile stoppers on vials with sterile needles and syringes, and transferring sterile liquids in sterile syringes to sterile administration devices, package containers for storage and dispensing. The contents of ampoules shall be passed through a sterile filter to remove any particles.

4. For low-risk preparation, in the absence of passing a sterility test or a documented validated process, the storage periods cannot exceed the following time periods; before administration, the CSPs are properly stored and exposed for not more than 48

hours at controlled room temperature, and for not more than 14 days at a cold temperature (2-8 degrees celsius) and for 45 days in solid frozen state at -20 degrees celsius or colder.

5. Quality Assurance practices include, but are not limited to, the following: (1) routine disinfection and air quality testing of the direct compounding environment to minimize microbial surface contamination and maintain ISO Class 5 air quality; (2) Visual confirmation that compounding personnel are properly donning and wearing appropriate items and types of protective garments; (3) Review of all orders and packages of ingredients to ensure that the correct identity and amounts of ingredients were compounded; (4) Visual inspection of CSPs to ensure the absence of particulate matter in solutions, the absence of leakage from vials and bags, and accuracy and thoroughness of labeling.

6. All compounding personnel are required to demonstrate competency by completing a media-filled test that represents low-level compounding annually. A media-filled test is a commercially available sterile fluid culture media that shall be able to promote exponential colonization of bacteria that are both likely to be transmitted to CSP from the compounding personnel and environment. Media filled vials are incubated at 25-35 degrees celsius for 14 days. Failure is indicated by visible turbidity in the medium on or before 14 days.

(o) Medium-Risk Level CSPs – When CSPs are compounded aseptically under Low-Risk Conditions, and one or more of the following conditions exist, such CSPs are at a medium risk of contamination:

1. CSPs containing more than three (3) commercial sterile drug products and those requiring complex manipulations and/or preparation methods.

2. Multiple individual or small doses of sterile products are combined or pooled to prepare a CSP that will be administered either to multiple patients or to one patient on multiple occasions.

3. The compounding process requires unusually long duration, such as that required to complete dissolution or homogeneous mixing.

4. For Medium-risk preparation, in the absence of passing a sterility test or a documented validated process, the storage periods cannot exceed the following time periods; before administration, the CSPs are properly stored and exposed for not more than 30 hours at controlled room temperature, and for not more than 9 days at a cold temperature and for 45 days in solid frozen state at -20 degrees celsius or colder.

5. These include compounding of total parenteral nutrition (TPN) using either manual or automated devices during which there are multiple injections, detachments, and attachments of nutrient source products to the device or machine to deliver all nutritional components to a final sterile container.

6. Filling of reservoirs of injection and infusion devices with more than three (3) sterile drug products and evacuation of air from those reservoirs before the filled devices are dispensed.

7. Transfer of volumes from multiple ampules or vials into one or more final sterile containers.

8. Quality assurance practices for medium-risk level CSPs include all those for low-risk level CSPs.

9. Demonstrates competency by completing a media-filled test that represents medium-level compounding annually.

(p) Parenteral means a sterile preparation of drugs for injection through one or more layers of the skin.

(q) Risk level of the sterile preparation means the level assigned to a sterile product by a pharmacist that represents the probability that the sterile product will be contaminated with microbial organisms, spores, endotoxins, foreign chemicals or other physical matter.

(r) Sterile preparation means any dosage form devoid of viable microorganisms, including but not limited to, parenterals, injectables, ophthalmics, and aqueous inhalant solutions for respiratory treatments.

(2) Compounded sterile preparations include, but are not limited, to the following:

(a) Total Parenteral Nutrition (TPN) solutions;

(b) Parenteral analgesic drugs;

(c) Parenteral antibiotics;

(d) Parenteral antineoplastic agents;

(e) Parenteral electrolytes;

(f) Parenteral vitamins;

(g) Irrigating fluids;

(h) Ophthalmic preparations; and

(i) Aqueous inhalant solutions for respiratory treatments.

(3) Sterile preparations shall not include commercially manufactured products that do not require compounding prior to dispensing.

(4) Policy & Procedure Manual. A policy and procedure manual shall be prepared and maintained for the compounding, dispensing, and delivery of sterile preparation prescriptions. The policy and procedure manual shall be available for inspection by the Department and include at a minimum:

(a) Use of single dose and multiple dose containers not to exceed United States Pharmacopeia 797 guidelines.

(b) Verification of compounding accuracy and sterility.

(c) Personnel training and evaluation in aseptic manipulation skills.

(d) Environmental quality and control:

1. Air particle monitoring for hoods (or Barrier Isolator), clean room and buffer area (or anteroom) when applicable;

2. Unidirectional airflow (pressure differential monitoring);

3. Cleaning and disinfecting the sterile compounding areas;

4. Personnel cleansing and garbing;

5. Environmental monitoring (air and surfaces).

(e) Personnel monitoring and validation.

(f) Finished product checks and tests.

(g) Method to identify and verify ingredients used in compounding.

(h) Labeling requirements for bulk compounded products:

1. Contents;

2. Beyond-Use-Date; and

3. Storage requirements.

(i) Packing, storage, and transportation conditions.

(5) Physical Requirements.

(a) The pharmacy shall have a designated area with entry restricted to designated personnel for preparing parenteral products. This area shall have a specified ante area and buffer area; in high risk compounding, this shall be separate rooms. This area shall be structurally isolated from other areas with restricted entry or access, and must be designed to avoid unnecessary traffic and interference with unidirectional airflow. It shall be used only for the preparation of these sterile preparations. It shall be of sufficient size to accommodate a laminar airflow hood and to provide for the proper storage of drugs and supplies under appropriate conditions of temperature, light, moisture, sanitation, ventilation, and security.

(b) The pharmacy compounding parenteral and sterile preparation shall have the following:

1. Appropriate environmental control devices capable of maintaining at least class 100 conditions in the work place where critical objects are exposed and critical activities are performed; furthermore, these devices must be capable of maintaining class 100 conditions during normal activity. Examples of appropriate devices include laminar airflow hoods and zonal laminar flow of high efficiency particulate air (HEPA) filtered air;

2. Appropriate disposal containers for used needles, syringes, and if applicable, for antineoplastic waste from the preparation of chemotherapy agents;

3. Appropriate environmental control including approved biohazard cabinetry when antineoplastic drug products are prepared;

4. Appropriate temperature and transport containers;

5. Infusion devices and equipment, if appropriate.

(c) The pharmacy shall maintain and use supplies adequate to preserve an environment suitable for the aseptic preparation of sterile preparations, such as:

1. Gloves, masks, shoe covers, head and facial hair covers, and non-shedding gowns;

2. Needles and syringes of various standard sizes;

3. Disinfectant cleaning agents;

4. Clean towels;

5. Hand washing materials with bactericidal properties;

6. Vacuum containers and various transfer sets;

7. "Spill kits" for antineoplastic agent spills.

(d) The pharmacy should have current reference material in hard copy or readily available on line:

1. USP Pharmacist Pharmacopeia (optional) or Handbook of Injectable Drugs by American Society of Hospital Pharmacists; or other nationally recognized standard reference; and

2. "Practice Guidelines for Personnel Dealing with Cytotoxic Drugs," or other nationally recognized standard cytotoxic reference if applicable.

(e) Barrier isolator is exempt from all physical requirements subject to manufacturer guidelines for proper placement.

(6) Antineoplastic Drugs. The following requirements are necessary for those pharmacies that prepare antineoplastic drugs to ensure the protection of the personnel involved:

(a) All antineoplastic drugs shall be compounded in a vertical flow, Class II, biological safety cabinet placed in negative pressure room unless using barrier isolators. Other preparations shall not be compounded in this cabinet.

(b) Protective apparel shall be worn by personnel compounding antineoplastic drugs. This shall include at least gloves and gowns with tight cuffs.

(c) Appropriate safety and containment techniques for compounding antineoplastic drugs shall be used in conjunction with the aseptic techniques required for preparing sterile products.

(d) Disposal of antineoplastic waste shall comply with all applicable local, state, and federal requirements.

(e) Written procedures for handling both major and minor spills of antineoplastic agents shall be developed and shall be included in the policy and procedure manual.

(f) Prepared doses of antineoplastic drugs shall be dispensed, labeled with proper precautions inside and outside, and shipped in a manner to minimize the risk of accidental rupture of the primary container.

(7) Quality Assurance:

(a) There shall be a documented, ongoing quality assurance control program that monitors personnel performance, equipment, and preparations. Appropriate samples of finished preparations shall be examined to assure that the pharmacy is capable of consistently preparing sterile preparations meeting specifications:

1. All clean rooms and laminar flow hoods shall be certified by an independent contractor or National Sanitation Foundation Standard 49, for operational efficiency at least semiannually for high risk CSPs and annually for low and medium risk CSPs or any time the hood is relocated or the structure is altered and records shall be maintained for two years.

2. There shall be written procedures developed requiring sampling if microbial contamination is suspected for batches greater than 25 units.

3. High risk greater than 25 units have antimicrobial testing prior to dispensing.

4. There shall be referenced written justification of the chosen beyond-use-dates for compounded products.

5. There shall be documentation of quality assurance audits at regular planned intervals, including infection control and sterile technique audits.

(b) Compounding personnel shall be adequately skilled, educated, instructed, and trained to correctly perform and document the following activities in their sterile compounding duties:

1. Demonstrate by observation or test a functional understanding of USP Chapter 797 and definitions, to include Risk Category assessment;

2. Understand the characteristics of touch contamination and airborne microbial contaminants;

3. Perform antiseptic hand cleaning and disinfections of non-sterile compounding surfaces;

4. Select and appropriately don protective garb;

5. Demonstrate aseptic techniques and requirements while handling medications;

6. Maintain and achieve sterility of CSPs in ISO Class 5 (Class 100) primary engineering devices and protect personnel and compounding environments from contamination by antineoplastic and chemotoxic or other hazardous drugs or substances;

7. Manipulate sterile products aseptically, sterilize high-risk level CSPs (where applicable) and quality inspect CSPs;

8. Identify, weigh and measure ingredients;

9. Prepare product labeling requirements and "beyond use" requirements of product expiration;

10. Prepare equipment and barrier requirement work requirements to maintain sterility;

11. Prepare end point testing and demonstrated competencies for relevant risk levels;

12. Prepare media fills to test aseptic technique.

(8) Radiopharmaceuticals as Compounded Sterile Products

(a) Upon release of a Positron Emission Tomography (PET) radiopharmaceutical as a finished drug product from a PET production facility, the further manipulation, handling, or use of the product will be considered compounding and will be subject to the rules of this section.

(b) Radiopharmaceuticals compounded from sterile components in closed, sterile containers and with a volume of 100 ml or less for single dose injection or not more than 30 ml taken from a multiple dose container, shall be designated as, and conform to, the standards for low risk compounding.

(c) Radiopharmaceuticals shall be compounded using appropriately shielded vials and syringes in a properly functioning ISO Class 5 PEC (Primary Engineering Control), located in an ISO Class 8 or better buffer area environment in compliance with special handling, shielding, air flow requirements, and radiation safety programs to maintain radiation exposure as low as reasonably achievable.

(d) Radiopharmaceuticals designed for multi use, compounded with Tc-99m, exposed to an ISO Class 5 environment by components with no direct contact contamination, may be used up until the time indicated by manufacturers recommendations.

(e) Technetium 99/Molybdenum 99 generator systems shall be stored and eluted in an ISO Class 8 or cleaner environment to permit special handling, shielding, and airflow requirements.

(f) Manipulation of blood or blood derived products (e.g. radiolabeling white blood cells) shall be conducted in an area that is clearly separated from routine material handling areas and equipment, and shall be controlled by specific standard operating procedures to avoid cross contamination of products. The buffer area for manipulation of blood or blood derived products shall be maintained as an ISO 7 environment and direct manipulations shall occur in an ISO 5 PEC suitable for these products (e.g. biological safety cabinet).

Rulemaking Authority 465.005, 465.0155, 465.022 FS. Law Implemented 465.0155, 465.022 FS. History--New 6-18-08, Amended 1-7-10.

64B16-27.800 Requirement for Patient Records.

(1) A patient record system shall be maintained by all pharmacies for patients to whom new or refill prescriptions are dispensed. The patient record system shall provide for the immediate retrieval of information necessary for the dispensing pharmacist to identify previously dispensed drugs at the time a new or refill prescription is presented for dispensing. The pharmacist shall ensure that a reasonable effort is made to obtain, record and maintain the following information:

(a) Full name of the patient for whom the drug is intended;

(b) Address and telephone number of the patient;

(c) Patient's age or date of birth;

(d) Patient's gender;

(e) A list of all new and refill prescriptions obtained by the patient at the pharmacy maintaining the patient record during the two years immediately preceding the most recent entry showing the name of the drug or device, prescription number, name and strength of the drug, the quantity and date received, and the name of the prescriber; and

(f) Pharmacist comments relevant to the individual's drug therapy, including any other information peculiar to the specific patient or drug.

(2) The pharmacist shall ensure that a reasonable effort is made to obtain from the patient or the patient's agent and shall record any known allergies, drug reactions, idiosyncrasies, and chronic conditions or disease states of the patient and the identity of any other drugs, including over-the-counter drugs, or devices currently being used by the patient which may relate to prospective drug review. The pharmacist shall record any related information indicated by a licensed health care practitioner.

(3) A patient record shall be maintained for a period of not less than two years from the date of the last entry in the profile record. This record may be a hard copy or a computerized form.

(4) Patient records shall be maintained for prescriptions dispensed subsequent to the effective date of this regulation.

Rulemaking Authority 465.022, 465.0155 FS. Law Implemented 465.0155 FS. History--New 8-18-93, Formerly 21S-27.800, 61F10-27.800, 59X-27.800, Amended 6-15-98.

64B16-27.810 Prospective Drug Use Review.

(1) A pharmacist shall review the patient record and each new and refill prescription presented for dispensing in order to promote therapeutic appropriateness by identifying:

(a) Over-utilization or under-utilization;

- (b) Therapeutic duplication;
- (c) Drug-disease contraindications;
- (d) Drug-drug interactions;
- (e) Incorrect drug dosage or duration of drug treatment;
- (f) Drug-allergy interactions;
- (g) Clinical abuse/misuse.

(2) Upon recognizing any of the above, the pharmacist shall take appropriate steps to avoid or resolve the potential problems which shall, if necessary, include consultation with the prescriber.

Rulemaking Authority 465.022, 465.0155 FS. Law Implemented 465.0155 FS. History—New 8-18-93, Formerly 21S-27.810, 61F10-27.810, 59X-27.810.

64B16-27.820 Patient Counseling.

(1) Upon receipt of a new or refill prescription, the pharmacist shall ensure that a verbal and printed offer to counsel is made to the patient or the patient's agent when present. If the delivery of the drugs to the patient or the patient's agent is not made at the pharmacy the offer shall be in writing and shall provide for toll-free telephone access to the pharmacist. If the patient does not refuse such counseling, the pharmacist, or the pharmacy intern, acting under the direct and immediate personal supervision of a licensed pharmacist, shall review the patient's record and personally discuss matters which will enhance or optimize drug therapy with each patient or agent of such patient. Such discussion shall be in person, whenever practicable, or by toll-free telephonic communication and shall include appropriate elements of patient counseling. Such elements may include, in the professional judgment of the pharmacist, the following:

- (a) The name and description of the drug;
- (b) The dosage form, dose, route of administration, and duration of drug therapy;
- (c) Intended use of the drug and expected action (if indicated by the prescribing health care practitioner);
- (d) Special directions and precautions for preparation, administration, and use by the patient;
- (e) Common severe side or adverse effects or interactions and therapeutic contraindications that may be encountered, including their avoidance, and the action required if they occur;
- (f) Techniques for self-monitoring drug therapy;
- (g) Proper storage;
- (h) Prescription refill information;
- (i) Action to be taken in the event of a missed dose; and
- (j) Pharmacist comments relevant to the individual's drug therapy, including any other information peculiar to the specific patient or drug.

(2) Patient counseling as described herein, shall not be required for inpatients of a hospital or institution where other licensed health care practitioners are authorized to administer the drug(s).

(3) A pharmacist shall not be required to counsel a patient or a patient's agent when the patient or patient's agent refuses such consultation.

Rulemaking Authority 465.022, 465.0155 FS. Law Implemented 465.0155 FS. History—New 8-18-93, Formerly 21S-27.820, 61F10-27.820, 59X-27.820.

64B16-27.830 Standards of Practice - Drug Therapy Management.

(1) "Prescriber Care Plan" means an individualized assessment of a patient and orders for specific drugs, laboratory tests, and other pharmaceutical services intended to be dispensed or executed by a pharmacist. The Prescriber Care Plan shall be written by a physician licensed pursuant to Chapter 458, 459, 461, or 466, F.S., or similar statutory provision in another jurisdiction, and may be transmitted by any means of communication. The Prescriber Care Plan shall specify the conditions under which a pharmacist shall order laboratory tests, interpret laboratory values ordered for a patient, execute drug therapy orders for a patient, and notify the physician.

(2) "Drug Therapy Management" means any act or service by a pharmacist in compliance with orders in a Prescriber Care Plan.

(3) A pharmacist may provide Drug Therapy Management services for a patient, incidental to the dispensing of medicinal drugs or as a part of consulting concerning therapeutic values of medicinal drugs or as part of managing and monitoring the patient's drug

therapy. A pharmacist who provides Drug Therapy Management services for a patient shall comply with orders in a Prescriber Care Plan, insofar as they specify:

- (a) Drug therapy to be initially dispensed to the patient by the pharmacist; or
 - (b) Laboratory values or tests to be ordered, monitored and interpreted by the pharmacist; or
 - (c) The conditions under which the duly licensed practitioner authorizes the execution of subsequent orders concerning the drug therapy for the patient; or
 - (d) The conditions under which the pharmacist shall contact or notify the physician.
- (4) A pharmacist who provides Drug Therapy Management services shall do so only under the auspices of a pharmacy permit that provides the following:

- (a) A transferable patient care record that includes:
 - 1. A Prescriber Care Plan that includes a section noted as “orders” from a duly licensed physician for each patient for whom a pharmacist provides Drug Therapy Management services;
 - 2. Progress notes; and
- (b) A pharmaceutical care area that is private, distinct, and partitioned from any area in which activities other than patient care activities occur, and in which the pharmacist and patient may sit down during the provision of Drug Therapy Management services; and
- (c) A continuous quality improvement program that includes standards and procedures to identify, evaluate, and constantly improve Drug Therapy Management services provided by a pharmacist.

Rulemaking Authority 465.005, 465.0155 FS. Law Implemented 465.003(13), 465.0155, 465.022(1)(b) FS. History—New 4-4-00.

64B16-27.831 Standards of Practice for the Dispensing of Controlled Substances for Treatment of Pain.

(1) An order purporting to be a prescription that is not issued for a legitimate medical purpose is not a prescription and the pharmacist knowingly filling such a purported prescription shall be subject to penalties for violations of the law.

(2) The following criteria shall cause a pharmacist to question whether a prescription was issued for a legitimate medical purpose:

- (a) Frequent loss of controlled substance medications,
 - (b) Only controlled substance medications are prescribed for a patient,
 - (c) One person presents controlled substance prescriptions with different patient names,
 - (d) Same or similar controlled substance medication is prescribed by two or more prescribers at same time,
 - (e) Patient always pays cash and always insists on brand name product.
- (3) If any of the criteria in (2) is met, the pharmacist shall:

(a) Require that the person to whom the medication is dispensed provide picture identification and the pharmacist should photocopy such picture identification for the pharmacist’s records. If a photocopier is not available, the pharmacist should document on the back of the prescription complete descriptive information from the picture identification. If the person to whom medication is dispensed has no picture identification, the pharmacist should confirm the person’s identity and document on the back of the prescription complete information on which the confirmation is based.

(b) Verify the prescription with the prescriber. A pharmacist who believes a prescription for a controlled substance medication to be valid, but who has not been able to verify it with the prescriber, may determine not to supply the full quantity and may dispense a partial supply, not to exceed a 72 hour supply. After verification by the prescriber, the pharmacist may dispense the balance of the prescription within a 72 hour time period following the initial partial filling, unless otherwise prohibited by law.

(4) Every pharmacy permit holder shall maintain a computerized record of controlled substance prescriptions dispensed. A hard copy printout summary of such record, covering the previous 60 day period, shall be made available within 72 hours following a request for it by any law enforcement personnel entitled to request such summary under authority of Section 465.017(2), F.S. Such summary shall include information from which it is possible to determine the volume and identity of controlled substance medications being dispensed under the prescription of a specific prescriber, and the volume and identity of controlled substance medications being dispensed to a specific patient.

(5) Any pharmacist who has reason to believe that a prescriber of controlled substances is involved in the diversion of controlled substances shall report such prescriber to the Department of Health.

(6) Any pharmacist that dispenses a controlled substance subject to the requirements of this rule when dispensed by mail shall

be exempt from the requirements to obtain suitable identification.

Rulemaking Authority 465.005, 465.0155 FS. Law Implemented 456.072(1)(i), 465.0155, 465.016(1)(i), (o), 465.017(2) FS. History—New 8-29-02, Amended 2-24-03, 11-18-07.

64B16-27.850 Standards of Practice for Orthotics and Pedorthics.

(1) Definitions.

(a) “Orthosis” means a medical device used to provide support, correction, or alleviation of neuromuscular or musculoskeletal dysfunction, disease, injury, or deformity, but does not include the following assistive technology devices: upper extremity adaptive equipment used to facilitate the activities of daily living, including specialized utensils, combs, and brushes; finger splints; wheelchair seating and equipment that is an integral part of the wheelchair and not worn by the patient; elastic abdominal supports that do not have metal or plastic reinforcing stays; arch supports; nontherapeutic accommodative inlays and nontherapeutic accommodative footwear, regardless of method of manufacture; unmodified, over-the-counter shoes; prefabricated foot care products; durable medical equipment such as canes, crutches, or walkers; dental appliances; or devices implanted into the body by a physician. For purposes of this subsection, “accommodative” means designed with the primary goal of conforming to the individual’s anatomy and “inlay” means any removable material upon which the foot directly rests inside the shoe and which may be an integral design component of the shoe.

(b) “Orthotics” means the practice, pursuant to a licensed physician’s written prescription, of evaluating, treatment formulating, measuring, designing, fabricating, assembling, fitting, adjusting, servicing, or providing the initial training necessary to accomplish the fitting of an orthosis or pedorthic device; however, the repair, replacement, adjustment, or servicing of any existing orthosis may be performed without an additional prescription from the patient’s physician, unless the original prescription states otherwise. If a patient is under the care of a licensed occupational therapist or physical therapist, the pharmacist must consult with the therapist if the therapist has requested consultation regarding the fitting, design, or fabrication of an orthosis or regarding treatment with an orthosis.

(c) “Pedorthic device” means therapeutic shoes, shoe modifications made for therapeutic purposes, prosthetic fillers of the forefoot, and foot orthoses for use from the ankle and below, but does not include arch supports; nontherapeutic accommodative inlays and nontherapeutic accommodative footwear, regardless of method of manufacture; unmodified, over-the-counter shoes; or prefabricated foot care products. For purposes of this subsection, “accommodative” means designed with the primary goal of conforming to the individual’s anatomy and “inlay” means any removable material upon which the foot directly rests inside the shoe and which may be an integral design component of the shoe.

(d) “Pedorthics” means the practice, pursuant to a licensed physician’s written prescription, of evaluating, treatment formulating, measuring, designing, fabricating, assembling, fitting, adjusting, servicing, or providing the initial training necessary to accomplish the fitting of a pedorthic device; however, the repair, replacement, adjustment, or servicing of any existing pedorthic device may be performed without an additional prescription from the patient’s physician, unless the original prescription states otherwise. If a patient is under the care of a licensed occupational therapist or physical therapist, the pharmacist must consult with the therapist if the therapist has requested consultation regarding the fitting, design, or fabrication of a pedorthic device or regarding treatment with a pedorthic device.

(2) Pursuant to a licensed physician’s written prescription, the pharmacist shall assume the responsibility for assessing the patient, planning the patient’s treatment program, and directing the program. No pharmacist shall implement a prescription that, in the pharmacist’s judgment, is contraindicated. No change shall be made in the prescription without the authorization of the prescribing physician.

(3) The pharmacist’s professional responsibilities include:

(a) Ongoing consultation with the prescribing physician regarding information that will impact the patient’s medical and functional outcomes.

(b) Orthotic and/or pedorthic evaluation of the patient.

(c) Identification and documentation of precautions, special problems, or contraindications.

(d) Development of a treatment plan including the short and long terms goals.

(e) Implementation of a treatment plan.

(f) Periodic review and update of the treatment plan, including reassessment of the patient in reference to goals and, when necessary, modification of the treatment plan.

- (g) Collaboration with members of the health care team when appropriate.
 - (h) Advising the patient, in terms which the patient can understand, of the nature and purpose of the services to be rendered and the techniques for use and care of an orthosis or pedorthic device.
 - (i) Determination of the appropriateness of proper fit and function of any orthosis or pedorthic device.
- (4) A pharmacist may delegate duties to nonlicensed supportive personnel if those duties are performed under the supervision of the pharmacist. In such instances the supervising pharmacist is responsible for all acts performed by such persons. It is below the standard of practice and prohibited for a pharmacist to delegate or assign activities, tasks or procedures that fall within the scope of any practice defined in Section 468.812(3), F.S., to support personnel, without providing supervision for the performance of the activities, tasks or procedures.

Rulemaking Authority 468.812(3) FS. Law Implemented 465.0155, 468.812(3) FS. History—New 5-2-07.

64B16-27.851 Record-Keeping for Orthotics and Pedorthics.

- (1) The pharmacist or supportive personnel shall prepare and maintain in a timely manner patient records which include, at a minimum, the following:
- (a) The patient name, address and telephone number;
 - (b) The location and dates of all treatment, evaluation or consultation;
 - (c) The name of the prescribing physician;
 - (d) All prescriptions pertaining to services provided to the patient;
 - (e) A treatment or service plan;
 - (f) Progress notes for each session;
- (2) The licensee may charge a fee for the reproduction of records, which shall be no greater than \$ 1.00 per page for the first 25 pages, and \$0.50 per page for every page after 25. In addition, the actual cost of postage may be added. Reasonable costs of reproducing radiographs and such other kinds of records shall be the actual costs. “Actual costs” means the cost of the material and supplies used to duplicate the record and the labor and overhead costs associated with the duplication.
- (3) The licensee shall retain the patient record for at least two years from the date of last entry, unless otherwise provided by law.

Rulemaking Authority 468.802, 468.812(3) FS. Law Implemented 456.057(16), 465.0155, 465.022, 468.802, 468.812(3) FS. History—New 5-2-07.

CHAPTER 64B16-28
GENERAL REQUIREMENTS – PERMITS

- 64B16-28.101 Prescription Area Accessible to Inspection
- 64B16-28.102 Sink and Running Water, Sufficient Space, Refrigeration, Sanitation, Equipment
- 64B16-28.103 Sufficient Space in Prescription Department (Repealed)
- 64B16-28.1035 Patient Consultation Area
- 64B16-28.104 Refrigeration (Repealed)
- 64B16-28.105 Sanitation (Repealed)
- 64B16-28.106 Right to Inspect Invoices (Repealed)
- 64B16-28.107 Pharmacy Equipment (Repealed)
- 64B16-28.108 All Permits – Labels and Labeling of Medicinal Drugs
- 64B16-28.1081 Regulation of Daily Operating Hours
- 64B16-28.109 Prescription Department; Padlock; Sign: “Prescription Department Closed”
- 64B16-28.110 Outdated Pharmaceuticals
- 64B16-28.111 Storage of Equipment (Repealed)
- 64B16-28.112 Violations (Repealed)
- 64B16-28.113 Permits; Single Entity; Single Location
- 64B16-28.1135 Change of Ownership (Transferred to 64B16-28.2021)
- 64B16-28.114 Prescription Refills (Repealed)
- 64B16-28.118 Unit Dose and Customized Patient Medication Package Returns by In-patients
- 64B16-28.119 Data Processing Systems in Pharmacy (Repealed)
- 64B16-28.1191 Unclaimed Prescriptions
- 64B16-28.120 All Permits – Storage of Legend Drugs; Prepackaging
- 64B16-28.121 Permit Fees (Repealed)
- 64B16-28.130 Transmission of Prescription Orders (Repealed)
- 64B16-28.140 Record Maintenance Systems for Community, Special-Limited Community, Special-Closed Systems, Special-Parenteral/Enteral, and Nuclear Permits

- 64B16-28.141 Requirements for an Automated Pharmacy System in a Community Pharmacy
- 64B16-28.150 Record Maintenance Systems for Institutional and Animal Shelter Permits (Repealed)
- 64B16-28.201 Definitions (Repealed)
- 64B16-28.202 Closing of a Pharmacy; Transfer of Prescription Files
- 64B16-28.2021 Change of Ownership
- 64B16-28.203 Transfer of Medicinal Drugs; Change of Ownership; Closing of a Pharmacy
- 64B16-28.301 Destruction of Controlled Substances – Institutional Pharmacies
- 64B16-28.303 Destruction of Controlled Substances All Permittees (excluding Nursing Homes)
- 64B16-28.402 Labels and Labeling of Medicinal Drugs – Community Pharmacy Permit (Repealed)
- 64B16-28.404 Regulation of Daily Operating Hours (Repealed)
- 64B16-28.450 Centralized Prescription Filling, Delivering and Returning
- 64B16-28.451 Pharmacy Common Database
- 64B16-28.501 Institutional Permit – Consultant Pharmacist of Record
- 64B16-28.502 Class I Institutional Permit and Class II Institutional Permit – Labels and Labeling of Medicinal Drugs for Inpatients of a Nursing Home

- 64B16-28.503 Transmission of Starter Dose Prescriptions for Patients in Class I Institutional or Modified II B Facilities
- 64B16-28.602 Institutional Class II Dispensing.
- 64B16-28.6021 Institutional Class II Pharmacy – Emergency Department Dispensing
- 64B16-28.603 Class II Institutional Pharmacy Operating Hours
- 64B16-28.604 Class II Institutional Pharmacy Department Security
- 64B16-28.605 Class II Institutional Pharmacies – Automated Distribution and Packaging
- 64B16-28.606 Remote Medication Order Processing for Class II Institutional Pharmacies
- 64B16-28.607 Automated Pharmacy System – Long-Term Care, Hospice, and Prison
- 64B16-28.702 Modified Class II Institutional Pharmacies
- 64B16-28.800 Special Pharmacies
- 64B16-28.810 Special Pharmacy – Limited Community Permit

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| 64B16-28.820 | Sterile Products and Special Parenteral/Enteral Compounding |
| 64B16-28.830 | Special – Closed System Pharmacy |
| 64B16-28.840 | Special – Non Resident (Mail Service) |
| 64B16-28.850 | Special Pharmacy – ESRD |
| 64B16-28.860 | Special Pharmacy – Parenteral/Enteral Extended Scope Permit |
| 64B16-28.870 | Special-ALF |
| 64B16-28.900 | Definitions – Nuclear Pharmacy |
| 64B16-28.901 | Nuclear Pharmacy – General Requirements |
| 64B16-28.902 | Nuclear Pharmacy – Minimum Requirements |
| 64B16-28.903 | Training Qualifications (Repealed) |
| 64B16-28.904 | Nuclear Pharmacist – Continuing Education (Repealed) |

64B16-28.101 Prescription Area Accessible to Inspection.

(1) The prescription department compounding room or any other place where prescriptions are compounded, filled, processed, accepted, dispensed, or stored in each pharmacy shall be so situated and located that authorized agents and employees of the Department or other persons authorized by law to enter and inspect, can observe and survey the confines of said department, room or area and can enter into said department, room or area after identifying themselves, for the purpose of inspection at a reasonable hour or when the practice of the profession of pharmacy is being carried on, as defined in Section 465.003, F.S., without having been previously detained or announced. Such inspection may be routinely conducted at any time by authorized agents of the Department to determine whether Chapter 465, F.S., or provisions of these rules have been violated or for other lawful purposes, and need not be in response to a complaint filed with the Department. There shall be a minimum of one (1) inspection per year except as otherwise provided herein or directed by the Board.

(a) A pharmacy shall be inspected twice during the first year of operation.

(b) A pharmacy which has had passing inspections for the most current three years, and no discipline during the most current three years shall be inspected every two years.

(c) A pharmacy which fails to obtain a passing inspection or which is disciplined during the two year inspection cycle will be inspected annually until it achieves passing inspections for the most current three years, and no discipline during the most current three years as set forth in this subsection.

(2) Authorized agents and employees of the Department or other persons authorized by law shall have the right to inspect invoices, shipping tickets, or any other document pertaining to the transfer of drugs or drug preparations, from or to all pharmacies and a reasonable amount of time shall be allowed for said information to be made available.

Rulemaking Authority 465.005, 465.022 FS. Law Implemented 465.017, 465.022 FS. History—Amended 5-19-72, 11-2-81, Formerly 21S-1.01, 21S-1.001, Amended 7-31-91, Formerly 21S-28.101, 61F10-28.101, 59X-28.101, Amended 5-4-05, 2-2-12.

64B16-28.102 Sink and Running Water, Sufficient Space, Refrigeration, Sanitation, Equipment.

There shall be provided for the prescription department of each pharmacy:

(1) An adequate sink in workable condition and running water easily accessible to the prescription counter that shall be available during the hours when the prescription department is normally open for the business related to prescriptions.

(2) Sufficient shelf, drawer or cabinet space for the neat and orderly storage of pharmaceutical stock, prescription containers, prescription labels, the required equipment, and all other items, articles or equipment stored therein and there shall be sufficient walking space and sufficient work counter space within each prescription department of said establishment so as to allow employees or pharmacists employed therein to adequately, safely, and accurately fulfill their duties related to prescriptions.

(3) Adequate facilities for the proper storage of pharmaceuticals which require refrigeration, and such pharmaceuticals shall be stored therein, and in such manner as to preserve their therapeutic activity.

(4) Adequate sanitation to insure the prescription department is operating under clean, sanitary, uncrowded, and healthy conditions.

(5) The following items:

(a) A current pharmacy reference compendium such as the United States Pharmacopoeia/National Formulary, the U.S. Dispensatory, USP DI, (United States Pharmacopoeial Drug Information), the Remington Practice of Pharmacy, Facts and Comparisons or an equivalent thereof sufficient in scope to meet the professional practice needs of that pharmacy, and a current

copy of the laws and rules governing the practice of pharmacy in the State of Florida. It shall be acceptable, in lieu of an actual hard copy, to maintain these materials in a readily available electronic data format.

(b) Such other equipment as is necessary to meet the needs of the professional practice of pharmacy.

Rulemaking Authority 465.005, 465.022 FS. Law Implemented 465.022 FS. History—Amended 5-19-72, Repromulgated 12-18-74, Formerly 21S-1.02, 21S-1.002, 21S-28.102, 61F10-28.102, 59X-28.102, Amended 5-4-05.

64B16-28.103 Sufficient Space in Prescription Department.

Rulemaking Authority 465.005, 465.022 FS. Law Implemented 465.022 FS. History—Amended 5-19-72, Repromulgated 12-18-74, Formerly 21S-1.03, 21S-1.003, 21S-28.103, 61F10-28.103, 59X-28.103, Repealed 5-4-05.

64B16-28.1035 Patient Consultation Area.

A community pharmacy shall provide a private consultation area so all patients of the pharmacy will be able to obtain counseling without being overheard by others in the prescription dispensing area of the pharmacy. The consultation area must be accessible by the patient from the outside of the prescription dispensing area of the pharmacy without having to traverse a stockroom or the prescription dispensing area. In determining whether the area is suitable, consideration shall be given to the proximity of the counseling area to the check-out or cash register area, the volume of pedestrian traffic in and around the consultation area, and the presence of walls or other barriers between the counseling area and the prescription dispensing area of the pharmacy. The consultation area may consist of designated private counter space. The area shall be designated with a sign bearing “Patient Consultation Area”, or words that are substantially similar.

Rulemaking Authority 465.005, 465.022 FS. Law Implemented 465.022(1) FS. History—New 9-20-99, Amended 5-4-05.

64B16-28.104 Refrigeration.

Rulemaking Authority 465.005, 465.022 FS. Law Implemented 465.022 FS. History—Amended 5-19-72, Repromulgated 12-18-74, Formerly 21S-1.04, 21S-1.004, 21S-28.104, 61F10-28.104, 59X-28.104, Repealed 5-4-05.

64B16-28.105 Sanitation.

Rulemaking Authority 465.005, 465.022 FS. Law Implemented 465.022(1) FS. History—Amended 5-19-72, Repromulgated 12-18-74, Amended 1-29-80, Formerly 21S-1.07, 21S-1.007, Amended 7-31-91, Formerly 21S-28.105, 61F10-28.105, 59X-28.105, Repealed 5-4-05.

64B16-28.106 Right to Inspect Invoices.

Rulemaking Authority 465.005, 465.022 FS. Law Implemented 465.017 FS. History—Amended 5-19-72, Repromulgated 12-18-74, Amended 10-10-78, 4-30-85, Formerly 21S-1.008, 21S-28.106, 61F10-28.106, 59X-28.106, Repealed 5-4-05.

64B16-28.107 Pharmacy Equipment.

Rulemaking Authority 465.005, 465.022, 465.022(1)(h) FS. Law Implemented 465.022(1)(h) FS. History—Amended 5-19-72, Repromulgated 12-18-74, Amended 4-8-80, 4-26-84, Formerly 21S-1.10, Amended 4-4-88, Formerly 21S-1.010, Amended 7-31-91, Formerly 21S-28.107, 61F10-28.107, Amended 6-4-97, Formerly 59X-28.107, Amended 2-4-99, Repealed 5-4-05.

64B16-28.108 All Permits – Labels and Labeling of Medicinal Drugs.

Each container of medicinal drugs dispensed shall have a label or shall be accompanied by labeling.

(1) Definitions.

(a) “Controlled substance” means any substance named or described in Schedules II-V of Section 893.03, F.S.

(b) “Customized medication package” means a package that:

1. Is prepared by a pharmacist for a specific patient.
2. Is a series of containers.
3. Contains two (2) or more solid oral dosage forms.

(c) “Labeling” means a label or other written, printed, or graphic material upon an agent or product or any of its containers,

wrappers, drug carts, or compartments thereof, as well as a medication administration record (MAR) if a medication administration record is an integral part of the unit dose system.

(d) "Radiopharmaceutical" means any substance defined as a drug in section 201(g)(1) of the Federal Food, Drug and Cosmetic Act which exhibits spontaneous disintegration of unstable nuclei with the emission of nuclear particles or photons and includes any of those drugs intended to be made radioactive. This includes nonradioactive reagent kits and nuclide generators which are intended to be used in the preparation of any such substance, but does not include drugs which are carbon-containing compounds or potassium-containing compounds or potassium-containing salts which contain trace quantities of naturally occurring radionuclides.

(e) "Serial number" means a prescription number or other unique number by which a particular prescription or drug package can be identified.

(2) The label affixed to each container dispensed to a patient shall include:

(a) Name and address of the pharmacy.

(b) Date of dispensing.

(c) Serial number.

(d) Name of the patient or, if the patient is an animal, the name of the owner and the species of animal.

(e) Name of the prescriber.

(f) Name of the drug dispensed (except where the prescribing practitioner specifically requests that the name is to be withheld).

(g) Directions for use.

(h) Expiration date.

(i) If the medicinal drug is a controlled substance, a warning that it is a crime to transfer the drug to another person.

(3) The label on the immediate container of a repackaged product or a multiple unit prepackaged drug product shall include:

(a) Brand or generic name.

(b) Strength.

(c) Dosage form.

(d) Name of the manufacturer.

(e) Expiration date.

(f) Lot number:

1. Manufacturer's lot number, or

2. Number assigned by the dispenser or repackager which references the manufacturer's lot number.

(4) A medicinal drug dispensed in a unit dose system by a pharmacist shall be accompanied by labeling. The requirement will be satisfied if, to the extent not included on the label, the unit dose system indicates clearly the name of the resident or patient, the prescription number or other means utilized for readily retrieving the medication order, the directions for use, and the prescriber's name.

(5) A unit dose system shall provide a method for the separation and identification of drugs for the individual resident or patient.

(6) A customized patient medication package may be utilized if:

(a) The consent of the patient or the patient's agent has been secured, and

(b) The label includes:

1. Name, address and telephone number of the pharmacy.

2. Serial number for the customized medication package and a separate serial number for each medicinal drug dispensed.

3. Date of preparation of the customized patient medication package.

4. Patient's name.

5. Name of each prescriber.

6. Directions for use and any cautionary statements required for each medicinal drug.

7. Storage instructions.

8. Name, strength, quantity and physical description of each drug product.

9. A beyond use date that is not more than 60 days from the date of preparation of the customized patient medication package but shall not be later than any appropriate beyond use date for any medicinal drug included in the customized patient medication package.

(c) The customized patient medication package can be separated into individual medicinal drug containers, then each container shall identify the medicinal drug product contained.

(7) The label affixed to the immediate outer container shield of a radiopharmaceutical shall include:

- (a) Name and address of the pharmacy.
- (b) Name of the prescriber.
- (c) Date of the original dispensing.
- (d) The standard radiation symbol.
- (e) The words "Caution Radioactive Material."
- (f) Name of the procedure.
- (g) Prescription order number.
- (h) Radionuclide and chemical form.
- (i) Amount of radioactivity and the calibration date and time.
- (j) Expiration date and time.
- (k) If a liquid, the volume.
- (l) If a solid, the number of items or weight.
- (m) If a gas, the number of ampules or vials.
- (n) Molybdenum 99 content to the United States Pharmacopeia (UPS) limits.
- (o) Name of the patient or the words "Physician's Use Only."

(8) The label affixed to the immediate inner container of a radiopharmaceutical to be distributed shall include:

- (a) The standard radiation symbol.
- (b) The words "Caution Radioactive Material."
- (c) Radionuclide and chemical form.
- (d) Name of the procedure.
- (e) Prescription order number of the radiopharmaceutical.
- (f) Name of the pharmacy.

(9) The labeling on a carton or package containing a medicinal drug or product dispensed from an Extended Scope Renal Dialysis (ESRD) pharmacy shall include:

- (a) "Use as Directed" statement.
- (b) The name and address of the person to whom the products will be delivered.
- (c) Name of the prescriber.
- (d) Name and address of the ESRD pharmacy location from which the products were shipped.
- (e) Prescription number.
- (f) Any special instructions regarding delivery dates or locations.

(g) Beyond use date or, if the medicinal drug or product is dispensed in an unopened sealed package, the manufacturer's expiration date.

Rulemaking Authority 465.005, 465.022 FS. Law Implemented 465.022(1) FS. History—Amended 5-19-72, Repromulgated 12-18-74, Amended 10-10-78, 9-18-84, 1-20-85, Formerly 21S-1.13, Amended 10-2-88, Formerly 21S-1.013, Amended 7-31-91, 10-1-92, 4-19-93, 7-12-93, Formerly 21S-28.108, 61F10-28.108, 59X-28.108, Amended 3-31-05.

64B16-28.1081 Regulation of Daily Operating Hours.

Any person who receives a community pharmacy permit pursuant to Section 465.018, F.S., and commences to operate such an establishment shall keep the prescription department of the establishment open for a minimum of forty (40) hours per week. The Board hereby approves exceptions to the requirements noted above and permits closing of the prescription department for the following holidays: New Year's Day, Memorial Day, Fourth of July (Independence Day), Labor Day, Veterans' Day, Thanksgiving, Christmas and any bona fide religious holiday provided that notice of such closing is given in a sign as set forth herein. A sign in block letters not less than one inch in height stating the hours the prescription department is open each day shall be displayed either at the main entrance of the establishment or at or near the place where prescriptions are dispensed in a prominent place that is in clear and unobstructed view. The prescription department manager may petition the Board in writing to operate the prescription department for less than forty (40) hours per week, but no less than twenty (20) hours per week. Prior to approving reduced hours, the Board may require the prescription department manager to appear before the Board to explain in detail the services that will be performed. Any pharmacy open less than 40 hours shall have a policy and procedure that provides a mechanism for access to a

pharmacist during the time the pharmacy is not open for the remainder of the forty hour week. Any pharmacy that is not open 40 hours a week, must post the days and hours that the pharmacy is open and the information for after-hours access. Any pharmacy open less than 40 hours shall also have a policy and procedure for transferring a prescription pursuant to Rule 64B16-27.105, F.A.C., or receiving an emergency dose pursuant to Section 465.0275, F.S. during the time the pharmacy is open less than 40 hours.

Rulemaking Authority 465.005, 465.022 FS. Law Implemented 465.022(1) FS. History—New 4-10-05, Amended 2-1-12.

64B16-28.109 Prescription Department; Padlock; Sign: “Prescription Department Closed.”

(1) The prescription department of any community pharmacy permittee shall be considered closed whenever the establishment is open and a pharmacist is not present and on duty. A sign with bold letters not less than two (2) inches in width and height, shall be displayed in a prominent place in the prescription department so that it may easily be read by patrons of that establishment. The sign shall contain the following language: “Prescription Department Closed.”

(2) The term “not present and on duty” shall not be construed to prevent a pharmacist from exiting the prescription department for the purpose of consulting or responding to inquiries or providing assistance to patients or customers, attending to personal hygiene needs, taking a meal break pursuant to Rule 64B16-27.1001, F.A.C., or performing any other function for which the pharmacist is responsible, provided that such activities are conducted in a manner consistent with the pharmacist’s responsibility to provide pharmacy services.

(3) At all times when the prescription department is closed, either because of the absence of a pharmacist or for any other reason, it shall be separated from the remainder of the establishment by partition or other means of enclosure, thereby preventing access to the prescription department by persons not licensed in Florida to practice the profession of pharmacy.

(4) The partition or other means of enclosure shall be securely locked or padlocked and only a pharmacist shall have the means to gain access to the prescription department.

(5) Whenever the prescription department of any community pharmacy establishment is closed, no person other than a pharmacist shall enter, be permitted to enter or remain in the prescription department.

Rulemaking Authority 465.005, 465.022 FS. Law Implemented 465.022 FS. History—Amended 8-20-63, 5-19-72, Repromulgated 12-18-74, Amended 5-6-80, Formerly 21S-1.14, 21S-1.014, Amended 7-31-91, Formerly 21S-28.109, 61F10-28.109, 59X-28.109, Amended 6-15-98, 4-10-05.

64B16-28.110 Outdated Pharmaceuticals.

Persons qualified to do so shall examine the stock of the prescription department of each pharmacy at a minimum interval of four months, and shall remove all deteriorated pharmaceuticals, or pharmaceuticals which bear upon the container an expiration date which date has been reached, and under no circumstances will pharmaceuticals or devices which bear upon the container an expiration date which has been reached be sold or dispensed to the public.

Rulemaking Authority 465.005, 465.022 FS. Law Implemented 465.022 FS. History—Amended 5-19-72, Repromulgated 12-18-74, Formerly 21S-1.17, 21S-1.017, 21S-28.110, 61F10-28.110, 59X-28.110.

64B16-28.111 Storage of Equipment.

Rulemaking Authority 465.005, 465.022 FS. Law Implemented 465.022 FS. History—Repromulgated 12-18-74, Formerly 21S-1.19, 21S-1.019, 21S-28.111, 61F10-28.111, 59X-28.111, Repealed 4-10-05.

64B16-28.112 Violations.

Rulemaking Authority 465.005, 465.022 FS. Law Implemented 465.022(1) FS. History—New 8-20-63, Amended 5-19-72, Repromulgated 12-18-74, Formerly 21S-1.23, 21S-1.023, Amended 7-31-91, Formerly 21S-28.112, 61F10-28.112, 59X-28.112, Repealed 4-10-05.

64B16-28.113 Permits; Single Entity; Single Location.

A Board of Pharmacy permit shall be issued only to a single entity at a single location. The service provided by the permit shall be consistent with the issued permit. A single location shall be defined as:

(1) A contiguous area under the control of the permit holder. For purposes of this section, a public thoroughfare will be considered to have not broken the area of contiguity; and

(2) An area not more than one-half mile from the central location of the permit.

Rulemaking Authority 465.005, 465.022 FS. Law Implemented 465.003(10)(a), 465.018, 465.019, 465.0193, 465.0196 FS. History—New 1-30-96, Formerly 59X-28.113.

64B16-28.1135 Change of Ownership.

Rulemaking Authority 465.005, 465.022 FS. Law Implemented 465.003(11)(a), 465.018, 465.019, 465.0193, 465.0196, 465.022(7) FS. History—New 4-19-00, Amended 1-2-02, Transferred to 64B16-28.2021.

64B16-28.114 Prescription Refills.

Rulemaking Authority 465.005, 465.016(1), 465.022, 465.022(1)(a), 893.04 FS. Law Implemented 465.022 FS. History—New 12-18-74, Formerly 21S-1.28, 21S-1.028, Amended 7-31-91, Formerly 21S-28.114, 61F10-28.114, 59X-28.114, Amended 2-4-02, 7-1-02, Repealed 10-5-09.

64B16-28.118 Unit Dose and Customized Patient Medication Package Returns by In-patients.

No pharmacist shall place into the stock of any pharmacy permittee any part of any prescription, compounded or dispensed, which is returned by a patient except under the following conditions:

(1) In a closed drug delivery system in which unit dose or customized patient medication packages are dispensed to in-patients, the unused medication may be returned to the pharmacy for redispensing only if each unit dose or customized patient medication package is individually sealed and if each unit dose or the unit dose system, or the customized patient medication package container or the customized patient medication package unit of which it is clearly a part is labeled with the name of the drug, dosage strength, manufacturer's control number, and expiration date, if any.

(2) In the case of controlled substances, as it is allowed by Federal Law.

(3) A "unit dose system" to which this rule applies means a system wherein all individually sealed unit doses are physically connected as a unit. For purpose of this section, a product in an unopened, sealed, manufacture's container is deemed to be a unit dose package.

(4) A "customized patient medication package" to which this rule applies means a system wherein all USP approved multi-dose units are physically connected and are referred to as a container. The use of customized patient medication packages must comply with the provisions of subsection 64B16-28.108(5), F.A.C.

(5) A "closed drug delivery system" to which this rule applies is a system in which the actual control of the unit dose or customized patient medication package is maintained by the facility rather than by the individual patient.

(6) All pharmacies utilizing unit dose or customized patient medication packages shall address specific policies and procedures regarding their preparation and use in their Policy and Procedures Manual.

Rulemaking Authority 465.005, 465.022 FS. Law Implemented 465.016(1)(l) FS. History—New 11-10-80, Formerly 21S-1.36, 21S-1.036, Amended 7-31-91, Formerly 21S-28.118, 61F10-28.118, 59X-28.118, Amended 9-23-99, 7-1-02.

64B16-28.119 Data Processing Systems in Pharmacy.

Rulemaking Authority 465.005, 465.0155, 465.022 FS. Law Implemented 465.022, 465.026, 893.07 FS. History—New 9-21-83, Formerly 21S-1.38, 21S-1.038, Amended 7-31-91, Formerly 21S-28.119, Amended 3-16-94, Formerly 61F10-28.119, 59X-28.119, Repealed 7-15-99.

64B16-28.1191 Unclaimed Prescriptions.

Prescriptions that are unclaimed may be retained by a pharmacy and reused for a period up to one year from the date of filling; however, any product reaching the product's expiration date prior to one year or any product subject to a recall shall not be reused.

Rulemaking Authority 465.0255 FS. Law Implemented 465.0255 FS. History—New 4-10-05.

64B16-28.120 All Permits – Storage of Legend Drugs; Prepackaging.

(1) All medicinal drugs or drug preparations as defined by Section 465.003(8), F.S., shall be stored:

(a) Within the confines of the prescription department of a community pharmacy permittee as defined in Section 465.018, F.S.

(b) In a Class II Institutional pharmacy as defined by Section 465.019(2)(b), F.S., within the confines of the pharmacy provided,

however, that those medicinal drugs established by the consultant pharmacist as supportive to treatment procedures such as medical drugs, surgical, obstetrical, diagnostic, etc., may be permitted to be stored in those areas where such treatment is conducted consistent with proper control procedures as provided by the policy and procedure manual of the pharmacy.

(2) All medicinal drugs or drug preparations as defined in Section 465.003(8), F.S., within Class I Institutional permittees as defined in Section 465.019(2)(a), F.S., and Special ALF Permit 64B16-28.870, F.A.C., shall:

(a) Be administered from individual prescription containers to the individual patient; and

(b) Be prohibited within the confines of Class I Institutional pharmacies unless obtained upon a proper prescription and properly labeled in accordance with Chapter 499, F.S., and the rules and regulations contained in Chapter 59A-4, F.A.C., incorporated by reference and effective August 1, 2006, pertaining to the licensure of nursing homes and related facilities.

(3) Prepackaging of medication, whether a part of a unit dose system or a part of a multiple dose drug distribution system in an extended care facility or hospital holding a valid Class II Institutional pharmacy permit, must be done in accordance with procedures set up by the consultant pharmacist of record in the policy and procedure manual; and in the case of a pharmacy holding a valid community pharmacy permit must be done in accordance with procedures set up by the prescription department manager.

(4) Medicinal drugs and proprietary preparations as identified above that are stored in treatment areas must be accessible only to licensed staff (pharmacists, nurses, physicians, advanced registered nurse practitioners, physician assistants, respiratory and physical therapist, radiology technicians and registered pharmacy technicians, etc.) in accordance with their license, practice act, or to other personnel specifically authorized by the institution.

Rulemaking Authority 465.005, 465.022 FS. Law Implemented 435.019(2), 465.003(7), 465.022 FS. History—New 9-18-84, Formerly 21S-1.44, 21S-1.044, Amended 7-31-91, Formerly 21S-28.120, 61F10-28.120, 59X-28.120, Amended 2-8-07, 8-16-10.

64B16-28.121 Permit Fees.

Rulemaking Authority 465.005, 465.022 FS. Law Implemented 465.022 FS. History—New 7-31-91, Formerly 21S-28.121, 61F10-28.121, 59X-28.121, Amended 10-30-00, Repealed 4-10-05.

64B16-28.130 Transmission of Prescription Orders.

Rulemaking Authority 465.005, 465.0155, 465.022 FS. Law Implemented 465.022, 465.026, 893.07 FS. History—New 3-16-94, Formerly 61F10-28.130, 59X-28.130, Repealed 4-10-05.

64B16-28.140 Record Maintenance Systems for Community, Special-Limited Community, Special-Closed Systems, Special-Parenteral/Enteral, and Nuclear Permits.

(1) Requirements for records maintained in a data processing system.

(a) The pharmacy must comply with the provisions of 21 C.F.R. Section 1304.04 (a regulation of the Federal Drug Enforcement Administration), which is hereby incorporated by reference as of March 1, 1998, when such is applicable to operate such a data processing system if any controlled substances (as that term is used in Ch. 893, F.S.) are dispensed from the pharmacy.

(b) Any pharmacy using a data processing system must meet the requirements of 21 C.F.R. Section 1306.22, which is hereby incorporated by reference as of March 1, 1998.

(c) If a pharmacy's data processing system is not in compliance with this subsection, the pharmacy must maintain a manual recordkeeping system as specified in Rule 64B16-27.800, F.A.C., and Section 893.07, F.S.

(d) Original prescriptions, including prescriptions received as provided for in Rule 64B16-28.130, F.A.C., Transmission of Prescription Orders, shall be reduced to a hard copy if not received in written form. All original prescriptions shall be retained for a period of not less than two years from date of last filling. To the extent authorized by 21 C.F.R. Section 1304.04, a pharmacy may, in lieu of retaining the actual original prescriptions, use an electronic imaging recordkeeping system, provided such system is capable of capturing, storing, and reproducing the exact image of the prescription, including the reverse side of the prescription if necessary, and that such image be retained for a period of no less than two years from the date of last filling.

(e) Original prescriptions shall be maintained in a two or three file system as specified in 21 C.F.R. 1304.04(h).

(f) Requirements for back-up systems.

1. The pharmacy shall maintain a back-up copy of information stored in the data processing system using disk, tape or other electronic back-up system and update this back-up copy on a regular basis, at least weekly, to assure that data is not lost due to

system failure.

2. Data processing systems shall have a workable (electronic) data retention system which can produce an audit trail of drug usage for the preceding two years as specified in Rule 64B16-27.800, F.A.C.

(g) Change or discontinuance of a data processing system.

1. Records of dispensing. A pharmacy that changes or discontinues use of a data processing system must:

a. Transfer the records of dispensing to the new data processing system; or

b. Purge the records of dispensing to a printout which contains the same information required on the daily printout as specified in paragraph (3)(b) of this section. The information on this hard-copy printout shall be sorted and printed by prescription number and list each dispensing for this prescription chronologically.

2. Other records. A pharmacy that changes or discontinues use of a data processing system must:

a. Transfer the records to the new data processing system; or

b. Purge the records to a printout which contains all of the information required on the original document.

3. Maintenance of purged records. Information purged from a data processing system must be maintained by the pharmacy for two years from the date of initial entry into the data processing system.

(h) Loss of Data. The prescription department manager shall report to the Board in writing any significant loss of information from the data processing system within 10 days of discovery of the loss.

(2) All transfers of prescriptions must be strictly in accordance with the provisions of Section 465.026, F.S., and Rule 64B16-27.105, F.A.C.

(3) Records of dispensing.

(a) Each time a prescription drug order is filled or refilled, a record of such dispensing shall be entered into the data processing system.

(b) The data processing system shall have the capacity to produce a daily hard-copy printout of all original prescriptions dispensed and refilled. This hard copy printout shall contain the following information:

1. Unique identification number of the prescription;

2. Date of dispensing;

3. Patient name;

4. Prescribing practitioner's name;

5. Name and strength of the drug product actually dispensed, if generic name, the brand name or manufacturer of drug dispensed;

6. Quantity dispensed;

7. Initials or an identification code of the dispensing pharmacist; and

8. If not immediately retrievable via CRT display, the following shall also be included on the hard-copy printout:

a. Patient's address;

b. Prescribing practitioner's address;

c. Practitioner's DEA registration number, if the prescription drug order is for a controlled substance.

d. Quantity prescribed, if different from the quantity dispensed;

e. Date of issuance of the prescription drug order, if different from the date of dispensing; and

f. Total number of refills dispensed to date for that prescription drug order.

(c) The daily hard-copy printout shall be produced within 72 hours of the date on which the prescription drug orders were dispensed and shall be maintained in a separate file at the pharmacy. Records of controlled substances shall be readily retrievable from records of non-controlled substances.

(d) Each individual pharmacist who dispenses or refills a prescription drug order shall verify that the data indicated on the daily hard-copy printout is correct, by dating and signing such document in the same manner as signing a check or legal document (e.g., J.H. Smith, or John H. Smith) within seven days from the date of dispensing.

(e) In lieu of producing the printout described in paragraphs (b) and (c) of this section, the pharmacy shall maintain a log book in which each individual pharmacist using the data processing system shall sign a statement each day, attesting to the fact that the information entered into the data processing system that day has been reviewed by him or her and is correct as entered. Such log book shall be maintained at the pharmacy employing such a system for a period of two years after the date of dispensing provided, however, that the data processing system can produce the hard-copy printout on demand by an authorized agent of the Department

of Health. If no printer is available on site, the hard-copy printout shall be available within 48 hours with a certification by the individual providing the printout, which states that the printout is true and correct as of the date of entry and such information has not been altered, amended or modified.

(f) The prescription department manager and the permit holder are responsible for the proper maintenance of such records and responsible that such data processing system can produce the records outlined in this section and that such system is in compliance with this subsection.

(g) Failure to provide the records set out in this section, either on site or within 48 hours for whatever reason, constitutes failure to keep and maintain records.

(h) In the event that a pharmacy which uses a data processing system experiences system downtime, the following is applicable;

1. An auxiliary procedure shall ensure that refills are authorized by the original prescription drug order and that the maximum number of refills has not been exceeded or that authorization from the prescribing practitioner has been obtained prior to dispensing a refill; and

2. All of the appropriate data shall be retained for on-line data entry as soon as the system is available for use again.

(4) Compounding records. A written record shall be maintained for each batch/sub-batch of a compounded product under the provisions of Rule 64B16-27.700, F.A.C. This record shall include:

(a) Date of compounding.

(b) Control number for each batch/sub-batch of a compounded product. This may be the manufacturer's lot number or new numbers assigned by the pharmacist. If the number is assigned by the pharmacist, the pharmacist shall also record the original manufacturer's lot number and expiration dates. If the original numbers and expiration dates are not known, the pharmacy shall record the source and acquisition date of the component.

(c) A complete formula for the compounded product maintained in a readily retrievable form including methodology and necessary equipment.

(d) A signature or initials of the pharmacist or pharmacy technician performing the compounding.

(e) A signature or initials of the pharmacist responsible for supervising pharmacy technicians involved in the compounding process.

(f) The name(s) of the manufacturer(s) of the raw materials used.

(g) The quantity in units of finished products or grams of raw materials.

(h) The package size and number of units prepared.

(i) The name of the patient who received the particular compounded product.

(5) Authorization of additional refills. Practitioner authorization for additional refills of a prescription drug order shall be noted as follows:

(a) On the daily hard-copy printout; or

(b) Via the CRT display.

(6) Any other records, policy and procedure manuals, or reference materials which are not specifically required by statute or rule to be kept in a hard copy may be kept in a readily retrievable data processing system which complies with the provisions of subparagraph (1)(f)1.

Rulemaking Authority 465.005, 465.0155, 465.022 FS. Law Implemented 465.003(14), 465.022, 465.026, 893.07 FS. History—New 3-16-94, Formerly 61F10-28.140, Amended 3-12-97, 6-4-97, Formerly 59X-28.140, Amended 10-29-97, 6-15-98, 11-11-98, 10-15-01.

64B16-28.141 Requirements for an Automated Pharmacy System in a Community Pharmacy.

(1) Definitions. "Automated pharmacy system" means a mechanical system, located within or adjacent to the prescription department, that performs operations or activities, other than compounding or administration, relative to storage, packaging, dispensing, or distribution of medication, and which collects, controls, and maintains all transaction information.

(2) General Requirements. A pharmacy may use an automated pharmacy system provided that:

(a) The pharmacy develops and maintains a policy and procedure manual that includes:

1. The type or name of the system including a serial number or other identifying nomenclature.

2. A method to ensure security of the system to prevent unauthorized access. Such method may include the use of electronic passwords, biometric identification (optic scanning or fingerprint) or other coded identification.

3. A process of filling and stocking the system with drugs; an electronic or hard copy record of medication filled into the system

including the product identification, lot number, and expiration date.

4. A method of identifying all the registered pharmacy interns or registered pharmacy technicians involved in the dispensing process.

5. Compliance with a Continuous Quality Improvement Program.

6. A method to ensure that patient confidentiality is maintained.

7. A process to enable the prescription department manager or designee to revoke, add, or change access at any time.

(b) The system ensures that each prescription is dispensed in compliance with the definition of dispense and the practice of the profession of pharmacy.

(c) The system shall maintain a readily retrievable electronic record to identify all pharmacists, registered pharmacy technicians, or other personnel involved in the dispensing of a prescription.

(d) The system shall provide the ability to comply with product recalls generated by the manufacturer, distributor, or pharmacy. The system shall have a process in place to isolate affected lot numbers including an intermix of drug product lot numbers.

(3) Additional Requirements for Patient Accessed Automated Pharmacy Systems. A pharmacy may use a patient accessed automated pharmacy system, provided that:

(a) Meets the requirements in subsection (2) above.

(b) The stocking or restocking of a medicinal drug shall only be completed by a Florida pharmacist, except as provided in paragraph (c) below.

(c) If the automated pharmacy system uses removable cartridges or container to store the drug, the stocking or restocking of the cartridges or containers may occur at a licensed repackaging facility and be sent to the provider pharmacy to be loaded by personnel designated by the pharmacist if:

1. A Florida pharmacist verifies the cartridge or container has been properly filled and labeled.

2. The individual cartridge or container is transported to the provider pharmacy in a secure, tamper-evident container.

3. The automated pharmacy system uses a bar code verification, electronic verification, weight verification, radio frequency identification (RFID) or similar process to ensure that the cartridge or container is accurately loaded into the automated pharmacy system.

4. The Florida pharmacist verifying the filling and labeling is responsible if the cartridge or container is stocked or restocked incorrectly by the personnel designated to load the cartridges or containers.

(d) The automated pharmacy system must use at least two separate verifications, such as bar code verification, electronic verification, weight verification, radio frequency identification (RFID) or similar process to ensure that the proper medication is being dispensed from the automated system.

(e) The medication shall bear a patient specific label that complies with Rule 64B16-28.108, F.A.C.

(f) The record of transactions with the patient accessed automated pharmacy system shall be available to authorized agents of the Department of Health. The record of transactions shall include:

1. Name of the patient.

2. Name, strength, and dosage form of the drug product dispensed.

3. Quantity of drug dispensed.

4. Date and time of dispensing.

5. Name of provider pharmacy.

6. Prescription number.

7. Name of prescribing practitioner.

8. Identity of the pharmacist who approved the prescription or order.

9. Identity of the person to whom the drug was released.

(4) The Florida pharmacist responsible for filling, verifying, or loading the automated pharmacy system shall be responsible for her or his individual action.

(5) A prescription dispensed pursuant to the requirements of this rule shall be deemed to have been certified by the pharmacist.

Rulemaking Authority 465.005, 465.022 FS. Law Implemented 465.018, 465.022 FS. History—New 11-29-04, Amended 12-30-07, 1-1-10.

64B16-28.150 Record Maintenance Systems for Institutional and Animal Shelter Permits.

Rulemaking Authority 465.005, 465.0155, 465.022, 828.055 FS. Law Implemented 465.022, 465.019, 465.026, 893.07, 828.055 FS. History—New

4-12-95, Formerly 59X-28.150, Repealed 5-3-05.

64B16-28.201 Definitions.

Rulemaking Authority 465.005, 465.022, 465.022(1)(g) FS. Law Implemented 465.022(1)(g) FS. History—New 12-26-79, Amended 4-28-83, 4-30-85, Formerly 21S-16.01, 21S-16.001, Amended 7-31-91, Formerly 21S-28.201, 61F10-28.201, 59X-28.201, Repealed 4-5-05.

64B16-28.202 Closing of a Pharmacy; Transfer of Prescription Files.

(1) The term “prescription files” as used herein shall mean the drug dispensing records of a pharmacy which shall include all orders for drugs or medicinal supplies as defined by Section 465.003(7), F.S., inclusive of dispensing records for medicinal drugs listed within the provisions of Section 893.03, F.S., issued by a duly licensed practitioner, which serve to transfer possession of medicinal drugs from the pharmacy to the ultimate consumer.

(2) The term “closing of a pharmacy” as used herein shall mean the cessation or termination of professional and business activities within a pharmacy for which a permit has been issued under Chapter 465, F.S.

(3) Prior to closure of a pharmacy the permittee shall notify the Board of Pharmacy in writing as to the effective date of closure, and shall:

(a) Return the pharmacy permit to the Board of Pharmacy office or arrange with the local Bureau of Investigative Services of the Department to have the pharmacy permit returned to the Board of Pharmacy;

(b) Advise the Board of Pharmacy which permittee is to receive the prescription files;

(4) On the date of closure of a pharmacy the former permittee shall:

(a) Physically deliver the prescription files to a pharmacy operating within reasonable proximity of the pharmacy being closed and within the same locality. This delivery of prescription files may occur prior to the return of the pharmacy permit to the Board of Pharmacy office; and

(b) Affix a prominent sign to the front entrance of the pharmacy advising the public of the new location of the former permittee’s prescription files or otherwise provide a means by which to advise the public of the new location of their prescription files.

(5) After the closing of a pharmacy as defined herein, the custody of the prescription files of the pharmacy shall be transferred to the new permittee, unless the former permittee and the new permittee inform the Board in writing that custody of the prescription files have been or are to be transferred to a pharmacy other than the new permittee.

(6) A pharmacy receiving custody of prescription files from another pharmacy shall maintain the delivered prescriptions in separate files so as to prevent intermingling with the transferee pharmacy’s prescription files.

Rulemaking Authority 465.022(1)(g) FS. Law Implemented 465.022(1)(g) FS. History—New 12-26-79, Formerly 21S-16.02, 21S-16.002, Amended 7-31-91, Formerly 21S-28.202, 61F10-28.202, 59X-28.202, Amended 4-5-05.

64B16-28.2021 Change of Ownership.

(1) A pharmacy permit is not transferable. Upon the sale of an existing pharmacy, a new application must be filed. In those cases where the permit is held by a corporation, the transfer of all the stock of said corporation to another person or entity does not constitute a change of ownership, provided that the initial corporation holding the permit continues to exist.

(2) A change in ownership (and issuance of a new permit number) requires that new records be started and old records closed. The process for closing a pharmacy, including the transfer of prescription files and medicinal drugs, as outlined in Rules 64B16-28.202 and 64B16-28.203, F.A.C., must be followed for the old permit. If the old permit has controlled substances, the new permit must record an “opening inventory” for DEA purposes. Both the new permit and the old permit must keep appropriate records for two (2) years for the transfer of legend drugs and controlled substances.

(3) A change in the company or person who leases the building where the permit is housed or a change in the management company which contracts with the owner of the permit for the operation of the permit does not constitute a change in ownership.

Rulemaking Authority 465.005, 465.022 FS. Law Implemented 465.003(11)(a), 465.018, 465.019, 465.0193, 465.0196, 465.022(7) FS. History—New 4-19-00, Amended 1-2-02, Formerly 64B16-28.1135, Amended 4-5-05.

64B16-28.203 Transfer of Medicinal Drugs; Change of Ownership; Closing of a Pharmacy.

Ownership of medicinal drugs, including those medicinal drugs within the provisions of Section 893.03, F.S., may be transferred to a new owner upon the change of ownership of a pharmacy, as defined in Rule 64B16-28.2021, F.A.C., or upon the closing of a pharmacy, as defined in Rule 64B16-28.2021, F.A.C. The transferee entity acquiring ownership shall be authorized to prescribe, dispense or distribute such drugs. The transferor pharmacy shall provide the Florida Board of Pharmacy with the following information:

- (1) The name, address, pharmacy permit number and D.E.A. registration number of the transferor pharmacy.
- (2) The name, address, permit number, D.E.A. registration number (if available), and authorized business activity of the transferee entity.
- (3) The date on which the transfer will occur.
- (4) A complete inventory of all medicinal drugs within the provisions of Section 893.03, F.S., as of the date of transfer. If the medicinal drug is listed in Schedule II, the transferor shall make an exact count or measure of the contents. If the medicinal drugs are listed in Schedule III, IV, or V, the transferor shall make an estimated count or measure of the contents, unless the container holds more than 1,000 tablets or capsules, in which case an exact count of the contents shall be made. This inventory shall serve as the final inventory of the permittee transferor and the transfer inventory of the transferee entity. The transferor and transferee shall each retain a copy of the inventory in their records and shall provide the Board of Pharmacy with a copy of such inventory. Transfer of any controlled substance in Schedule II shall require the use of order form, D.E.A. form number 222.
- (5) Unless the permittee-transferor is informed by the Board of Pharmacy or the regional D.E.A. Administrator prior to the date on which the transfer was stated to occur, that the transfer may not occur, the permittee-transferor may proceed with the transfer.
- (6) On the date of transfer of the medicinal drugs, all records required to be kept by the permittee-transferor of the transferred drugs which are listed in Section 893.03, F.S., shall be transferred to the permittee-transferor. Responsibility for the accuracy of records prior to the date of transfer remains with the permittee-transferor, but responsibility for custody and maintenance shall be upon the permittee-transferee. It is the responsibility of the permittee-transferor to return all unused Schedule II order forms (D.E.A. form no. 222) to the regional D.E.A. office.

Rulemaking Authority 465.005, 465.022(1)(g) FS. Law Implemented 465.022(1)(g) FS. History—New 12-26-79, Formerly 21S-16.03, 21S-16.003, 21S-28.203, 61F10-28.203, 59X-28.203, Amended 4-5-05.

64B16-28.301 Destruction of Controlled Substances – Institutional Pharmacies.

- (1) Controlled substances that have been dispensed and not used by the patient shall not be returned to the pharmacy and shall be securely stored by the nursing home until destroyed.
- (2) A document must be completed showing the name and quantity of the drug, strength and dosage form, patient's name, prescription number and name of the institution. This documentation, at the time of destruction, shall be witnessed and signed by the consultant pharmacist, director of nursing, and the administrator or his designee, which may include a licensed physician, pharmacists, mid-level practitioner, or nurse.

Rulemaking Authority 465.005, 465.022 FS. Law Implemented 465.022, 465.019 FS. History—New 4-21-87, Formerly 21S-19.001, Amended 7-31-91, Formerly 21S-28.301, 61F10-28.301, Amended 1-30-96, Formerly 59X-28.301, Amended 7-21-09.

64B16-28.303 Destruction of Controlled Substances All Permittees (excluding Nursing Homes).

- (1) Controlled substances that cannot be retained as usable shall be securely stored in the prescription department of the permittee pharmacy until destroyed.
- (2) Permittees are required to complete a United States Drug Enforcement Administration (D.E.A.) Form 41. This form, at the time of destruction, shall be witnessed and signed by the prescription department manager or the consultant pharmacist of record and D.E.A. agent, or a Department inspector. This method of destruction does not require prior approval from D.E.A., but does require that a copy of the completed and witnessed D.E.A. Form 41 be mailed to D.E.A. immediately after destruction.
- (3) Another method of destruction shall be conducted by at least two persons who are either a licensed pharmacist, physician or nurse, or a sworn law enforcement officer or any combination thereof, to serve as the witnesses. A copy of the completed D.E.A. Form 41 and a letter providing the proposed date of destruction, the proposed method of destruction and the names and titles of the proposed witnesses must be received by D.E.A. at least two weeks prior to the proposed date of destruction which shall constitute a request for destruction. The drugs may not be destroyed until D.E.A. grants approval of the request for destruction. A copy of the

completed and witnessed D.E.A. Form 41 shall be mailed to D.E.A. immediately after destruction.

(4) In lieu of destruction on the premises, controlled substances may also be shipped to reverse distributors for destruction in conformity with federal guidelines.

Rulemaking Authority 465.005, 465.022 FS. Law Implemented 465.022, 465.018 FS. History—New 4-21-87, Formerly 21S-19.003, Amended 7-31-91, Formerly 21S-28.303, 61F10-28.303, Amended 1-30-96, Formerly 59X-28.303, Amended 2-5-07, 10-27-09, 2-1-12.

64B16-28.402 Labels and Labeling of Medicinal Drugs – Community Pharmacy Permit.

Rulemaking Authority 465.005, 465.022 FS. Law Implemented 465.022(1), 465.0255 FS. History—New 7-3-91, Formerly 21S-28.402, Amended 12-27-93, Formerly 61F10-28.402, 59X-28.402, Amended 9-17-97, Repealed 5-11-05.

64B16-28.404 Regulation of Daily Operating Hours.

Rulemaking Authority 465.005, 465.022 FS. Law Implemented 465.022(1) FS. History—New 8-20-65, Amended 5-19-72, Repromulgated 12-18-74, Amended 5-6-80, 3-31-81, Formerly 21S-1.24, Amended 7-14-88, Formerly 21S-1.024, Amended 7-31-91, 3-15-92, Formerly 21S-28.404, 61F10-28.404, Amended 9-21-94, Formerly 59X-28.404, 59X-28.404, Repealed 2-28-07.

64B16-28.404 Regulation of Daily Operating Hours (Repealed).

Rulemaking Authority 465.005, 465.022 FS. Law Implemented 465.022(1) FS. History—New 8-20-65, Amended 5-19-72, Repromulgated 12-18-74, Amended 5-6-80, 3-31-81, Formerly 21S-1.24, Amended 7-14-88, Formerly 21S-1.024, Amended 7-31-91, 3-15-92, Formerly 21S-28.404, 61F10-28.404, Amended 9-21-94, Formerly 59X-28.404, 59X-28.404, Repealed 2-28-07.

64B16-28.450 Centralized Prescription Filling, Delivering and Returning.

(1) As used herein:

(a) The term “originating pharmacy” means a pharmacy wherein the prescription which will be filled by the central fill pharmacy is initially presented; and

(b) The term “central fill pharmacy” means a pharmacy which performs centralized prescription filling, delivering, and returning for one or more originating pharmacies.

(2) Pharmacies acting as the central fill pharmacy must be authorized to dispense medications under the provisions of Chapter 465, F.S., and the rules promulgated thereto.

(3) A community pharmacy which acts as the central fill pharmacy and which notifies the Board that its pharmacy practice is limited only to such practice shall be exempt from the following rules:

(a) Rule 64B16-28.1035, F.A.C., Patient Consultation Area;

(b) The signage requirement of subsection 64B16-28.109(1), F.A.C.; and

(c) Rule 64B16-28.1081, F.A.C., Regulation of Daily Operating Hours.

(4) All central fill and originating pharmacies engaged in centralized prescription filling shall create and keep current a Policy and Procedure Manual which shall:

(a) Be maintained at the locations of the central fill and originating pharmacies;

(b) Include the information required in Sections 465.0265(2)(a)-(f), F.S.

(5) Delivery of medications. Delivery of medications must be made in a timely manner. The originating and central fill pharmacies shall each be identified on the prescription container.

(a) Delivery by central fill pharmacy to ultimate consumer. A central fill pharmacy may deliver medications for an originating pharmacy to the ultimate consumer or the consumer’s agent under the following conditions:

1. The pharmacies are under the same ownership or have a written contract specifying the services to be provided by each pharmacy, the responsibilities of each pharmacy, and the manner in which each pharmacy will comply with federal and state laws, rules and regulations.

2. The pharmacies shall have a pharmacist available 40 hours a week, either in person or via two-way communication technology, such as a telephone, to provide patient counseling.

3. The pharmacies shall include a toll-free number that allows the patient to reach a pharmacist for the purposes of patient counseling.

4. The pharmacies shall each be identified on the prescription container label. The originating pharmacy shall be identified with pharmacy name and address. The central fill pharmacy may be identified by a code available at the originating pharmacy.

5. The central fill pharmacy shall only deliver via carrier to the ultimate consumer or the consumer's agent those medications which could have been delivered via carrier by the originating pharmacy.

6. The central fill pharmacy shall not deliver to the ultimate consumer or consumer's agent substances listed as controlled substances under Chapter 893, F.S.

(b) The delivery of a filled prescription by a central fill pharmacy to the ultimate consumer or the consumer's agent pursuant to a contract with an originating pharmacy shall not be considered dispensing within the definition set forth in Section 465.003(6), F.S.

(c) Each pharmacist that performs a specific function within the processing of the prescription shall be responsible for any errors or omissions committed by that pharmacist during the performance of that specific function.

(6) The supplying and receiving pharmacy shall each be identified on the prescription container label. The receiving pharmacy shall be identified with pharmacy name and address. The supplying pharmacy may be identified by a code available at the receiving pharmacy. Prescription and labeling requirements for pharmacies participating in central prescription filling, delivering and returning:

(a) Prescriptions may be transmitted electronically from an originating pharmacy to a central fill pharmacy including via facsimile. The originating pharmacy transmitting the prescription information must:

1. Write the word "central fill" on the face of the original prescription and record the name, address, and DEA registration number if a controlled substance of the originating pharmacy to which the prescription has been transmitted and the name of the originating pharmacy's pharmacist transmitting the prescription, and the date of transmittal;

2. Ensure all the information required to be on a prescription pursuant to Sections 456.0392 and 893.04, F.S., is transmitted to the central fill pharmacy either on the face of the prescription or in the electronic transmission of information;

3. Indicate in the information transmitted the number of refills already dispensed and the number of refills remaining;

4. Maintain the original prescription for a period of two years from the date the prescription was last refilled.

5. Keep a record of receipt of the filled prescription, including the date of receipt, the method of delivery (private, common or contract carrier) and the name of the originating pharmacy's employee accepting delivery.

(b) The central fill pharmacy receiving the transmitted prescription must:

1. Keep a copy of the prescription if sent via facsimile, or an electronic record of all the information transmitted by the originating pharmacy, including the name, address, and DEA registration number, if a controlled substance, of the originating pharmacy transmitting the prescription;

2. Keep a record of the date of receipt of the transmitted prescription, the name of the licensed pharmacist filling the prescription, and dates of filling or refilling of the prescription;

3. Keep a record of the date the filled prescription was delivered to the originating pharmacy and the method of delivery (private, common or contract carrier).

4. A central fill pharmacy's pharmacist filling a written or emergency oral prescription for a controlled substance listed in Schedule II shall affix to the package a label showing the date of filling, the receiving pharmacy's name and address, a unique identifier (i.e. the supplying pharmacy's DEA registration number) indicating the prescription was filled at the central fill pharmacy, the serial number of the prescription, the name of the patient, the name of the prescribing practitioner, and directions for use and cautionary statements, if any, contained in such prescription or required by law.

Rulemaking Authority 465.005, 465.0265 FS. Law Implemented 465.003(16), 465.0265 FS. History—New 9-23-03, Amended 7-27-04, 4-28-08.

64B16-28.451 Pharmacy Common Database.

(1) A pharmacy licensed under this chapter may perform prescription drug processing for other pharmacies, provided that all pharmacies are under common ownership, utilize a common database, and are properly licensed, permitted or registered in this state or another state. Nothing in this subsection shall prohibit a pharmacist employee of said pharmacies who is licensed in Florida or in another state from remotely accessing the pharmacy's electronic database from outside the pharmacy in order to process prescriptions, provided the pharmacy establishes controls to protect the privacy and security of confidential records.

(2) Prescription drug processing shall include the following:

(a) Receiving, interpreting, or clarifying a prescription;

(b) Entering prescription data into the pharmacy's record;

- (c) Verifying or validating a prescription;
- (d) Performing prospective drug review as defined by the Board;
- (e) Obtaining refill and substitution authorizations;
- (f) Interpreting or acting on clinical data;
- (g) Performing therapeutic interventions;
- (h) Providing drug information concerning a patient's prescription; and
- (i) Providing patient counseling.

(3) Each pharmacist that performs a specific function within the prescription drug processing process via use of a common database shall be responsible for any errors or omissions committed by that pharmacist during the performance of that specific function.

(4) Each pharmacy performing prescription drug processing pursuant to this section must maintain a policy and procedure manual, which shall be made available to the Board or its agent upon request. The policy and procedures manual shall include the following information:

- (a) A description for how each pharmacy will comply with federal and state laws, rules and regulations;
- (b) The procedure for maintaining appropriate records to identify the pharmacies and pharmacists responsible for the prescription drug processing and dispensing of the prescription;
- (c) The policy and procedure for providing adequate security to protect the confidentiality and integrity of patient information; and
- (d) The procedure to be used by the pharmacy in implementing and operating a quality assurance program designed to objectively and systematically monitor, evaluate, and improve the quality and appropriateness of patient care.

(5) The prescription drug processing of a prescription by one pharmacy for another pursuant to this section shall not be construed as the transferring of a prescription as set forth in Section 465.026, F.S.

(6) In addition to all record requirements of Rule 64B16-28.140, F.A.C., all pharmacies participating in prescription drug processing, shall maintain appropriate records which identify, by prescription, the name(s), initials, or identification code(s) of each pharmacist or registered pharmacy technician who performs a processing function for a prescription. Such records shall be maintained:

- (a) Separately by each pharmacy and pharmacist; or
- (b) In a common electronic file, as long as the records are maintained in such a manner that the data processing system can produce a printout which lists the functions performed by each pharmacy, pharmacist, registered pharmacy intern and registered pharmacy technician.

Rulemaking Authority 465.005, 465.022 FS. Law Implemented 465.0266 FS. History—New 3-24-08, Amended 1-1-10.

64B16-28.501 Institutional Permit – Consultant Pharmacist of Record.

Each facility holding a Class I, a Class II, or a Modified Class II Institutional permit shall designate a consultant pharmacist of record to ensure compliance with the laws and rules governing the permit. The Board office shall be notified in writing within 10 days of any change in the consultant pharmacist of record. The consultant pharmacist of record for a Class I, Modified Class II, or a Special ALF permit shall conduct Drug Regimen Reviews as required by Federal or State law, inspect the facility and prepare a written report to be filed at the permitted facility at least monthly. In addition, the consultant pharmacist of record must monitor monthly the facility system for providing medication administration records and physician order sheets to ensure that the most current record of medications is available for the monthly drug regimen review. The consultant pharmacist of record may utilize additional consultant pharmacists to assist in this review and or in the monthly facility inspection.

Rulemaking Authority 465.005, 465.0125, 465.022 FS. Law Implemented 465.0125, 465.019, 465.022 FS. History—New 7-18-94, Formerly 61F10-28.501, 59X-28.501, Amended 1-2-02, 12-30-07.

64B16-28.502 Class I Institutional Permit and Class II Institutional Permit – Labels and Labeling of Medicinal Drugs for Inpatients of a Nursing Home.

(1) The label affixed to a container used in conventional dispensing to a Class I Institutional permit or a Class II Institutional permit which, within the scope of its practice, services only the inpatients of a nursing home as defined by Section 400.021(5), F.S., shall contain at least the following information:

- (a) The name of and address of the pharmacy;
- (b) The name of the prescriber;
- (c) The name of the patient;
- (d) The date of the original filling or the refill date;
- (e) The prescription number or other prescription identification adequate to readily identify the prescription;
- (f) The directions for use;
- (g) The name of the medicinal drug dispensed (except where the health care practitioner prescribing the drug specifically denotes that the name is to be withheld).
- (h) The quantity of the drug in the container.

(2) The label affixed to a container used in dispensing substances listed in any of the schedules appearing in Chapter 893, F.S., in regard to conventional dispensing shall contain at least the following information:

- (a) All of the information required by subsection (1) of this rule;
- (b) The number of the prescription as recorded in the prescription files of the pharmacy in which it is filled; and
- (c) A clear, concise warning that it is a crime to transfer the controlled substance to any person other than the patient for whom prescribed.

Rulemaking Authority 465.005, 465.022 FS. Law Implemented 465.022(1) FS. History—New 7-31-91, Amended 10-1-92, Formerly 21S-28.502, 61F10-28.502, 59X-28.502, Amended 8-16-10.

64B16-28.503 Transmission of Starter Dose Prescriptions for Patients in Class I Institutional or Modified II B Facilities.

(1) Definitions.

(a) “Vendor pharmacy” means a community pharmacy or special closed system pharmacy which has a contract to dispense a medicinal drug to a patient in a facility holding a Class I Institutional Permit or Modified II B Permit.

(b) “Starter dose pharmacy” means a pharmacy that dispenses a medicinal drug pursuant to a starter dose prescription to a patient in a facility served by the vendor pharmacy.

(c) “Starter dose prescription” means a prescription transmitted by a vendor pharmacy to a starter dose pharmacy for the purpose of initiating drug therapy for a patient in a facility served by the vendor pharmacy.

(2) A vendor pharmacy may transmit a starter dose prescription to a starter dose pharmacy if the vendor pharmacy:

- (a) Has written authorization from the facility to utilize a starter dose pharmacy.
- (b) Has a written contract with the starter dose pharmacy.
- (c) Has written authorization from a prescribing practitioner to act as the practitioner’s agent for the purpose of transmitting a starter dose prescription.
- (d) Possess a valid prescription from the prescribing practitioner prior to transmitting the starter dose prescription.
- (e) Maintains a record of each starter dose prescription.
- (f) Maintains a policy and procedure manual that references starter dose prescriptions.

(3) A starter dose pharmacy may dispense a medicinal drug pursuant to a starter dose prescription for a patient in a facility that holds a Class I Institutional Permit or Modified II B Permit if the starter dose pharmacy:

- (a) Has a written contract with the vendor pharmacy.
- (b) Maintains a record of each starter dose prescription.
- (c) Maintains a policy and procedure manual that references starter dose prescriptions.
- (4) The contract between a vendor pharmacy and a prescribing practitioner shall:
 - (a) Be in writing.
 - (b) Identify each facility served by the vendor pharmacy for which the authorization is valid.
 - (c) Authorize the vendor pharmacy to transmit, as an agent of the practitioner, a starter dose prescription to a starter dose pharmacy.

- (d) Be on file at the vendor pharmacy, at the facility served by the vendor pharmacy, and with the prescribing practitioner.
- (e) Be available for inspection by agents of the Department of Health or the Board of Pharmacy.
- (5) The contract between the vendor pharmacy and the starter dose pharmacy shall:
 - (a) Be in writing.
 - (b) Identify each facility served by the vendor pharmacy.
 - (c) Assign the responsibility for prospective drug use review required by Rule 64B16-27.810, F.A.C., to the vendor pharmacy.
 - (d) Assign the responsibility for patient counseling required by Rule 64B16-27.820, F.A.C., to the vendor pharmacy.
 - (e) Be referenced in the Policy and Procedure Manual of the vendor pharmacy and of the starter dose pharmacy.
 - (f) Be updated as necessary to identify facilities or practitioners.
 - (g) Be on file at the vendor pharmacy, at the starter dose pharmacy, and at the facility.
 - (h) Be available for inspection by authorized agents of the Department of Health and the Board of Pharmacy.
- (6) A record of each starter dose prescription shall be:
 - (a) Readily retrievable.
 - (b) Maintained for two years.

Rulemaking Authority 465.005, 465.022 FS. Law Implemented 465.018, 465.019, 465.022 FS. History—New 11-29-04.

64B16-28.602 Institutional Class II Dispensing.

(1) Pharmaceutical preparations which are administered to patients of a hospital by the personnel of such institution shall only be taken from the original container, or from a container which has been prepared by a Florida licensed pharmacist. Only single doses of such preparations shall be removed from the container, and then only after the preparation has been prescribed for a specific patient, and the order has been duly recorded upon the records of the institution. This requirement shall not apply to nor be construed as preventing the administration of treatment in bona fide emergency cases, or further as prohibiting any person who is a duly licensed physician from dispensing medicinal drugs as defined in Chapter 465, F.S. A single dose of medicinal drugs based upon a valid physician's drug order may also be obtained and administered under the supervision of the nurse in charge consistent with good institutional practice procedures as established by the consultant pharmacist of record and written in the policy and procedure manual which shall be available within the pharmacy.

(2) A Class II institutional pharmacy may contract with a Special Parenteral/Enteral Extended Scope pharmacy for the pharmacy services provided for by Rule 64B16-28.860, F.A.C.

(a) Special Parenteral/Enteral Extended Scope pharmacies and institutional pharmacy permits shall create and comply with Policy and Procedure Manuals that delineate duties and responsibilities of each entity, including the following provisions:

1. The institutional pharmacy permit shall maintain records appropriate to ensure the provision of proper patient care.
2. The institutional pharmacy permit designee shall inspect and log in all medicinal drugs provided by the Special Parenteral/Enteral Extended Scope pharmacy.
3. A pharmacist for the institutional pharmacy shall provide drug utilization review and shall review each prescription order prior to transmission to the Special Parenteral/Enteral Extended Scope pharmacy.

(b) Such Policy and Procedure manuals shall be made available to the Board or Department upon request.

(c) Prior to contracting for such services the institutional pharmacy shall ensure that the Special Parenteral/Enteral Extended Scope pharmacy is licensed under the provisions of Rule 64B16-28.860, F.A.C.

Rulemaking Authority 465.005, 465.022 FS. Law Implemented 465.019(2)(b), 465.0196, 465.022(1) FS. History—Amended 5-19-72, Repromulgated 12-18-74, Amended 10-10-78, Formerly 21S-1.11, 21S-1.011, Amended 7-31-91, Formerly 21S-28.602, 61F10-28.602, Amended 9-4-96, Formerly 59X-28.602, Amended 8-16-10.

64B16-28.6021 Institutional Class II Pharmacy – Emergency Department Dispensing.

(1) Individuals licensed to prescribe medicinal drugs in this state may dispense from the emergency department of a hospital holding a class II institutional pharmacy permit. Such dispensing must meet the requirements provided in Section 465.019(4), F.S., and this section.

(2) The following records of prescribing and dispensing must be created by the prescriber/dispenser and maintained by the consultant pharmacist of record within the facility;

- (a) Patient name and address.

- (b) Drug and strength prescribed/dispensed.
- (c) Quantity prescribed/dispensed.
- (d) Directions for use.
- (e) Prescriber/dispenser.
- (f) Prescriber DEA registration, if applicable.
- (g) Reason community pharmacy services were not readily accessible.
- (3) Labeling of the prescription container must meet the requirements of Section 465.0276, F.S.
- (4) Quantity dispensed must not exceed a 24-hour supply or the minimal dispensable quantity, whichever is greater.

Rulemaking Authority 465.005, 465.019(4), 465.022 FS. Law Implemented 465.019(2)(b), (4), 465.0196, 465.022(1) FS. History–New 9-20-99, Amended 8-16-10.

64B16-28.603 Class II Institutional Pharmacy Operating Hours.

Any person who receives a Class II Institutional permit pursuant to Section 465.019, F.S., and commences to operate such a pharmacy shall, for the benefit of the institutions’ patients’ health and welfare, keep the pharmacy of the establishment open for a sufficient number of daily operating hours required to provide adequate and quality pharmaceutical services to the patients of said institution.

Rulemaking Authority 465.005, 465.022 FS. Law Implemented 465.022(1) FS. History–New 7-31-91, Formerly 21S-28.603, 61F10-28.603, 59X-28.603.

64B16-28.604 Class II Institutional Pharmacy Department Security.

The pharmacy department shall be considered closed whenever a Florida licensed pharmacist is not present and on duty. At all times when the pharmacy department is closed, either because of the absence of a Florida licensed pharmacist or for any other reason, it shall be secured to prevent access. When the pharmacy department is closed, no person other than a Florida licensed pharmacist shall enter, except as authorized by subsection 465.019(2)(b), F.S., and Rule 64B16-28.602, F.A.C.

Rulemaking Authority 465.005, 465.022(1), 465.019 FS. Law Implemented 465.019, 465.022(1) FS. History–New 9-21-94, Formerly 59X-28.604.

64B16-28.605 Class II Institutional Pharmacies – Automated Distribution and Packaging.

(1) Definitions.

(a) “Automated medication system” means a robotic, mechanical or computerized device that is not used for medication compounding and is designed to:

1. Distribute medications in a licensed health care facility; or
2. Package medications for final distribution by a pharmacist.

(b) “Centralized automated medication system” means an automated medication system located in a pharmacy department from which medication is distributed or packaged for final distribution by a pharmacist.

(c) “Decentralized automated medication system” means an automated medication system that is located outside of a pharmacy department but within the same institution.

(d) “Distribute” or “Distribution” means the process of providing a drug to an individual authorized to administer medications and licensed as a health care provider in the state of Florida pursuant to an order issued by an authorized prescriber.

(e) “Medication” means a medicinal drug or proprietary preparation.

(f) “Override medication” means a single dose of medication that may be removed from a decentralized automated medication system prior to pharmacist review because a practitioner licensed pursuant to Chapter 458, 459 or 466, F.S., determined that the clinical status of the patient would be significantly compromised by delay.

(g) “Low risk override medication” is a medication determined by a practitioner licensed pursuant to Chapters 458, 459, or 466, F.S., to have a low risk of drug allergy, drug interaction, dosing error, or adverse patient outcome, and may be removed from a decentralized automated medication system independent of a pharmacist’s review of the medication order or clinical status of the patient.

(h) “Physician controlled medication” is medication distributed in an environment where a practitioner controls the order, preparation and administration of the medication.

(2) General Requirements for the Use of Automated Medication Systems.

(a) The consultant pharmacist of record shall be responsible for:

1. Maintaining a record of each transaction or operation;
2. Controlling access to the system;
3. Maintaining policies and procedures for:
 - a. Operation of the automated medication system;
 - b. Training personnel who use the automated medication system;
 - c. Maintaining patient services whenever the automated medication system is not operating; and
 - d. Defining a procedure for a pharmacist to grant or deny access to the medication in the system.
4. Security of the system;
5. Assuring that a patient receives the pharmacy services necessary for good pharmaceutical care in a timely manner;
6. Assuring that the system maintains the integrity of the information in the system and protects patient confidentiality;
7. Establishing a comprehensive Quality Assurance program;
8. Establishing a procedure for stocking or restocking the automated medication system; and
9. Ensuring compliance with all requirements for packaging and labeling.

(b) A pharmacist shall perform prospective drug use review and approve each medication order prior to administration of a medication except an override medication, a low risk override medication or a physician controlled medication.

(c) A pharmacist shall perform retrospective drug use review for an override medication.

(3) Multidisciplinary Committee for Decentralized Automated Medication Systems.

(a) The consultant pharmacist of record shall convene or identify a multidisciplinary committee, which is charged with oversight of the decentralized automated medication system.

(b) The Multidisciplinary Committee shall:

1. Include at least one pharmacist;
2. Establish the criteria and process for determining which medication qualifies as an override medication or a low risk override medication in a decentralized automated medication system;
3. Develop policies and procedures regarding the decentralized automated medication system; and
4. Have its decisions reviewed and approved by the consultant pharmacist of record.

(4) Stocking or Restocking of a Decentralized Automated Medication System.

(a) Medications in a decentralized Automated Medication System shall be stocked or restocked by a pharmacist, registered pharmacy intern, or by a registered pharmacy technician supervised by a pharmacist.

(b) The stocking or restocking of a decentralized automated medication system shall follow one of the following procedures to assure correct medication selection:

1. A pharmacist shall conduct a daily audit of medications placed or to be placed into an automated medication system that includes random sampling.

2. A bar code verification, electronic verification, or similar verification process shall be utilized to assure correct selection of medication placed or to be placed into an automated medication system. The utilization of a bar code, electronic, or similar verification technology shall require an initial quality assurance validation followed by a monthly quality assurance review by a pharmacist.

(5) Centralized Automated Medication Systems. A pharmacist utilizing a centralized medication system may distribute patient specific medications within the licensed health care facility without checking each individual medication selected or packaged by the system, if:

(a) The initial medication order has been reviewed and approved by a pharmacist; and

(b) The medication is distributed for subsequent administration by a health care professional permitted by Florida law to administer medication; and

(c) A bar code verification, electronic verification, or similar verification process shall be utilized to assure correct selection of medication placed or to be placed into an automated medication system. The utilization of a bar code, electronic verification, or similar verification technology shall require an initial quality assurance validation, followed by monthly quality assurance review by a pharmacist.

(6) Quality Assurance Program. The consultant pharmacist of record shall be responsible for establishing a quality assurance program for the automated medication system. The program shall provide for:

- (a) Review of override and low risk override medication utilization;
- (b) Investigation of a medication error related to the automated medication system;
- (c) Review of a discrepancy or transaction reports and identify patterns of inappropriate use or access;
- (d) Review of the operation of the system;
- (e) Integration of the automated medication system quality assurance program with the overall continuous quality improvement of the pharmacy as defined in Rule 64B16-27.300, F.A.C.; and
- (f) Assurance that individuals working with the automated medication system receive appropriate training on the operation of the system and procedures for maintaining pharmacy services when the system is not in operation.

(7) Record Keeping.

(a) The consultant pharmacist of record shall maintain records related to the automated medication system in a readily retrievable manner.

(b) The following records shall be maintained for at least 60 days:

- 1. Daily audits of stocking or restocking, if applicable;
- 2. Daily audits for the output of centralized automated medication system, if applicable; and
- 3. Transaction records for all non-controlled medications or devices distributed by the automated medication system.

(c) The following records shall be maintained for at least two (2) years:

- 1. Any report or analysis generated as part of the quality assurance program;
 - 2. A report or database related to access to the system or any change in the access to the system or to medication in the system;
- and
- 3. Transaction records from the automated medication system for all controlled substances dispensed or distributed.

(8) Compliance. The consultant pharmacist of record shall assure compliance with all requirements of Chapter 465, F.S., and the rules of Chapter 64B16, F.A.C.

(9) Security. A decentralized automated medication system that contains controlled substances shall prohibit simultaneous access to multiple drug entities, drug strengths, or dosage forms of controlled substances, unless otherwise contained in labeled patient-specific form.

Rulemaking Authority 465.005, 465.0155, 465.022 FS. Law Implemented 465.019, 465.022, 465.0235, 465.026 FS. History—New 4-22-07, Amended 1-1-10.

64B16-28.606 Remote Medication Order Processing for Class II Institutional Pharmacies.

(1) Definitions.

(a) “Remote Medication Order Processing” includes any of the following activities performed for a Class II Institutional Pharmacy from a remote location:

- 1. Receiving, interpreting, or clarifying medication orders.
- 2. Entering or transferring medication order data.
- 3. Performing prospective drug use review.
- 4. Obtaining substitution authorizations.
- 5. Interpreting and acting on clinical data.
- 6. Performing therapeutic interventions.
- 7. Providing drug information.
- 8. Authorizing the release of a medication for administration.

(b) “Medication” means a medicinal drug or proprietary preparation.

(c) “Prospective drug use review” means an evaluation of medication orders and patient medication records for:

- 1. Over-utilization or under-utilization of medication.
- 2. Therapeutic duplication of medication.
- 3. Drug-disease contraindications.
- 4. Drug interactions.
- 5. Incorrect drug dosage or duration of drug treatment.

6. Clinical abuse or misuse of medication.

(2) General requirements.

(a) All pharmacists participating in remote medication order processing shall be Florida licensed pharmacists.

(b) A Class II Institutional pharmacy may utilize remote medication order processing if the pharmacist performing the remote medication order processing has access to sufficient patient information necessary for prospective drug use review and approval of medication orders.

(c) A pharmacist shall perform the final check of a medication order.

(d) If the pharmacist performing remote order processing is not an employee of the Class II Institutional pharmacy, the Class II Institutional pharmacy must have a written agreement or contract with the pharmacist or entity employing the pharmacist. The written agreement or contract shall:

1. Outline the services to be provided.

2. Delineate the responsibilities of each party including compliance with federal and state laws and regulations governing the practice of pharmacy as well as state and federal medical privacy requirements.

3. Require that the parties adopt a policies and procedures manual.

4. Provide that the parties have access to or share a common electronic file such that the pharmacist performing remote medication order processing has sufficient patient information necessary for prospective drug use review and approval of medication orders.

(3) Policy and Procedures. A policy and procedures manual shall:

(a) Be accessible to each party involved in remote medication order processing.

(b) Be available for inspection by the Board or an authorized agent of the Department.

(c) Outline the responsibilities of each party involved in remote medication order processing.

(d) Include a current list of the name, address, telephone number, and license number of each pharmacist involved in remote medication order processing.

(e) Include policies and procedures for:

1. Protecting the confidentiality and integrity of patient information.

2. Ensuring that a pharmacist performing prospective drug use review has access to appropriate drug information resources.

3. Ensuring that medical and nursing staff understand how to contact a pharmacist.

4. Maintaining records to identify the name, initials, or identification code of each person who performs a processing function for a medication order.

5. Complying with federal and state laws and regulations.

6. Operating or participating in a continuous quality improvement program for pharmacy services designed to objectively and systematically monitor and evaluate the quality and appropriateness of patient care, pursue opportunities to improve patient care, and resolve identified problems.

7. Reviewing the written policies and procedures and documenting the review every year.

(4) Records.

(a) A Class II Institutional Pharmacy involved in remote medication order processing shall maintain a record that identifies the name, initials, or identification code of each person who performed a processing function for every medication order. The record shall be available by medication order or by patient name.

(b) The record may be maintained in a common electronic file if the record is maintained in such a manner that the data processing system can produce a printout which identifies every person who performed a processing function for a medication order.

(c) The record shall be readily retrievable for at least the past two (2) years.

(d) The record shall be available for inspection by the Board or an authorized agent of the Department.

Rulemaking Authority 465.005, 465.0155, 465.022 FS. Law Implemented 465.019, 465.022, 465.026 FS. History—New 11-29-04.

64B16-28.607 Automated Pharmacy System – Long Term Care, Hospice, and Prison.

(1) Definitions.

(a) “Automated pharmacy system” means a mechanical system that performs operations or activities, other than compounding or administration, relative to the storage, packaging, counting, labeling, and delivery of a medicinal drug, and which collects, controls, and maintains a record of each transaction.

(b) "Provider pharmacy" means a pharmacy that provides pharmacy services by using an automated pharmacy system at a remote site.

(c) "Remote site" means a long term care facility or hospice licensed under Chapter 400, F.S., or a state correctional institution operated under Chapter 944, F.S., that is not located at the same location as the provider pharmacy, at which pharmacy services are provided using an automated pharmacy system.

(d) "Controlled substance" means a substance listed in Chapter 893, F.S., or 21 CFR Part 1308.

(2) Provider Pharmacy Requirements.

(a) A provider pharmacy may provide pharmacy services to a long term care facility or hospice licensed under Chapter 400, F.S., or a state correctional institution operated under Chapter 944, F.S., through the use of an automated pharmacy system.

(b) An automated pharmacy system shall only be used to provide pharmacy services to an inpatient or a resident of the remote site.

(c) Supervision of the automated pharmacy system shall be the responsibility of a Florida pharmacist employed by the provider pharmacy.

(d) Every medicinal drug stored in the automated pharmacy system shall be owned by the provider pharmacy.

(e) An automated pharmacy system shall be under the supervision of a pharmacist employed by the provider pharmacy. The pharmacist need not be physically present at the remote site if the system is supervised electronically.

(f) A provider pharmacy shall have policies and procedures to ensure adequate security.

(3) Prescription Department Manager Requirements.

(a) The prescription department manager shall ensure that the automated pharmacy system complies with Chapter 893, F.S., and 21 C.F.R., relating to the regulation of controlled substances, for each automated pharmacy system that contains a controlled substance.

(b) The prescription department manager shall ensure that the use of an automated pharmacy system does not compromise patient confidentiality.

(c) The prescription department manager or a designee shall:

1. Authorize or deny access to the data from an automated pharmacy system or to a drug stored inside the automated pharmacy system.

2. Document the training of each person who has access to the data from an automated pharmacy system or to a drug stored inside the automated pharmacy system.

(4) Automated Pharmacy System Requirements.

(a) A medicinal drug stored in bulk or unit-of-use in an automated pharmacy system is part of the inventory of the provider pharmacy and is not part of the inventory of any other pharmacy permit for the facility.

(b) A medicinal drug may be removed from an automated pharmacy system for administration to a patient only after a prescription or order has been received and approved by a pharmacist at the provider pharmacy. This provision does not apply to a medication designated as an emergency medication if the automated pharmacy system is also used as an emergency medication kit in compliance with Section 400.142, F.S. and Rule 59A-4.112, F.A.C.

(c) A pharmacist at the provider pharmacy shall control all operations of the automated pharmacy system and approve release of the initial dose of a prescription or order. A subsequent dose from an approved prescription or order may be released without additional approval of a pharmacist. However, any change made in a prescription or order shall require a new approval by a pharmacist to release the drug.

(d) A pharmacist at the provider pharmacy shall comply with the patient record requirements in Rule 64B16-27.800, F.A.C., and prospective drug use review requirements in Rule 64B16-27.810, F.A.C., for every medicinal drug delivered through an automated pharmacy system.

(e) If the facility where pharmacy services are being provided maintains a medication administration record that includes directions for use of the medication, a unit dose medication may be utilized if the provider pharmacy or the automated pharmacy system identifies and records the dispensing pharmacy, the prescription or order number, the name of the patient, and the name of the prescribing practitioner for each medicinal drug delivered.

(f) Stocking or Restocking of an Automated Pharmacy System.

1. The stocking or restocking of a medicinal drug in an automated pharmacy system at the remote site shall be completed by a pharmacist or other licensed personnel, except as provided in subparagraph 2. below of this section.

2. If the automated pharmacy system uses removable cartridges or containers to store the drug, the stocking or restocking of the cartridges or containers may occur at the provider pharmacy and be sent to the remote site to be loaded by personnel designated by the pharmacist if:

- a. A pharmacist verifies the cartridge or container has been properly filled and labeled.
- b. The individual cartridge or container is transported to the remote site in a secure, tamper-evident container.
- c. The automated pharmacy system uses bar code verification, electronic verification, or similar process to assure that the cartridge or container is accurately loaded into the automated pharmacy system.

(g) A medicinal drug that has been removed from the automated pharmacy system shall not be replaced into the system unless a pharmacist has examined the medication, the packaging, and the labeling and determined that reuse of the medication is appropriate.

(h) Medication to be returned to the provider pharmacy's stock shall meet the requirements of Rule 64B16-28.118, F.A.C.

(5) Security Requirements.

(a) If a provider pharmacy intends to store a controlled substance in an automated pharmacy system:

1. It shall maintain a separate DEA registration for each remote site at which a controlled substance is stored.
2. It may utilize one DEA registration to include multiple automated pharmacy systems located at a single address.

(b) A provider pharmacy shall only store a medicinal drug at a remote site within an automated pharmacy system which is locked by a mechanism that prevents access to a drug or to data by unauthorized personnel.

(c) Access to the drugs shall be limited to a pharmacist or a registered pharmacy technician employed by the provider pharmacy or licensed personnel in the facility or institution who are authorized to administer medication.

(d) An automated pharmacy system that contains a controlled substance shall prohibit simultaneous access to multiple drug entities, drug strengths, or dosage forms of controlled substances.

(6) Emergency medication. If an automated pharmacy system is utilized for both a medication ordered for a specific patient and an emergency medication for which the review of a pharmacist is not required:

(a) The emergency medication shall be stored separately from other patient medications.

(b) The record shall identify the storage location from which the medication was released.

(c) The record shall include the name of the medication, the patient, the prescriber, the person who accessed the automated pharmacy system, and the date and time of the release.

(7) Record Keeping Requirements.

(a) The record of transactions with the automated pharmacy system shall be maintained in a readily retrievable manner.

(b) The record shall be available to an authorized agent of the Department of Health or the Board of Pharmacy.

(c) The record shall include:

1. Name or identification of the patient or resident.
2. Name, strength and dosage form of the drug product released.
3. Quantity of drug released.
4. Date and time of each release of a drug.
5. Name of provider pharmacy.
6. Prescription number or order number.
7. Name of prescribing practitioner.
8. Identity of the pharmacist who approved the prescription or order.
9. Identity of the person to whom the drug was released.

(d) A record of every transaction with the automated pharmacy system shall be maintained for two (2) years.

Rulemaking Authority 465.005, 465.0155, 465.022 FS. Law Implemented 465.019, 465.022, 465.0235 FS. History—New 4-22-07, Amended 1-1-10.

64B16-28.702 Modified Class II Institutional Pharmacies.

(1) Modified Class II Institutional Pharmacies are those Institutional Pharmacies which provide specialized pharmacy services restricted in scope of practice and designed to provide certain health care pharmacy services that are not generally obtainable from other pharmacy permittees. These specialized institutional pharmacy practices are generally identifiable with short-term or primary care treatment modalities in entities such as primary alcoholism treatment centers, free-standing emergency rooms, rapid in/out surgical centers, certain county health programs, and correctional institutions. Medicinal drugs may not be administered, except to patients of the institution for use on the premises of the institution, in any facility which has been issued a Modified Class II

Institutional Pharmacy Permit. All medicinal drugs as defined by Section 465.003(7), F.S., which are stocked in these pharmacies are only to be administered on premises as defined by Section 465.003(1), F.S., to inpatients on an inpatient or in-program basis. In-program patients are defined as those patients who have met program admission criteria required by the institution.

(2) Modified Class II Institutional Pharmacies are categorized according to the type of specialized pharmaceutical delivery system utilized and the following criteria (Categories are designated as Type "A", Type "B" and Type "C"):

(a) The type of the medicinal drug delivery system utilized at the facility, either a patient-specific or bulk drug system, and, the quantity of the medicinal drug formulary at the facility,

(b) Type "A" Modified Class II Institutional Pharmacies provide pharmacy services in a facility which has a formulary of not more than 15 medicinal drugs, excluding those medicinal drugs contained in an emergency box, and in which the medicinal drugs are stored in bulk and in which the consultant pharmacist shall provide on-site consultations not less than once every month, unless otherwise directed by the Board after review of the policy and procedure manual.

(c) Type "B" Modified Class II Institutional Pharmacies provide pharmacy services in a facility in which medicinal drugs are stored in the facility in patient specific form and in bulk form and which has an expanded drug formulary, and in which the consultant pharmacist shall provide on-site consultations not less than once per month, unless otherwise directed by the Board after review of the policy and procedure manual.

(d) Type "C" Modified Class II Institutional Pharmacies provide pharmacy services in a facility in which medicinal drugs are stored in the facility in patient specific form and which has an expanded drug formulary, and in which the consultant pharmacist shall provide on-site consultations not less than once per month, unless otherwise directed by the Board after review of the policy and procedure manual.

(3) All Modified Class II Institutional Pharmacies shall be under the control and supervision of a certified consultant pharmacist.

(4) The consultant pharmacist of record for the Modified Class II Institutional Pharmacy shall be responsible for establishing a written protocol and a policy and procedure manual for the implementation of a drug delivery system to be utilized and the requirements of this rule.

(5) A copy of the permittee's policy and procedure manual as provided herein shall accompany the permit application. The original policy and procedure manual shall be kept within the Modified Class II Institutional Pharmacy and shall be available for inspection by the Department of Health.

(6) Drugs as defined in Section 465.003(7), F.S., stocked in Modified Class II Institutional Pharmacies, Type "A" and Type "B" as provided herein, shall be those drugs generally utilized in the treatment modalities encompassed within the health care scope of the particular institutional care entity. The protocol and the policy and procedure manual for Type "A" and Type "B" Modified Class II Institutional Pharmacies shall contain definitive information as to drugs and strengths thereof to be stocked.

(a) The policy and procedure manual of facilities which are issued Type A Modified Class II Institutional Permits shall provide the following:

1. Definitive information as to drugs and strengths to be stored.
2. The establishment of a Pharmacy Services Committee which shall meet at least annually.
3. Provisions for the handling of the emergency box including the utilization of separate logs for recordkeeping.
4. Provisions for the secure ordering, storage and recordkeeping of all medicinal drugs at the facility.
5. Provisions for the utilization of proof-of-use forms for all medicinal drugs within the facility.
6. A diagram of the facility and the security and storage of the medicinal drugs.
7. Provisions for maintaining the records of consultations for not less than two (2) years at the facility which shall be stored on-site and available for inspection by the Department of Health.

(b) The policy and procedure manual of facilities which are issued Type B Modified Class II Institutional Permits shall provide the following:

1. The establishment of a Pharmacy Services Committee which shall meet at least annually.
2. Provisions for the handling of the emergency box including the utilization of separate logs for recordkeeping.
3. Provisions for the secure ordering, storage and recordkeeping of all medicinal drugs at the facility.
4. Provisions for the utilization of a perpetual inventory system for all controlled substances, injectables and other medicinal drugs as required by the Pharmacy Services Committee.
5. A diagram of the facility and the security and storage of the medicinal drugs.

6. Provisions for maintaining the records of consultations for not less than two (2) years at the facility which shall be stored on-site and available for inspection by the Department of Health.

(c) The policy and procedure manual of facilities which are issued Type C Modified Class II Institutional Permit shall provide the following:

1. The establishment of a Pharmacy Services Committee which shall meet at least annually.
2. Provisions for the handling of the emergency box including the utilization of separate logs for recordkeeping.
3. Provisions for the secure ordering, storage and recordkeeping of all medicinal drugs at the facility.
4. Provisions for the utilization of a Medication Administration Record (MAR) for all medicinal drugs administered to patients of the facility.
5. A diagram of the facility and the security and storage of the medicinal drugs.
6. Provisions for maintaining the records of consultations for not less than two (2) years at the facility which shall be stored on-site and available for inspection by the Department of Health.

(7) Controlled drugs as defined in Chapter 893, F.S., stocked as provided herein within a Type "A" Modified Class II Institutional Pharmacy shall be stocked in unit size not to exceed 100 dosage units unless an exception thereto is granted by the Board of Pharmacy. Proof of use record sheets showing patient's name, date of administration, initials of person administering drug, and other pertinent control requirements are required for both controlled and noncontrolled substance medicinal drugs in Type "A" Modified Class II Institutional Pharmacies.

(8) A Modified Class II institutional pharmacy may contract with a Special Parenteral/Enteral Extended Scope pharmacy for the pharmacy services provided for by Rule 64B16-28.860, F.A.C.

(a) Special Parenteral/Enteral Extended Scope pharmacies and institutional pharmacy permits shall create and comply with Policy and Procedure Manuals that delineate duties and responsibilities of each entity including the following provisions:

1. The institutional pharmacy permit shall maintain records appropriate to ensure the provision of proper patient care.
2. The institutional pharmacy permit designee shall inspect and log in all medicinal drugs provided by the Special Parenteral/Enteral Extended Scope pharmacy.

(b) Such Policy and Procedure manuals shall be made available to the Board or Department upon request.

(c) Prior to contracting for such services the institutional pharmacy shall ensure that the Special Parenteral/Enteral Extended Scope pharmacy is licensed under the provisions of Rule 64B16-28.860, F.A.C.

Rulemaking Authority 465.005, 465.022 FS. Law Implemented 465.019(2)(c) FS. History—New 4-22-82, Amended 11-5-85, Formerly 21S-1.37, Amended 4-16-86, Formerly 21S-1.037, Amended 7-31-91, Formerly 21S-28.702, 61F10-28.702, Amended 9-4-96, Formerly 59X-28.702, Amended 10-15-01.

64B16-28.800 Special Pharmacies.

(1) Special pharmacies are pharmacies providing miscellaneous specialized pharmacy service functions. The Board of Pharmacy, by this rule, provides for the establishment of the following special pharmacy permits:

- (a) Special-Limited Community.
- (b) Special-Parenteral and Enteral.
- (c) Special-Closed System Pharmacy.
- (d) Special-Non Resident (Mail Service).
- (e) Special-End Stage Renal Disease.
- (f) Special-Parenteral/Enteral Extended Scope.
- (g) Special-ALF.

(2) An applicant for any special pharmacy permit shall provide the Board of Pharmacy with an application (Form DOH\PH105 Revised 7/23/98, effective 11/11/98, which is hereby incorporated by reference and which can be obtained from the Department of Health) and a Policy and Procedure Manual which sets forth a detailed description of the type of pharmacy services to be provided within the special pharmacy practice. The Policy and Procedure Manual shall contain detailed provisions for compliance with the provision of Section 465.0196, F.S., and other applicable requirements contained in this chapter.

(3) The Policy and Procedure Manual shall be prepared, maintained, and will be reviewed and is subject to approval by the Board of Pharmacy or its designee prior to the issuance of the permit and the initiation of the operation of the permittee. The policy and procedure manual is reviewed to determine if the operation of the facility will be in compliance with Chapters 465 and 893,

F.S., and Chapter 64B16, F.A.C. The Policy and Procedure Manual shall be made available upon request of the Board or its agents. The applicant who requests a special permit shall be subject to inspection prior to the issuance of the permit.

Rulemaking Authority 465.005, 465.022 FS. Law Implemented 465.0196 FS. History—New 2-21-84, Formerly 21S-1.39, 21S-1.039, Amended 7-31-91, 10-14-91, Formerly 21S-28.800, 61F10-28.800, Amended 3-10-96, 6-4-97, Formerly 59X-28.800, Amended 11-11-98, 10-15-01.

64B16-28.810 Special Pharmacy – Limited Community Permit.

A Special-Limited Community Permit shall be obtained by a Class II Institutional Pharmacy that dispenses medicinal drugs, including controlled substances to:

- (1) Employees, medical staff and their dependents for their personal use,
- (2) Patients of the hospital who are under a continuation of a course of therapy not to exceed a three (3) day supply,
- (3) Patients obtaining medical services in the facility's emergency room and, whenever it is otherwise appropriate, as indicated in the applicant's policy and procedure manual.

Rulemaking Authority 465.005, 465.022 FS. Law Implemented 465.0196 FS. History—New 7-31-91, Formerly 21S-28.810, 61F10-28.810, 59X-28.810, Amended 7-17-05.

64B16-28.820 Sterile Products and Special Parenteral/Enteral Compounding.

(1) Sterile Products and Parenteral/Enteral Compounding.

(a) A sterile products and parenteral/enteral compounding pharmacy is a type of special pharmacy as provided by Section 465.0196, F.S., which is limited in scope of pharmacy practice to render sterile products and parenteral/enteral compounding functions. This pharmacy practice facilitates the utilization of certain institutional therapeutic measures by patients in the home environment or by patients in an institutional environment where such pharmacy service is unavailable. Pharmacy services, sterile products and parenteral/enteral products provided by a special sterile products and parenteral/enteral compounding pharmacy pursuant to prescription as defined by Section 465.003(13), F.S., shall be limited to the compounding and/or dispensing of:

1. Sterile preparations for parenteral therapy, parenteral nutrition, and/or
2. Sterile preparations for jejunostomy feeding and sterile irrigation solutions, and/or
3. Sterile preparations of cytotoxic or antineoplastic agents, and/or
4. Sterile products (i.e., injectables, eye drops, etc.).

(b) Prior to engaging in a sterile products and parenteral/enteral compounding pharmacy practice an entity shall obtain a special sterile products and parenteral/enteral compounding pharmacy permit as provided herein.

(2) Pharmacy Environment. The compounding and dispensing of sterile products and parenteral/enteral prescription preparations within a special sterile products and parenteral/enteral compounding pharmacy shall be accomplished in a pharmacy environment subject to the pharmacy permit laws of this state and in accordance with those requirements for the safe handling of drugs. The environment for this practice shall be set apart, and designed, and equipped to facilitate controlled aseptic conditions. Aseptic techniques shall prevail in this practice to minimize the possibility of microbial contamination.

(3) General Requirements.

(a) A special sterile products and parenteral/enteral compounding pharmacy shall be under the control and supervision of a licensed pharmacist, who shall be designated prescription department manager on the application for a special sterile products and parenteral/enteral compounding pharmacy. The prescription department manager or other licensed qualified pharmacist as provided herein shall be present on duty during all hours of operation of said pharmacy. Changes in prescription department manager shall be reported to the Board of Pharmacy office within 10 days by the permit holder and prescription department manager of record. A prescription department manager of a special sterile products and parenteral/enteral compounding pharmacy shall not be designated prescription department manager of record of more than one special sterile products and parenteral/enteral compounding pharmacy, unless otherwise approved by the Board. The Board will consider the proximity of the facility as well as the administrative workload created by the two permits, in determining whether or not it will approve the designation of someone as a prescription department manager of more than one special sterile products and parenteral/enteral compounding pharmacy.

(b) A special sterile products and parenteral/enteral compounding pharmacy shall provide special handling and packaging of compounded parenteral and enteral preparations when delivering from the pharmacy to the patient or institution as required to maintain stability of the preparations. All such preparations shall include the time and/or date of expiration on the label. Delivery from the pharmacy to the patient shall be made within a reasonable time. A special sterile products and parenteral/enteral

compounding pharmacy shall provide telephone accessibility to its pharmacist(s) for its patients at all hours.

(c) A patient profile shall be maintained for each patient. The profile must contain available medical information consistent with prevailing pharmacy standards which shall be confidential.

(d) A Policy and Procedure Manual shall be prepared and maintained at each special sterile products and parenteral/enteral compounding pharmacy, and be available for inspection by authorized agents of the Board of Pharmacy and the Department. The Policy and Procedure Manual shall set forth in detail the objectives and operational guidelines of the permittee. The Policy and Procedure Manual shall include a Quality Assurance Program which monitors personnel qualifications, training and performance, equipment facilities, and random production sampling consistent with recommended standards for compounding and dispensing intravenous admixtures as set forth by the Joint Commission on Accreditation of Health Organizations, the National Coordinating Committee and Large Volume Parenteral, and as provided by the Florida Board of Pharmacy.

(e) Compounding shall be conducted within an annually certified laminar air flow (LAF) hood, except in the existence of a Class 100 certified compounding environment, or certified mobile isolation chamber, in which case compounding may be conducted without the use of a certified laminar air flow hood. All cytotoxins must be compounded in a certified vertical laminar air flow hood or certified mobile isolation chamber. The use of a Type A or Type B LAF hood used shall be dependent upon the volume of work anticipated. All certifications shall be performed following manufacturer specification.

(f) Protective garb: gloves, face and eye, and gowns should be provided and used.

(g) Proper aseptic procedures must be used at all times to prevent bacterial contamination of the product as well as chemical contamination of the operator.

(h) All unused cytotoxic agents and material must be disposed of properly in accordance with accepted professional standards and applicable law.

(4) An applicant for a special sterile products and parenteral/enteral compounding pharmacy permit shall provide the Board of Pharmacy with the following:

(a) Completed Board of Pharmacy permit application form (Form DPR/PH/107/9-88).

(b) Copy of Policy and Procedure Manual.

(c) Permit fee as provided in Rule 64B16-28.121, F.A.C.

(5) Minimum Requirements for Space, Equipment, Supplies and Publications.

(a) To ensure compliance with the general requirements as set forth, the following minimum requirements for space, equipment, supplies and publications shall be met by a pharmacy which operates under the special permit of a sterile products and parenteral/enteral compounding pharmacy. These requirements are in addition to the minimum requirements for space and equipment required of other types of pharmacies when applicable. The minimum permit requirements are set forth as follows:

(b) Space:

1. The area for preparing sterile prescriptions as provided for by this rule referred to as the sterile admixture room shall be set apart from general work and storage areas. The room shall be adequately air conditioned or shall be under positive pressure.

2. The sterile admixture room shall provide space for a minimum of one laminar flow hood. Additionally, the space shall be of adequate size to accommodate other equipment as provided herein and sufficient space to allow pharmacists and other employees working therein to adequately, safely, and accurately fulfill their duties related to prescriptions.

(c) Equipment:

1. Laminar Air Flow Hood(s):

a. Horizontal and/or.

b. Vertical.

2. Refrigerator/freezer convenient to the clean room.

3. Sink and wash area convenient to the clean room.

4. Appropriate waste containers for:

a. Used needles and syringes.

b. All cytotoxic waste including apparel.

(d) Supplies:

1. Gloves, masks and gowns.

2. Needles and syringes of various standard sizes.

3. Disinfectant cleaning agents.

4. Clean towels.
5. Handwashing materials with bactericidal properties.
6. Vacuum containers and various transfer sets.
7. "Spill kits" for cytotoxic agent spills.

(e) Current References:

1. Chapter 465, F.S.
2. Chapter 499, F.S.
3. Chapter 893, F.S.
4. Title 64B16, F.A.C., Rules of the Florida Board of Pharmacy.
5. United States Pharmacopeia and National Formulary, or Remington Pharmaceutical Sciences, or the United States Dispensatory (along with the latest supplements), or an equivalent thereof sufficient in scope to meet the professional practice needs of the pharmacy, and a current authoritative therapeutic reference.
6. Handbook of Injectable Drugs by American Society of Hospital Pharmacists.
7. "Practice Guidelines For Personnel Dealing With Cytotoxic Drugs."

(6) A community pharmacy permittee may perform parenteral/enteral compounding or prepare sterile products without obtaining an additional permit under this section, so long as prior to entering into such activities, the community pharmacy meets the requirements of subsections (1)-(5) above and is inspected for compliance by the Department of Health. A community pharmacy permittee that was engaged in the preparation of sterile products other than parenteral/enteral products as of June 1, 2002 shall have until June 1, 2003 to meet the requirements of subsections (1)-(5) above for the preparation of sterile products other than parenteral/enteral products.

Rulemaking Authority 465.005, 465.007, 465.022 FS. Law Implemented 465.007, 465.018, 456.0196 FS. History—New 4-26-84, Formerly 21S-1.40, Amended 7-27-86, Formerly 21S-1.040, Amended 7-31-91, 10-14-91, Formerly 21S-28.820, 61F10-28.820, Amended 3-11-96, 6-4-97, Formerly 59X-28.820, Amended 7-1-02, 1-29-03.

64B16-28.830 Special – Closed System Pharmacy.

(1) A Special – Closed System Pharmacy permit is a type of special pharmacy as provided for by Section 465.0196, F.S., which dispenses medicinal drugs, utilizing closed delivery systems, to facilities where prescriptions are individually prepared for the ultimate consumer, including nursing homes, jails, ALF's (Adult Congregate Living Facilities), ICF-MR's (Intermediate Care Facility/Mentally Retarded) or other custodial care facilities when defined by AHCA rules which the Board may approve.

(2) A special – closed system pharmacy permittee shall maintain a policy and procedure manual including drug procurement, storage, handling, compounding, dispensing, record keeping and disposition.

(3) A special – closed system pharmacy permittee shall provide twenty-four hour emergency and on-call service.

(4) A special – closed system pharmacy permittee may dispense parenteral and enteral medications as provided by rule.

(5) A special – closed system pharmacy permittee shall be under the supervision of a prescription department manager who is responsible for maintaining all drug records, providing security of the prescription department and following other rules as relate to the practice of pharmacy. The prescription department manager of a closed system pharmacy shall not be the prescription department manager of any other pharmacy permit except when the permit is within the premises of a community pharmacy permit.

(6) The utilization of registered pharmacy interns and registered pharmacy technicians is subject to the rules as provided by Rule 64B16-26.400, F.A.C.

Rulemaking Authority 465.005, 465.022 FS. Law Implemented 465.0196, 465.022 FS. History—New 7-31-91, Amended 10-1-92, Formerly 21S-28.830, 61F10-28.830, 59X-28.830, Amended 1-1-10.

64B16-28.840 Special – Non Resident (Mail Service).

(1) A Special – Non Resident (Mail Service) pharmacy is provided for by Section 465.0156, F.S. It is a pharmacy located outside this state delivering a dispensed medicinal drug in any manner into this state.

(2) The pharmacy and the pharmacist designated as the prescription department manager or equivalent, for dispensing into Florida, must be licensed in the state of location.

(3) Changes of location, corporate officers, and prescription department managers must be reported to the Board as required by Section 465.0156(1)(b), F.S.

(4) The pharmacy must have regular hours of operation of not less than six (6) days per week and not less than forty (40) hours per week. A toll-free telephone number must be available to patients.

(5) A pharmacy outside of this state and not registered as a Non Resident Pharmacy may make a one-time delivery of a dispensed medicinal drug to a patient in this state as provided by Section 465.0156(2), F.S.

Rulemaking Authority 465.005, 465.022, 465.0156 FS. Law Implemented 465.0156 FS. History—New 10-14-91, Formerly 21S-28.840, 61F10-28.840, 59X-28.840, Amended 10-27-09.

64B16-28.850 Special Pharmacy – ESRD.

(1) An ESRD Pharmacy is a type of special pharmacy as provided by Section 465.0196, F.S., which is limited in scope of pharmacy practice to the provision of dialysis products and supplies to persons with chronic kidney failure for self-administration at the person's home or specified address. Pharmacy services and dialysis supplies and products provided by an ESRD pharmacy shall be limited to the distribution and delivery of legend drugs included in schedule (3) below; or legend devices included in schedule (4) below; which are ordered by a physician for administration or delivery to a person with chronic kidney failure for self-administration at the person's home or specified address. All dialysis supplies and products provided by an ESRD pharmacy shall be prepackaged and shall be covered by an approved NDA or 510 (k) application issued by the Federal Food and Drug Administration.

(2) Prior to engaging in an ESRD pharmacy practice an entity shall obtain a special ESRD pharmacy permit as provided herein.

(3) Schedule of legend drugs:

- (a) Saline Solutions.
- (b) Porcine Heparin.
- (c) Beef Heparin.
- (d) Dextrose Solutions.
- (e) Doxercalciferol.
- (f) Epoetin Alfa.
- (g) NAACL INJ 50 MEQ/20 ML.
- (h) Levocarnitine.
- (i) Lidocaine.
- (j) Vitamin Preparations (dialysate use only).
- (k) Paricalcitol.
- (l) Peritoneal Dialysate Solutions.
- (m) Protamine Sulfate.
- (n) Potassium 20 MEQ/10ML (dialysate use only).
- (o) Sodium Ferric Gluconate Complex or equivalent.
- (p) Sterile Water for Irrigation.

(4) The schedule of legend devices includes:

- (a) Hemodialyzers.
- (b) Hemodialysis solutions.
- (c) Bloodlines and Associated Connectology.
- (d) Peritoneal Dialysis Tubing and Connectology.

(5) The provision of legend drugs and devices included in the schedule necessary to perform dialysis to a person with chronic kidney failure for self-administration at the person's home or specified address shall be under the professional supervision of an appropriate practitioner licensed under Florida law. The consultant pharmacist shall assure that the following occurs:

(a) The ESRD pharmacy receives a prescription from the prescribing practitioner directing the pharmacist to dispense and deliver to a person with chronic kidney failure (or such person's designee) any legend drugs and/or devices included in the formulary necessary for the self-administration of dialysis at such person's home or specified address.

(b) That no dispensing shall occur unless the person with chronic kidney failure has been trained in the proper use and administration of such products. Further, the consulting pharmacist shall ensure that the ESRD pharmacy has received records confirming the completion of such training.

(c) After the delivery of such products by the ESRD pharmacy, the ESRD pharmacy shall upon request therefor, make available to the prescribing practitioner documentation describing, in sufficient detail, the types and quantities of products dispensed and

delivered by the ESRD pharmacy. The ESRD pharmacy shall also, upon request, make available to the prescribing practitioner documentation confirming shipment of such products and receipt thereof by the person with chronic kidney failure.

(6) The licensed ESRD pharmacy shall comply with all applicable state and federal regulatory requirements and shall maintain in effect all applicable permits and licenses required to dispense and deliver legend drugs and/or devices included in the formulary described in this Section.

(7) The ESRD pharmacy shall deliver products to a person with chronic kidney failure only upon receipt of a valid prescription from a prescribing practitioner specifying or including:

(a) Documentation that the intended recipient of the products has been trained in home dialysis therapy and will require such products;

(b) The duration of prescribing practitioner's order; and

(c) The name and product code of each product prescribed and the quantity prescribed.

(d) The prescription may indicate the person with chronic kidney failure shall have the right to request refills of legend drugs, devices or both, included in the schedule and described in the order for a period of one year.

(8) The ESRD pharmacy shall assemble the products to be delivered pursuant to the prescribing practitioner's prescription. In assembling such products for delivery, the ESRD pharmacy shall take steps necessary to assure the following:

(a) The code numbers and quantities of the products assembled match the code numbers identified in the prescribing practitioner's prescription;

(b) With respect to any dated products, a minimum of three (3) full months of shelf-life remain; and

(c) All cartons and other packaging are properly labeled as noted below:

1. "Use as Directed" statement;

2. The name and address of the person to whom the products will be delivered;

3. The name of the prescribing practitioner;

4. The name and address of the ESRD pharmacy location from which the products were shipped;

5. The prescription number identifying the shipment to the order created by the prescribing practitioner; and

6. Any special instructions regarding delivery dates or locations.

7. The date after which the drug(s) and/or device(s) must be discarded. Notwithstanding any other rule, the ESRD pharmacy may use, in lieu of a discard after date, the manufacturer's expiration date when such is displayed in an unopened sealed package.

(d) All cartons and related packaging shall be visually inspected to confirm compliance with the specifications in paragraph (8)(c). Compliance with the requirements set forth in paragraph (8)(c) shall be conducted by the consulting pharmacist or independently by not less than two employees of the ESRD pharmacy trained in the performance of the foregoing activities, each of whom shall acknowledge in writing their completion of such activities with respect to each group of products assembled for delivery.

(9) The ESRD pharmacy permit holder shall assure through visual inspection and comparison of records that products assembled for delivery to persons with chronic kidney failure are consistent with the prescribing practitioner's order therefor.

(10) The products ordered by the prescribing practitioner under this Rule shall be delivered by either the ESRD pharmacy or a carrier authorized by the ESRD pharmacy.

(11) Upon delivery of the products by the ESRD pharmacy or its carrier to the person identified on the prescribing practitioner's order, the ESRD pharmacy or its carrier shall confirm receipt by the patient or the patient's designee that the number of units delivered equals the number of units identified on the appropriate documentation. Compliance with the foregoing requirements set forth above shall be conducted by an employee or agent of the ESRD pharmacy trained in the performance of such activities, who shall acknowledge in writing the delivery of the products and the completion of such activities with respect to each delivery.

(12) In addition to the foregoing operation requirements, an ESRD pharmacy shall comply with the following:

(a) The ESRD pharmacy license shall be displayed at each ESRD pharmacy location.

(b) The Board of Pharmacy shall be notified in writing of the Consulting Pharmacist responsible, at the time of application for the permit, for supervising the ESRD pharmacy operations and within 10 days, if the Consultant Pharmacist of record changes.

(c) The ESRD pharmacy's hours of business shall be posted. The ESRD pharmacy shall be open such hours as are necessary to safely and effectively dispense and deliver supplies to those persons designated by the applicable prescribing practitioner. An ESRD pharmacy shall provide twenty-four hour emergency and on-call service.

(d) The ESRD pharmacy shall have sufficient space and storage capabilities as are necessary to carry out its operation.

(e) All legend drugs and/or legend devices included in the formulary subject to this Rule shall be properly identified.

(f) The ESRD pharmacy shall maintain a current copy of the Florida pharmacy laws and rules.

(g) The ESRD pharmacy shall comply with patient counseling requirements of Rules 64B16-27.800-.810 and 64B16-27.820, F.A.C.

(13) ESRD Pharmacy Application Requirements. An applicant for an ESRD pharmacy permit shall provide the Board of Pharmacy with a Policy and Procedure Manual setting forth in detail the operational guidelines of the applicant. The Policy and Procedure Manual shall include a Quality Assurance Program which monitors personnel qualifications, training and performance.

(14) An ESRD pharmacy shall be under the control and supervision of licensed Consultant Pharmacist licensed under Section 465.0125, F.S. The Consulting Pharmacist shall be responsible for the drug/device delivery system.

(15) The Consultant Pharmacist of record for the ESRD Pharmacy shall be responsible for establishing a written protocol and Policy and Procedure Manual for the implementation of a delivery system to be utilized in compliance with the requirements of this Rule.

(16) The Consultant Pharmacist shall inspect the permitted ESRD pharmacy on a monthly basis.

(17) A copy of the ESRD pharmacy's Policy and Procedure Manual as provided above shall accompany the permit application, shall be kept within the ESRD Pharmacy, and shall be available for inspection by the Department of Health. Changes in the Policy and Procedure Manual shall be approved by the Consulting Pharmacist.

Rulemaking Authority 465.005, 465.0125 FS. Law Implemented 465.0196, 465.022 FS. History--New 10-2-94, Formerly 59X-28.850, Amended 9-20-99, 7-17-05, 6-24-08.

64B16-28.860 Special Pharmacy – Parenteral/Enteral Extended Scope Permit.

(1)(a) A Special Parenteral/Enteral Extended Scope permit, as authorized by Section 465.0196, F.S., is required for pharmacies to compound patient specific enteral/parenteral preparations in conjunction with institutional pharmacy permits, provided requirements set forth herein are satisfied. Prior to engaging in a parenteral/enteral compounding pharmacy practice as described in this section, an entity shall obtain a Special Parenteral/Enteral Extended Scope pharmacy permit.

(b) Special Parenteral/Enteral Extended Scope pharmacies and institutional pharmacy permits shall create and comply with Policy and Procedure Manuals that delineate duties and responsibilities of each entity, including the following provisions:

1. When dispensing patient specific prescriptions provided by an institutional pharmacy permit, the Special Parenteral/Enteral Extended Scope pharmacy shall confirm accuracy of the prescription and dosage.

2. The institutional pharmacy permit shall maintain records appropriate to ensure the provision of proper patient care.

3. The institutional pharmacy permit designee shall inspect and log in all medicinal drugs provided by the Special Parenteral/Enteral Extended Scope pharmacy.

4. A pharmacist for the Class II institutional pharmacy shall provide drug utilization review and shall review each prescription order prior to transmission to the Special Parenteral/Enteral Extended Scope pharmacy.

5. The Policy and Procedure Manual for a Special Parenteral/Enteral Extended Scope pharmacy shall also meet the policy and procedure manual requirements of paragraph 64B16-28.820(3)(d), F.A.C.

(c) Such Policy and Procedure manuals shall be made available to the Board or Department upon request.

(2) Facilities obtaining this permit may also provide services described in paragraph 64B16-28.820(1)(a), F.A.C., without obtaining an additional permit. Pharmacy services and parenteral/enteral products provided by a Special Parenteral/Enteral Extended Scope pharmacy shall be limited to the compounding and/or dispensing of sterile:

(a) Preparations for parental therapy, parenteral nutrition, and/or

(b) Preparations for enteral feeding and sterile irrigation solutions, and/or

(c) Preparations of cytotoxic or antineoplastic agents.

(3) Facilities operating under this permit may provide all necessary supplies and delivery systems so that the medicinal drugs listed herein may be properly administered.

(4) Pharmacy Environment. The compounding and dispensing of sterile parenteral/enteral prescription preparations within a Special Parenteral/Enteral Extended Scope pharmacy shall be accomplished in a pharmacy environment subject to the pharmacy permit laws contained in Chapter 465, F.S., and in accordance with those requirements for the safe handling of drugs. Special Parenteral/Enteral Extended Scope permittees shall comply with the requirements contained in subsections 64B16-28.820(3) through (4), F.A.C., and the following:

(a) Shall include an active and ongoing end product testing program to ensure stability, sterility, and quantitative integrity of finished prescriptions.

(b) Shall insure each compounding process undergoes an initial and thereafter annual sterility validation utilizing media fill to ensure the integrity and validity of the compounding process.

(5) Records.

(a) Special Parenteral/Enteral Extended Scope pharmacies shall comply with the record maintenance requirements as contained in Rule 64B16-28.140, F.A.C.

(b) Special Parenteral/Enteral Extended Scope pharmacies dispensing medicinal products to patients under the provisions of paragraph 64B16-28.820(1)(a), F.A.C., or to patients of Modified Class II institutional pharmacies under the provisions of Rule 64B16-28.860, F.A.C., shall comply with the records, utilization review, and patient counseling requirements of Rules 64B16-27.800, 64B16-27.810 and 64B16-27.820, F.A.C.

(c) Special Parenteral/Enteral Extended Scope pharmacies dispensing medicinal products to patients of Class II institutional pharmacies under the provisions of Rule 64B16-28.860, F.A.C., shall be exempt from the records, utilization review, and patient counseling requirements of Rules 64B16-27.800, 64B16-27.810 and 64B16-27.820, F.A.C.

(d) Compounding records shall be organized in such a manner as to include: lot number traceability of components used during compounding, documentation of any equipment used during compounding, documentation of staff performing compounding, and records recording ultimate dispensing of the compounded product.

Rulemaking Authority 465.005 FS. Law Implemented 465.0196, 465.022 FS. History—New 9-4-96, Formerly 59X-28.860, Amended 7-17-05.

64B16-28.870 Special-ALF.

The Special-ALF permit is an optional facility license for those Assisted Living Facilities providing a drug delivery system utilizing medicinal drugs provided in unit dose packaging. All medicinal drugs must be maintained in individual prescription containers for the individual patient. Medicinal drugs may not be dispensed on the premises. Medicinal drugs dispensed to patients of Special-ALF permits may be returned to the dispensing pharmacy's stock under the provisions of Rule 64B16-28.118, F.A.C. Dispensed controlled substances that have been discontinued shall be disposed of under the provisions of Rule 64B16-28.301, F.A.C. Medicinal drugs dispensed to the residents of a Special-ALF permit shall meet the labeling requirements of Rule 64B16-28.502 and paragraph 64B16-28.402(1)(h), F.A.C. Each facility holding a Special-ALF permit shall designate a consultant pharmacist of record to ensure compliance with the laws and rules governing the permit. The Board office shall be notified in writing within 10 days of any change in the consultant pharmacist of record. The consultant pharmacist of record shall be responsible for the preparation of the Policy and Procedure Manual required by subsection 64B16-28.800(2), F.A.C. Policy and Procedure Manuals must provide for the appropriate storage conditions and security of the medicinal drugs stored at the facility. The consultant pharmacist of record shall inspect the facility and prepare a written report to be filed at the permitted facility at least monthly.

Rulemaking Authority 465.022 FS. Law Implemented 465.0196 FS. History—New 2-23-98.

64B16-28.900 Definitions – Nuclear Pharmacy.

(1) A "nuclear pharmacy" is a pharmacy which provides radiopharmaceutical services.

(2) A "nuclear pharmacist" is a pharmacist who has met the training qualifications as described in Rule 64B16-28.903, F.A.C., and has been licensed by the Board of Pharmacy.

(3) A "radiopharmaceutical service" shall include, but shall not be limited to, the procurement, storage, preparation, labeling, quality assurance testing, distribution, record keeping and disposal of radiopharmaceuticals.

(4) A "radiopharmaceutical" is any substance defined as a drug by section 201(g)(1) of the Federal Food, Drug and Cosmetic Act which exhibits spontaneous disintegration of unstable nuclei with the emission of nuclear particles or photons and includes any such drug which is intended to be made radioactive. This definition includes nonradioactive reagent kits and nuclide generators which are intended to be used in the preparation of any such substance but does not include drugs such as carbon-containing compounds or potassium-containing salts which contain trace quantities of naturally occurring radionuclides.

(5) "Radiopharmaceutical quality assurance" includes, but is not limited to, the performance of appropriate chemical, biological and physical tests on radiopharmaceuticals, and the interpretation of the resulting data to determine their suitability for use in humans and animals, including internal test assessment, authentication of product history and the keeping of proper records.

(6) "Authentication of product history" includes, but is not limited to, identifying the purchasing source, the ultimate fate, and

intermediate handling of any component of a radiopharmaceutical or other drug.

Rulemaking Authority 465.005 FS. Law Implemented 465.003(14), 465.022(1)(e) FS. History—New 1-7-76, Formerly 21S-3.01, Amended 4-4-88, Formerly 21S-3.001, Amended 7-31-91, 4-15-92, 10-1-92, Formerly 21S-28.900, 61F10-28.900, 59X-28.900, Amended 4-5-05.

64B16-28.901 Nuclear Pharmacy – General Requirements.

The process employed by any permit holder in this state concerning the handling of radioactive materials must involve appropriate procedures for the purchase, receipt, storage, manipulation, compounding, distribution and disposal of radioactive materials. In order to insure the public health and safety in this respect, a nuclear pharmacy in this state shall meet the following general requirements:

(1) Each nuclear pharmacy shall designate a nuclear pharmacist as the prescription department manager who shall be responsible for compliance with all laws and regulations, both state and federal pertaining to radiopharmaceuticals and radiopharmaceutical services. A nuclear pharmacist must personally supervise the operation of only one nuclear pharmacy during all times when radiopharmaceutical services are being performed.

(2) The nuclear pharmacy area shall be secured from access by unauthorized personnel.

(3) Each nuclear pharmacy shall maintain accurate records of the acquisition, inventory, distribution, and disposal of all radiopharmaceuticals.

(4) All nuclear pharmacies shall provide a secured radioactive storage and decay area.

(5) Nuclear pharmacies shall comply with all applicable laws and regulations of federal and state agencies for the procurement, secure storage, inventory, preparation, distribution and disposal of radiopharmaceuticals and other drugs.

(6) Radiopharmaceuticals are to be distributed only upon a prescription order from an authorized licensed medical practitioner or through the practitioner's agent.

(7) A nuclear pharmacist may transfer radioactive materials in accordance with all applicable laws and regulations.

(8) A nuclear pharmacist upon receiving an oral prescription order for a radiopharmaceutical shall immediately have the prescription order reduced to writing. The pharmacist may delegate this duty to a registered pharmacy technician only as authorized by Rule 64B16-27.410, F.A.C. The prescription order shall contain at least the following:

(a) The name of the user or his agent;

(b) The date of distribution and the time of administration of the radiopharmaceutical;

(c) The name of the procedure;

(d) The name of the radiopharmaceutical;

(e) The dose or quantity of the radiopharmaceutical;

(f) The serial number assigned to the prescription order for the radiopharmaceutical;

(g) Any specific instructions; and

(h) The initials of the person who received the prescription order.

(i) The patient's name must be obtained and recorded prior to dispensing, if the prescription order is for a therapeutic or blood product radiopharmaceutical.

(9) The immediate outer container shield of a radiopharmaceutical to be dispensed shall be labeled with:

(a) The name of and address of the pharmacy;

(b) The name of the prescriber;

(c) The date of the original filling;

(d) The standard radiation symbol;

(e) The words "Caution Radioactive Material";

(f) The name of the procedure;

(g) The prescription order number of the radiopharmaceutical;

(h) The radionuclide and chemical form;

(i) The amount of radioactivity and the calibration date and time;

(j) The expiration date and time;

(k) The volume if a liquid;

(l) The number of items or weight, if a solid;

(m) The number of ampules or vials, if a gas;

(n) Molybdenum 99 content to USP limits, applies only to TC 99M products; and

(o) The name of the patient or the words "Physician's Use Only" in the absence of a patient name. If the prescription order is for a therapeutic or blood-product radiopharmaceutical, the patient's name must be obtained and recorded prior to dispensing. The requirements of this subsection shall be met when the name of the patient is readily retrievable from the physician upon demand.

(p) The initials of the pharmacist who dispensed the medication.

(10) The immediate inner container label of a radiopharmaceutical to be distributed shall be labeled with:

(a) The standard radiation symbol;

(b) The words "Caution Radioactive Material";

(c) The radionuclide;

(d) The chemical form;

(e) The prescription order number of the radiopharmaceutical.

Rulemaking Authority 465.005, 465.022 FS. Law Implemented 465.003(14), 465.0126, 465.014 FS. History—New 1-7-76, Formerly 21S-3.03, Amended 12-11-86, 4-4-88, Formerly 21S-3.003, 21S-28.901, 61F10-28.901, Amended 2-26-95, Formerly 59X-28.901, Amended 4-5-05, 1-1-10.

64B16-28.902 Nuclear Pharmacy – Minimum Requirements.

In order to insure compliance with the general safety requirements as previously set forth above, the following minimum requirements shall be met by a nuclear pharmacy. These requirements are in addition to the general requirements for space and equipment for other types of pharmacies, the requirements of the Department of Health for the control of radiation hazards, and the applicable requirements of the Federal Food and Drug Administration. Such minimum permit requirements are set forth as follows:

(1) Space:

(a) The area for the storage, compounding, distribution and disposal of radiopharmaceuticals shall be adequate to completely separate such radioactive pharmaceuticals from pharmacy areas which contain non-radioactive medicinal drugs;

(b) The Hot lab, storage area, and compounding and dispensing area shall be a minimum of 150 square feet.

(2) Equipment:

(a) Fume hood with appropriate air sampling equipment;

(b) Shielded radiation containment drawing station;

(c) Dose calibrator;

(d) Well scintillation counters;

(e) Area rate meters;

(f) Geiger-Mueller (GM) Survey meters;

(g) Refrigerator;

(h) Microscope;

(i) Syringe shields; and

(j) Personnel radiation detection devices.

(3) Supplies:

(a) Syringes and vials required to perform practice;

(b) Disposable gloves and protective lab coats;

(c) Appropriate supplies to ensure sterile practices for I.V. solutions;

(d) Appropriate supplies to perform thin layer chromatography;

(e) Lead transport shields for syringes and vials. No person shall utilize reusable unit dose transport containers for radioactive doses without either an effective process to decontaminate the transport container of blood and other biohazardous substances or an effective mechanism to avoid contamination of the transport container. No person shall re-use a unit dose transport container that remains contaminated with blood or other biohazardous substances. Any unit dose transport container that is returned with the tamper-evident seal broken and the unit dose syringe included shall be considered to be contaminated.

(f) D.O.T. Type 7A approved transport containers and other labels and supplies for shipping radioactive materials.

(4) Current references:

(a) Chapter 465, F.S.;

(b) Chapter 404, F.S.;

(c) Chapter 893, F.S.;

(d) Chapters 64B16-26 and 64B16-28, F.A.C., Rules of the Florida Board of Pharmacy;

- (e) Chapter 64E-5, F.A.C., Rules of the Department of Health;
- (f) Title 10 C.F.R., Code of Federal Regulations, FDA Regulations;
- (g) Title 49 C.F.R., Code of Federal Regulations, Department of Transportation Regulations;
- (h) United States Pharmacopeia/National Formulary;
- (i) USP-DI.

It shall be acceptable, in lieu of an actual hard copy, to maintain these materials in a readily available electronic data format.

Rulemaking Authority 465.005, 465.022 FS. Law Implemented 465.0193, 465.022(1) FS. History—New 1-7-76, Formerly 21S-3.04, Amended 12-11-86, 4-4-88, Formerly 21S-3.004, Amended 7-31-91, Formerly 21S-28.902, 61F10-28.902, Amended 2-26-95, Formerly 59X-28.902, Amended 4-26-01, 4-5-05.

64B16-28.903 Training Qualifications.

Rulemaking Authority 465.005, 465.022 FS. Law Implemented 465.003(14), 465.0126 FS. History—New 4-17-76, Amended 4-8-80, 6-23-83, Formerly 21S-3.05, Amended 8-11-86, 4-4-88, Formerly 21S-3.005, Amended 7-31-91, Formerly 21S-28.903, 61F10-28.903, Amended 6-12-96, Formerly 59X-28.903, Repealed 1-18-05.

64B16-28.904 Nuclear Pharmacist – Continuing Education.

Rulemaking Authority 465.0126, 465.022 FS. Law Implemented 465.009(5), 465.0126 FS. History—New 10-28-91, Formerly 21S-28.904, 61F10-28.904, 59X-28.904, Amended 1-12-03, 10-19-03, Repealed 1-18-05.

CHAPTER 64B16-29
ANIMAL CONTROL SHELTER PERMITS

- 64B16-29.001 Definition
- 64B16-29.002 General Requirements
- 64B16-29.003 Drug Requirement (Repealed)
- 64B16-29.004 Records
- 64B16-29.0041 Record Maintenance Systems for Animal Shelter Permits
- 64B16-29.005 Storage

64B16-29.001 Definition.

An “animal control shelter” is a county or municipal animal control agency or Humane Society registered with the Secretary of State which holds a modified Class II Institutional Pharmacy permit issued by the Department of Health pursuant to certification of compliance with Rule 64B16-29.002, F.A.C., by the Board of Pharmacy. An animal control shelter is issued a pharmacy permit for the sole purpose of obtaining the drugs, sodium pentobarbital and sodium pentobarbital with lidocaine, for euthanization of animals within their lawful possession.

Rulemaking Authority 465.005, 828.055 FS. Law Implemented 828.055 FS. History—New 10-17-79, Formerly 21S-14.01, Amended 4-24-88, Formerly 21S-14.001, 21S-29.001, 61F10-29.001, 59X-29.001.

64B16-29.002 General Requirements.

(1) Application for an Animal Control Shelter Pharmacy permit shall be made on Board of Pharmacy approved form DOH-MQA/PH/107 “Animal Control Pharmacy Permit Application and Information,” effective October 2009, which is incorporated by reference. To obtain an application, contact the Board of Pharmacy at 4052 Bald Cypress Way, Bin #C04, Tallahassee, FL 32399-3254, or (850) 488-0595, or download the application from the board’s website at <http://www.doh.state.fl.us/mqa/pharmacy>.

(a) The application fee for animal shelters applying for the Modified Class II Institutional permit shall be fifty dollars (\$50).

(b) The biennial permit renewal fee for animal shelters holding the Modified Class II Institutional permit shall be fifty dollars (\$50).

(2) The applicant shall apply to the Drug Enforcement Administration, United States Department of Justice, by the appropriate DEA form, for Registration as a practitioner, to be designated as “Animal Shelter” on the appropriate DEA form.

(3) The applicant shall be certified by the Board of Pharmacy to the Department as having met the requirements of this rule chapter prior to issuance of a permit. The certification process shall require prior inspection of the facility by authorized persons.

(4) The consultant pharmacist requirement of Section 465.019(5), F.S., is waived as being inapplicable to this special restricted permit.

(5) Authorized employees of the Department shall inspect animal control shelters not less than twice per year to determine compliance with this rule.

(6) Each animal control shelter permittee shall designate an on-site manager of the shelter. The on-site manager and permittee shall notify the Department within ten (10) days of any change in the on-site manager of the shelter.

Rulemaking Authority 465.005, 828.055 FS. Law Implemented 828.055 FS. History—New 10-17-79, Formerly 21S-14.02, Amended 4-24-88, Formerly 21S-14.002, Amended 10-1-92, Formerly 21S-29.002, Amended 7-18-94, Formerly 61F10-29.002, 59X-29.002, Amended 5-11-10.

64B16-29.003 Drug Requirement.

Rulemaking Authority 465.005, 828.055 FS. Law Implemented 828.055 FS. History—New 10-17-79, Formerly 21S-14.03, Amended 4-24-88, Formerly 21S-14.003, 21S-29.003, 61F10-29.003, 59X-29.003, Repealed 3-28-12.

64B16-29.004 Records.

Animal control shelter permittees shall maintain records of purchases and administration of sodium pentobarbital and sodium pentobarbital with lidocaine for a period of not less than two (2) years. Records of administration shall contain:

- (1) The date of use;
- (2) Identification of the animal;

- (3) The amount of the drug used;
- (4) The signature of the person administering the drug;
- (5) The signature of the on-site manager certifying the accuracy of the administration of sodium pentobarbital and sodium pentobarbital with lidocaine not less than once per month; and
- (6) The signature of the on-site manager certifying to the accuracy of the records. These records are subject to audit by the Drug Enforcement Administration or authorized employees of the Department to determine adequacy, accuracy and validity of the record keeping.

Rulemaking Authority 465.005, 828.055 FS. Law Implemented 828.055 FS. History--New 10-17-79, Formerly 21S-14.04, Amended 4-24-88, Formerly 21S-14.004, 21S-29.004, 61F10-29.004, 59X-29.004.

64B16-29.0041 Record Maintenance Systems for Animal Shelter Permits.

- (1) General requirements for records maintained in an electronic system.
 - (a) If a permitted animal shelter's data processing system is not in compliance with the Board's data processing requirements, the facility must maintain a manual recordkeeping system meeting the requirements of Rule 64B16-29.004, F.A.C.
 - (b) Requirements for back-up systems. The facility shall maintain a back-up copy of information stored in the data processing system using disk, tape, or other electronic back-up and up-date this back-up copy on a regular basis, at least monthly, to assure that data is not lost due to system failure.
 - (c) Change or discontinuance of a data processing system.
 1. Records of dispensed and returned medicinal drugs. A permitted animal shelter that changes or discontinues use of a data processing system must:
 - a. Transfer the records to the new data processing system; or
 - b. Purge the records to a printout which contains the same information as required on the audit trail printout as specified in Rule 64B16-29.004, F.A.C.
 2. Other records. A pharmacy that changes or discontinues use of a data processing system must:
 - a. Transfer the records to the new data processing system; or
 - b. Purge the records to a printout which contains all of the information required on the original document.
 3. Maintenance of purged records. Information purged from a data processing system must be maintained by the pharmacy for two years from the date of initial entry into the data processing system.
 - (d) Loss of data. The shelter manager for permitted animal shelters shall report to the Board in writing any significant loss of information from the data processing system within 10 days of discovery of the loss.
- (2) The permitted animal shelter shall maintain a system(s) which can produce the information required in Rule 64B16-29.004, F.A.C., for the preceding two years. The information required in this paragraph shall be supplied by the permitted animal shelter within seven working days if requested.
- (3) Failure to maintain records. Failure to provide records set out in this subsection, either on site or within 7 working days for whatever reason, constitutes failure to keep and maintain records.
- (4) Data processing system downtime. In the event that a permitted animal shelter which uses a data processing system experiences system downtime, the permitted animal shelter must have an auxiliary procedure which will ensure that all data is retained.

Rulemaking Authority 465.005, 465.0155, 465.022, 828.055 FS. Law Implemented 465.019, 465.022, 465.026, 893.07, 828.055 FS. History--New 3-31-05.

64B16-29.005 Storage.

Sodium pentobarbital and sodium pentobarbital with lidocaine shall be stored in a safe place. At a minimum, this shall require that the drugs be kept in a securely locked cabinet within a locked storage room. Schedule II order forms are to be stored under the same conditions. Records of purchases of sodium pentobarbital and sodium pentobarbital with lidocaine shall be maintained in a separate file from the records of administration. The records of purchases and administration shall be maintained at the location.

Rulemaking Authority 465.005, 828.055 FS. Law Implemented 828.055 FS. History--New 10-17-79, Formerly 21S-14.05, Amended 4-24-88, Formerly 21S-14.005, 21S-29.005, 61F10-29.005, 59X-29.005.

**CHAPTER 64B16-30
DISCIPLINARY GUIDELINES**

| | |
|---------------|---|
| 64B16-30.001 | Disciplinary Guidelines; Range of Penalties; Aggravating and Mitigating Circumstances |
| 64B16-30.002 | Minor Violations |
| 64B16-30.003 | Citations |
| 64B16-30.0035 | Mediation |

64B16-30.001 Disciplinary Guidelines; Range of Penalties; Aggravating and Mitigating Circumstances.

(1) The board sets forth below a range of disciplinary guidelines from which disciplinary penalties will be imposed upon licensees guilty of violating Chapter 465, F.S. The purpose of the disciplinary guidelines is to give notice to licensees of the range of penalties which will normally be imposed upon violations of particular provisions of Chapter 465, F.S. The term license means any permit, registration, certificate, or license, including a provisional license, issued by the Department. The minimum penalty range is based upon a first time single count violation of each provision listed. The maximum penalty range is based upon multiple or repeated violations of the same provision of Chapter 465, F.S., or the rules promulgated thereto. All penalties at the upper range of the sanctions set forth in the guidelines, i.e., suspension, revocation, etc., include lesser penalties, i.e., fine, probation or reprimand which may be included in the final penalty at the board's discretion. Probation may be subject to conditions, including restriction from practice in certain settings, restricting the licensee to working only under designated conditions or in certain settings, requiring continuing or remedial education, or any other restriction found to be necessary for the protection of the public health, safety and welfare. In addition to any other discipline imposed under these guidelines, the board shall assess costs relating to the investigation and prosecution of the case.

(2) The following disciplinary guidelines shall be followed by the board in imposing disciplinary penalties upon licensees and permittees for violation of the below mentioned statutes and rules. For the purposes of this rule, the descriptions of the violations are abbreviated and the full statute or rule cited should be consulted to determine the prohibited conduct.

| VIOLATION | PENALTY RANGE | |
|--|--|---|
| | MINIMUM | MAXIMUM |
| (a) Obtaining a license or permit by misrepresentation, fraud or error (Section 465.016(1)(a), F.S.) (Section 465.023(1)(a), F.S.) | \$10,000 fine for each count and Revocation | \$10,000 fine for each count and Revocation |
| (b) Procuring a license or permit by false representation (Section 465.016(1)(b), F.S.) (Section 465.023(1)(b), F.S.) | \$10,000 fine for each count and Revocation | \$10,000 fine for each count and Revocation |
| (c) Permitting unlicensed persons to practice pharmacy (Section 465.016(1)(c), F.S.) | \$2,500 fine and 12 hours Laws & Rules course or Multistate Pharmacy Jurisprudence Exam (MPJE) | Revocation |
| (d) Being unfit or incompetent to practice pharmacy (Section 465.016(1)(d), (m), F.S.) | \$250 fine, indefinite suspension with PRN review and board appearance | Revocation or, at the licensee's discretion, voluntarily relinquishment with reinstatement under the terms and conditions approved by the board |
| (e) Violating laws | | |

governing the practice of
 pharmacy
 (Section 465.016(1)(e), F.S.)
 (Section 465.023(1)(c), F.S.)

1. Chapter 465, F.S.:

| | | |
|---|--|---|
| a. Failure to supervise registered pharmacy technician (Section 465.014, F.S.) | \$250 fine and one (1) year probation and 12 hour Laws & Rules Course or MPJE | Revocation |
| b. Operating a pharmacy that is not registered (Section 465.015(1)(a), F.S.) | \$500 per month to maximum of \$5,000 (penalty will require permittee to renew permit or cease practice) | Revocation |
| c. Operating a pharmacy where an unlicensed and unsupervised person practices pharmacy (Section 465.015(1)(b), F.S.) | \$5,000 fine and one (1) year probation | Revocation |
| d. Making a false or fraudulent statement to the board (Section 465.015(2)(a), F.S.) | \$10,000 fine for each count | \$10,000 fine for each count and Revocation |
| e. Practicing pharmacy as an inactive licensee (Section 465.015(2)(b), F.S.) | Fine based on length of time in practice while inactive; \$500/month | Revocation |
| f. Selling or dispensing drugs without a prescription (Section 465.015(2)(c), F.S.) | | |
| (i) Non-scheduled legend drugs | \$1,500 fine | Revocation |
| (ii) Scheduled (controlled substances) legend drugs | \$5,000 fine and one (1) year probation | Revocation |
| g. Selling samples or complimentary drugs (Section 465.015(2)(d), F.S.) | | |
| (i) Non-scheduled legend drugs | \$1,500 fine | Revocation |
| (ii) Scheduled (controlled Substances) legend drugs | \$5,000 fine and one (1) year probation | Revocation |

h. Failure to notify the board of or not to have a prescription department manager or consultant pharmacist Sections 465.018, .019, .0193, .0196, or .0197, F.S.
(Section 465.022(10), (11), F.S.)

(i) Failure to notify
(Section 465.018, F.S.)

Fine based on length of time prior to notifying board. \$500 per month

\$7,500 maximum (penalty requires notification or ceasing practice)

(ii) Failure to have prescription department manager or consultant pharmacist of record

Fine based on length of time prior to notifying board, \$750 per month and one (1) year probation

Revocation

i. Failure to comply with required substitution of legend drug requirements (Sections 465.025(2), (3), (4), F.S.)

\$500 fine and 12 hour Laws & Rules Course or MPJE

\$2,500 fine

j. Failure to follow negative formulary requirements (Section 465.025(6), F.S.)
(Rule 64B16-27.500, F.A.C.)

\$1,000 fine and 12 hours Laws & Rules Course or MPJE

\$2,500 fine and one (1) year probation

k. Failure to follow emergency prescription requirements (Section 465.0275, F.S.)

\$500 fine

\$1,000 fine and one (1) year probation

l. Engage in prohibited rebate scheme (Section 465.185, F.S.)

\$1,500 fine

Revocation

m. Failure to comply with pharmacist dispensing requirements (Section 465.186, F.S.)

(i) Failure to follow procedure, but dispense drug appearing on formulary (Section 465.186(3), F.S.)
(Rule 64B16-27.210, F.A.C.)

\$500 fine

\$1,000 fine, one (1) year probation and suspension of right to dispense

(ii) Dispensing drug not on the formulary (Section 465.186(2), F.S.)

\$1,500 fine

Revocation

(Rules 64B16-27.220, .230, F.A.C.)

2. Chapter 499, F.S.

| | | |
|---|--|---|
| a. Adulteration of a drug (Section 499.005(2), (3), F.S.) (Section 499.006, F.S.) | \$1,000 fine | Revocation |
| b. Misbranding a drug (Section 499.005(2), (3), F.S.) (Section 499.007, F.S.) | | |
| (i) Incomplete or inaccurate labeling (Section 499.007, F.S.) (Rule 64B16-28.108, F.A.C.) | \$250 fine and 12 hour Laws & Rules Course or MPJE | \$2,500 fine and one (1) year probation |
| (ii) Fraudulent misbranding of legend drugs (Section 499.007, F.S.) | \$2,500 fine and one (1) year suspension | Revocation |
| c. Prescriptions Drug Pedigree | \$500 fine and 12 hour Laws & Rules Course or MPJE | Revocation |
| d. Recordkeeping requirement | \$500 fine and 12 hour Laws & Rules Course or MPJE | Revocation |
| e. Storage of drugs | \$500 fine and 12 hour Laws & Course or MPJE | Revocation |

3. Chapter 893, F.S.
(Controlled substances)

| | | |
|--|--|---|
| a. Filling a prescription for controlled substances that does not meet the requirements of Chapter 893, F.S. (Section 893.04(1)(b), F.S.) | \$1,500 fine | \$5,000 fine and one (1) year probation |
| b. Failing to retain prescription records for two (2) years (Section 893.04(1)(d), F.S.) | \$1,000 fine | Revocation |
| c. Failing to appropriately label (Section 893.04(1)(e), F.S.) | \$250 fine and 12 hour Laws & Rules Course or MPJE | \$2,500 fine and one (1) year probation |
| d. Dispensing a Schedule II drug inappropriately with a | \$5,000 fine and one (1) year probation | Revocation |

non-written prescription
(Section 893.04(1)(f), F.S.)

e. Inappropriate refilling of
Schedule III, IV, or V drugs
(Section 893.04(1)(g), F.S.)

\$1,750 fine and one (1) year
probation

One (1) year suspension

f. Receiving controlled substances
without an appropriate order
form
(Section 893.06(1), F.S.)

\$2,500 fine

Revocation

g. Unlawful possession of
controlled substances
(Section 893.06(2), F.S.)

\$2,500 fine and one (1) year
probation

Revocation

h. Failure to take a biennial
inventory
(Section 893.07(1)(a), (2), (3),
(4), (5), F.S.)

\$1,000 fine

\$2,500 fine and one (1) year
probation

i. Failure to maintain a
complete and accurate
record of controlled
substances
(Section 893.07(1)(b), (2), (3),
(4), (5), F.S.)

\$1,000 fine and one (1) year
probation

Revocation

j. Dispensing controlled
substances in other than
good faith
(Section 893.08(3)(b), F.S.)

\$5,000 fine and one (1) year
probation

Revocation

k. Inappropriate selling of Schedule V
controlled substance
(Section 893.08(3)(c), F.S.)

\$1,500 fine and one (1) year
probation

One (1) year suspension

l. Unlawful possession of
controlled substance
(Section 893.13, F.S.)

\$5,000 fine and two (2) years
probation

Revocation

4. Violation of Federal Drug
Abuse Act 21 U. S. C. 821
et seq.

\$500 fine and one (1) year
probation

Revocation

(f) Criminal conviction related to
pharmacy
(Section 465.016(1)(f), F.S.)
(Section 465.023(1)(d), F.S.)

| | | |
|---|---|---|
| (i) Misdemeanor | \$1,000 fine | Revocation |
| (ii) Felony | One (1) year suspension, two (2) years probation & \$5,000 fine | Revocation |
| (g) Using in the compounding of a prescription, or furnishing upon prescription, an ingredient or article different in any manner from the ingredient or article prescribed, except as authorized in Section 465.019(6), F.S. or Section 465.025, F.S., or compounding, dispensing or distributing legend drugs outside professional practice of pharmacy (Section 465.016(1)(g), F.S.) (Section 465.016(1)(i), F.S.) | \$250 fine and and complete approved CE course in the prevention of medication errors of no less than eight (8) hours | Revocation |
| (h) Filing a false report or failing to file a report required by law | | |
| 1. Knowing violation | \$2,000 fine and one (1) year probation | Revocation |
| 2. Negligent violation | Reprimand | One (1) year probation and \$1,000 fine |
| (i) Failure to make prescription price information available (Section 465.016(1)(k), F.S.) | \$250 fine and 12 hour Laws & Rules Course or MPJE | \$1,000 fine and one (1) year probation |
| (j) Improperly placing returned drugs into the stock of a pharmacy (Section 465.016(1)(l), F.S.) | \$1,500 fine | \$3,000 fine and one (1) year probation |
| (k) Violating a rule or order of the board or Department (Section 465.016(1)(n), F.S.) | | |
| 1. Rules of Board of Pharmacy | | |
| a. Rules 64B16-28.101 to 64B16-28.1035, F.A.C. Rule 64B16-27.100, F.A.C. Rule 64B16-28.109, F.A.C. | \$500 fine and 12 hour Laws & Rules or MPJE | One (1) year probation and \$2,000 fine |

Rule 64B16-27.103, F.A.C.
 Rule 64B16-27.104, F.A.C.
 Rule 64B16-26.400, F.A.C.
 Rule 64B16-26.2032, F.A.C.
 Rule 64B16-28.1081, F.A.C.
 Rule 64B16-26.301, F.A.C.
 Rule 64B16-28.114, F.A.C.
 Rule 64B16-27.105, F.A.C.
 Rule 64B16-27.211, F.A.C.
 Rule 64B16-28.113, F.A.C.
 Rule 64B16-28.2021, F.A.C.
 Rule 64B16-28.603, F.A.C.

| | | |
|---|---|------------|
| b. Rule 64B16-28.102, F.A.C. | Suspension until compliance | Revocation |
| c. Rule 64B16-27.101, F.A.C. (counterfeit drugs) | \$1,000 fine for dispensing | Revocation |
| d. Rule 64B16-28.110, F.A.C. (outdated pharmaceuticals) | \$500 fine for possession \$1,000 fine for dispensing | Revocation |
| e. Rules 64B16-28.301, 64B16-28.303, F.A.C. (destruction of controlled substances) (violations) | \$500 fine and 12 hour Laws & Rules or MPJE | Revocation |
| f. Rule 64B16-26.300, F.A.C (Serving as consultant pharmacist without being licensed as a consultant pharmacist) | \$500 per month up to \$5,000 fine (fine based upon the length of time the person is serving as a consultant without being licensed as a consultant pharmacist) | Revocation |
| g. Rule 64B16-28.140, F.A.C. (Data processing systems) | \$1,000 fine | Revocation |
| h. Rule 64B16-28.120, F.A.C. (Location of legend drugs) | \$1,000 fine | Revocation |
| i. Practicing nuclear pharmacy without being licensed as a nuclear pharmacist (Rule 64B16-26.303, F.A.C.) | \$500 per month up to \$5,000 fine (fine based upon the length of time the person is practicing without being licensed as a nuclear pharmacist) | Revocation |
| j. Failure to follow technical requirements (Rules 64B16-28.901 and 64B16-28.902, F.A.C.) | One (1) year probation and \$1,000 fine | Revocation |
| k. Rules 64B16-28.202 and | \$1,500 fine | Revocation |

64B16-28.203, F.A.C.
(transfer of prescription files and
drugs)

1. Failure to complete the required
continuing education during the
biennial licensure period.
(Rule 64B16-26.103, F.A.C.)

| | | |
|--|------------|--------------|
| 1. Failure to complete less than ten (10) hours | \$500 fine | \$1,500 fine |
|--|------------|--------------|

| | | |
|--|--------------|--------------|
| 2. Failure to complete ten (10) or more hours | \$1,000 fine | \$2,500 fine |
|--|--------------|--------------|

In addition, licensees shall take
two additional hours of continuing
education for each of the continuing
education deficiencies. Said hours
shall not count for continuing
education renewal requirements for
the next biennium.

| | | |
|---|------------|------------|
| m. Failure to maintain program requirements for certification, training, or continuing education programs or providers. (Rule 64B16-26.601, F.A.C.) | \$500 fine | Revocation |
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| n. Failure to retain continuing education records. (Rule 64B16-26.603, F.A.C.) | \$250 fine | \$1,500 fine |
|--|------------|--------------|

o. Failure to practice in accordance
with established practice standards.
(Rules 64B16-27.1001, .104, F.A.C.)

| | | |
|---------------|------------|------------|
| 1. Pharmacist | \$500 fine | Revocation |
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| | | |
|--------------------|------------|------------|
| 2. Pharmacy Intern | \$250 fine | Revocation |
|--------------------|------------|------------|

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|--------------|------------|------------|
| 3. Permittee | \$500 fine | Revocation |
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| p. Failure to have current policies and procedures. (Rules 64B16-28.141, .450, F.A.C.) | \$500 fine | Revocation |
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| | | |
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| q. Failure to have or maintain standards for an automated pharmacy system in a community | \$500 fine and 12 hours Laws & Rules MJPE | Revocation |
|--|---|------------|

pharmacy.
(Rule 64B16-28.141, F.A.C.)

| | | |
|--|---|------------|
| r. Failure to have or maintain standards for a central fill pharmacy. (Rule 64B16-28.450, F.A.C.) | \$500 fine and 12 hour Laws & Rules or MJPE | Revocation |
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| s. Failure to have or maintain standards for an institutional pharmacy. (Rules 64B16-28.602, .6021, .605, .606, .702, F.A.C.) | \$500 fine and 12 hour Laws & Rules or MJPE | |
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| | | |
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| t. Failure to maintain or have standards for a special pharmacy. (Rules 64B16-28.800, .810, .820, .840, .850, .860, .870, F.A.C.) | \$500 fine and 12 hour Laws & Rules or MJPE | |
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| u. Failure to maintain standards for animal control shelters | \$500 Fine | Revocation |
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|---|---|------------|
| 2. Violation of orders of Board or Department | \$2,500 fine and one (1) year probation | Revocation |
|---|---|------------|

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| (l) License disciplined by another jurisdiction (Section 465.016(1)(h), F.S.) | Same penalty as imposed in other jurisdiction or as closely as possible to penalties set forth in Florida Statutes | |
|--|--|--|

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|---|------------|--------------------------------------|
| (m) Failure to comply with Board's rule on patient counseling (Rules 64B16-27.800, .810, .820, F.A.C.) | \$750 fine | \$2,500 fine and, one year probation |
|---|------------|--------------------------------------|

| | | |
|---|------------|------------|
| (n) Abandoning or allowing permit to become null and void after notice of disciplinary proceedings. (Section 465.018(3), F.S.) | Revocation | Revocation |
|---|------------|------------|

(o) Violating 456.072, F.S.

| | | |
|--|---|------------|
| 1. Making misleading, deceptive, or fraudulent representations in or related to the practice of the licensee's profession. | \$1,500 fine and one (1) year probation | Revocation |
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| | | |
|----------------------------|--------------------------------|------------|
| 2. Intentionally violating | \$2,500 fine and two (2) years | Revocation |
|----------------------------|--------------------------------|------------|

any rule adopted by the Board or the Department.

probation

3. Being convicted or found guilty of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the practice of, or the ability to practice, a licensee's profession.

(i) Misdemeanor

\$1,000 fine

Revocation

(ii) Felony

\$3,000 fine and one (1) year probation

Revocation

4. Failing to comply with the educational course requirements for human immunodeficiency virus and acquired immune deficiency syndrome, or medical errors.

\$500 fine

\$1,000 fine

5. Having a license or the authority to practice the regulated profession revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of any jurisdiction, including its agencies or subdivisions, for a violation that would constitute a violation under Florida law. The licensing authority's acceptance of a relinquishment of licensure, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of charges against the license, shall be construed as action against the license.

Same penalty as imposed in other jurisdiction or as closely as possible to penalties for similar violation

6. Having been found liable in a civil proceeding for

\$3,000 fine

Revocation

knowingly filing a false report or complaint with the Department against another licensee.

7. Attempting to obtain, obtaining, or renewing a license to practice a profession by bribery, by fraudulent misrepresentation, or through an error of the Department or the Board.

Revocation or denial of license application

8. Except as provided in Section 465.016, F.S., failing to report to the Department any person who the licensee knows is in violation of this part, the chapter regulating the alleged violator, or the rules of the Department or the Board.

\$500 fine and one (1) year probation

Revocation

9. Aiding, assisting, procuring, employing, or advising any unlicensed person or entity to practice a profession contrary to this part, the chapter regulating the profession, or the rules of the Department or the Board.

\$2,000 fine

Revocation

10. Failing to perform any statutory or legal obligation placed upon a licensee.

\$2,000 fine

Revocation

11. Making or filing a report which the licensee knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, or willfully impeding or obstructing another person to do so. Such reports or records shall include only those that are signed in the

\$2,500 fine and two (2) years probation

Revocation

capacity of a licensee.

12. Making deceptive, untrue, or fraudulent representations in or related to the practice of a profession or employing a trick or a scheme in or related to the practice of a profession.

\$10,000 fine and two (2) years probation

Revocation \$10,000 fine and one (1) year suspension

13. Exercising influence on the patient or client for the purpose of financial gain of the licensee or a third party.

\$3,000 fine and two (2) years probation

Revocation

14. Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities the licensee knows, or has reason to know, the licensee is not competent to perform.

\$2,000 fine and two (2) years probation

Revocation

15. Delegating or contracting for the performance of professional responsibilities by a person when the licensee delegating or contracting for performance of such responsibilities knows, or has reason to know, such person is not qualified by training, experience, and authorization when required to perform them.

\$2,000 fine and two (2) years probation

Revocation

16. Violating any provision of this part, the applicable professional practice act, a rule of the Department or the Board, or a lawful order of the Department or the Board, or failing to comply with a lawfully issued subpoena of the Department.

\$1,000 fine

Revocation

17. Improperly interfering

\$2,500 fine and two (2) years

Revocation

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| with an investigation or inspection authorized by statute, or with any disciplinary proceeding. | probation | |
| 18. Failing to report to the board in writing within 30 days after the licensee has been convicted or found guilty or entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction. | \$1,000 fine | Revocation |
| 19. Testing positive for any drug, as defined in Section 112.0455, F.S., on any confirmed preemployment or employer ordered drug screening when the practitioner does not have a lawful prescription and legitimate medical reason for using such drug. | \$1,500 fine PRN evaluation and two (2) years probation or compliance with PRN contract | Revocation |
| 20. Being terminated from or failing to successfully complete an impaired practitioners treatment program. (Section 456.072(1)(hh), F.S.) | Suspension until successful completion or receipt of written confirmation of compliance with ongoing treatment and a fine of up to \$1,000. | Revocation |
| 21. Being convicted of, or entering a plea of guilty or nolo contendere to any misdemeanor or felony, regardless of adjudication, under 18 USC s. 669, ss. 285-287, s. 371, s. 1001, s. 1035, s. 1341, s. 1343, s. 1347, s. 1349, or s. 1518, or 42 USC ss. 1320a-7b, relating to the Medicaid program. (Section 456.072(1)(ii), F.S.) | Revocation and a fine of \$10,000, or in the case of application for licensure, denial of license. | |
| 22. Failing to remit the sum owed to the state for overpayment from the Medicaid program pursuant to a final order, judgment, or settlement. | From a letter of concern to probation, and a fine of \$500 to \$5,000. | From a reprimand to revocation, and a fine of \$2,500 to \$5,000. |

(Section 456.072(1)(jj), F.S.)

23. Being terminated from the state Medicaid program, or any other state Medicaid program, or the federal Medicare program.
(Section 456.072(1)(kk), F.S.)

From a letter of concern to suspension, and a fine of \$1,000 to \$5,000.

From a reprimand to revocation, and a fine of \$5,000 to \$10,000.

24. Being convicted of, or entering into a plea of guilty or nolo contendere to any misdemeanor or felony, regardless of adjudication, which relates to health care fraud.
(Section 456.072(1)(ll), F.S.)

Revocation and a fine of \$10,000, or in the case of application for licensure, denial of license.

(3) The board shall be entitled to deviate from the above-mentioned guidelines upon a showing of aggravating or mitigating circumstances by clear and convincing evidence presented to the board prior to the imposition of a final penalty. The fact that an Administrative Law Judge of the Division of Administrative Hearings may or may not have been aware of the below-mentioned aggravating or mitigating circumstances prior to a recommendation of penalty in a Recommended Order shall not obviate the duty of the board to consider aggravating and mitigating circumstances brought to its attention prior to the issuance of a Final Order.

(a) Aggravating circumstances; circumstances which may justify deviating from the above set forth disciplinary guidelines and cause the enhancement of a penalty beyond the maximum level of discipline in the guidelines shall include but not be limited to the following:

1. History of previous violations of the practice act and the rules promulgated thereto.
2. In the case of negligent acts, the magnitude and scope of the damage or potential damage inflicted upon the patient or the general public by the licensee's misfeasance.
3. Evidence of violation of professional practice acts in other jurisdictions wherein the licensee has been disciplined by the appropriate regulatory authority.
4. Violation of the provision of the practice act wherein a letter of guidance as provided in Section 456.073(3), F.S., has previously been issued to the licensee.

(b) Mitigating circumstances; circumstances which may justify deviating from the above set forth disciplinary guidelines and cause the lessening of a penalty beyond the minimum level of discipline in the guidelines shall include but not be limited to the following:

1. In cases of negligent acts, the minor nature of the damage or potential damage to the patient's or the public's health, safety and welfare resulting from the licensee's misfeasance.
2. Lack of previous disciplinary history in this or any other jurisdiction wherein the licensee practices his profession.
3. Restitution of any monetary damage suffered by the patient.
4. The licensee's professional standing among his peers.
5. Steps taken by the licensee to insure the non-occurrence of similar violations in the future including continuing education.
6. The degree of financial hardship incurred by a licensee as a result of the imposition of fines or the suspension of his practice.

(4) All fines imposed by the Board shall be paid within a period of ninety (90) days from the date of the final order entered by the Board. This time limitation may be modified by the Board for good cause shown in order to prevent undue hardship.

Rulemaking Authority 456.072, 456.079, 465.005 FS. Law Implemented 456.072, 456.079 FS. History—New 3-1-87, Amended 5-11-88, Formerly 21S-17.001, 21S-30.001, 61F10-30.001, Amended 6-26-95, 1-30-96, Formerly 59X-30.001, Amended 12-3-97, 11-15-98, 5-3-00, 1-2-02, 11-29-06, 9-26-12.

64B16-30.002 Minor Violations.

(1) The Board sets forth the following guidelines for use by Department investigators when a licensee is in noncompliance of an initial offense of a minor violation. The Board deems the following violations, depending upon severity, to be consistent with

Section 456.073(3), F.S.

- (a) Outdated pharmaceuticals – Rule 64B16-28.110, F.A.C.
- (b) Failure to meet regulation of daily operating hours – Rule 64B16-28.404, F.A.C.
- (c) Generic substitution sign not displayed – Section 465.025(7), F.S.
- (d) Information required on controlled substance prescriptions: practitioner’s address, practitioner’s DEA registration number, patient’s address – Section 893.04, F.S.
- (e) Failure to have certified by dispensing pharmacists the daily hard-copy printout or daily log – paragraph 64B16-28.140(3)(c) or (e), F.A.C.
- (f) Failure to have pharmacy minimally equipped i.e. references, compounding equipment, and a current copy of the laws and rules governing the practice of pharmacy in the State of Florida – Rule 64B16-28.107, F.A.C.
- (g) Failure to properly identify pharmacy technicians – Rule 64B16-27.410, F.A.C.
- (h) Results of P&E quality assurance program not documented or available for inspection – paragraph 64B16-28.820(3)(d), F.A.C.
- (i) Improper storage of legend drugs – Rule 64B16-28.120, F.A.C.
- (j) Improper documentation of destruction of controlled substances – Rules 64B16-28.301, 64B16-28.303, F.A.C.
- (k) Consultant pharmacist’s monthly reports not current or available for inspection – Rule 64B16-28.501, subsection 64B16-28.702(2), F.A.C.
- (l) Controlled substance prescription labels lack transfer crime warning labeling – paragraph 64B16-28.502(2)(c), F.A.C.
- (2) The Department’s investigator may issue a Notice of Deficiencies when the above conditions occur and the requirements of Section 456.073(3), F.S., are met. In such cases licensees shall correct the violation and respond to the investigator on forms provided by the Department and with other evidence of compliance as may be necessary, within 30 days, to certify current compliance. Failure to do so shall subject the licensee to further proceedings.

Rulemaking Authority 456.073(3), 465.005 FS. Law Implemented 456.073(3) FS. History–New 11-12-90, Formerly 21S-17.002, 21S-30.002, 61F10-30.002, 59X-30.002, Amended 12-9-98, 8-26-02.

64B16-30.003 Citations.

(1) Pursuant to Section 456.077, F.S., the Board sets forth in (3) of this rule those violations for which there is no substantial threat to the public health, safety and welfare; or, if there is a substantial threat to the public health, safety and welfare, such potential for harm has been removed prior to the issuance of the citation. Next to each violation is the fine to be imposed.

(2) Prior to issuance of the citation, the Department must confirm that the violation has been corrected or is in the process of being corrected. If the violation is a substantial threat to the public health, safety and welfare, such potential for harm must be removed prior to issuance of the citation.

(3) The following violations with accompanying fines may be disposed of by citation:

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|--|---|
| (a) Practicing pharmacy as an inactive licensee (465.015(2)(b), F.S.) | Fine based on length of time in practice while inactive; \$200/month or \$5,000 maximum (penalty will require licensee to renew license or cease practice). |
| (b) Operating a pharmacy with an inactive permit (465.015(1)(a), F.S.) | \$500 per month to a maximum of \$5000 (penalty will require permittee to renew permit or cease practice). |
| (c) First time failure to complete the required continuing education during the biennial licensure period.(456.072(3), F.S.) | |
| Failure to complete less than 10 hours | \$500 |
| Failure to complete 10 or more hours | \$1000 |

In addition, licensees shall take two additional hours of continuing education for each of the continuing education deficiencies. Said hours shall not count for continuing education renewal requirements for the next biennium.

- | | |
|---|---|
| (d) Failure to timely pay a fine or costs imposed by a final order. | \$500 per month late to a maximum of \$5,000 (penalty will require permittee or licensee to also pay the original fine and/or costs). |
|---|---|

| | |
|--|---|
| (e) Failure to display any sign, license or permit required by statute or rule. | \$500 |
| (f) Failure to have any reference material required by statute or rule available. | \$500 |
| (g) Failure to notify the board of a change in a prescription department manager or consultant pharmacist. | Fine based on the length of time prior to notifying board. \$200 a month to \$5,000 maximum. |
| (h) Using in the compounding of a prescription, or furnishing upon prescription, an ingredient or article different in any manner from the ingredient or article prescribed, except as authorized in Section 465.019(6) or 465.025, F.S.; or dispensing a medication with dosage instructions different in any way than prescribed, provided that the medication was not used or ingested. | \$250 fine, Completion of an approved CE course in the prevention of medication errors of no less than 8 hours. |
| (i) Tendering a check payable to the Board of Pharmacy or to the Department of Health that is dishonored by the Institution upon which it is drawn. | \$100 fine plus payment of the check within 30 days. |
| (j) Failing to comply with the Educational course requirements for Human immunodeficiency virus and Acquired immune deficiency syndrome (HIV/AIDS), or medical errors | \$500 |
| (k) Failure to correct Minor violation as listed in Rule 64B16-30.002, F.A.C. | \$250 |
| (l) Failure to retain continuing education records | \$250 |

(4) Once the citation becomes a final order, the citation and complaint become a public record pursuant to Chapter 119, F.S., unless otherwise exempt from the provisions thereof. The citation and complaint may be considered as aggravating circumstances in future disciplinary actions pursuant to paragraph 64B16-30.001(3)(a), F.A.C.

(5) The procedures described herein apply only for an initial offense of the alleged violation. Subsequent violation(s) of the same rule or statute shall require the procedures of Section 456.073, F.S., to be applied. In addition, should an initial offense for which a citation could be issued occur in conjunction with violations not described herein, then the procedures of Section 456.073, F.S., shall apply.

Rulemaking Authority 456.073, 456.077, 465.005 FS. Law Implemented 456.077 FS. History—New 12-22-91, Formerly 21S-30.003, 61F10-30.003, 59X-30.003, Amended 4-3-00, 1-2-02, 8-26-02, 1-12-03, 2-1-12.

64B16-30.0035 Mediation.

(1) “Mediation” means a process whereby a mediator appointed by the Department acts to encourage and facilitate resolution of a legally sufficient complaint. It is an informal and nonadversarial process with the objective of assisting the parties to reach a mutually acceptable agreement.

(2) The Board finds that mediation is an acceptable method of dispute resolution for the following violation as it is economic in

nature or can be remedied by the licensee: failure of the licensee to timely pay any assessed administrative fines or costs.

(3) A “mediator” means a person who is certified in mediation by the Florida Bar, the Florida Supreme Court, or the Division of Administrative Hearings.

Rulemaking Authority 456.078 FS. Law Implemented 456.078 FS. History—New 11-21-94, Formerly 59X-30.0035.



USP–NF General Chapter <797>
Pharmaceutical Compounding—
Sterile Preparations

USP® U.S. PHARMACOPEIA
The Standard of QualitySM

<797> PHARMACEUTICAL COMPOUNDING—STERILE PREPARATIONS

INTRODUCTION

The objective of this chapter is to describe conditions and practices to prevent harm, including death, to patients that could result from (1) microbial contamination (nonsterility), (2) excessive bacterial endotoxins, (3) variability in the intended strength of correct ingredients that exceeds either monograph limits for official articles (see “official” and “article” in the *General Notices and Requirements*) or 10% for nonofficial articles, (4) unintended chemical and physical contaminants, and (5) ingredients of inappropriate quality in compounded sterile preparations (CSPs). Contaminated CSPs are potentially most hazardous to patients when administered into body cavities, central nervous and vascular systems, eyes, and joints, and when used as baths for live organs and tissues. When CSPs contain excessive bacterial endotoxins (see *Bacterial Endotoxins Test* <85>), they are potentially most hazardous to patients when administered into the central nervous system.

Despite the extensive attention in this chapter to the provision of direct or physical contact contamination is paramount. It is generally acknowledged that direct or physical contact of critical sites of CSPs with contaminants, especially microbial sources, poses the greatest probability of risk to patients. Therefore, compounding personnel must be meticulously conscientious in precluding contact contamination of CSPs both within and outside ISO Class 5 (see *Table 1*) areas.

To achieve the above five conditions and practices, this chapter provides minimum practice and quality standards for CSPs of drugs and nutrients based on current scientific information and best sterile compounding practices. The use of technologies, techniques, materials, and procedures other than those described in this chapter is not prohibited so long as they have been proven to be equivalent or superior with statistical significance to those described herein. The standards in this chapter do not pertain to the *clinical administration* of CSPs to patients via application, implantation, infusion, inhalation, injection, insertion, instillation, and irrigation, which are the routes of administration. Four specific categories of CSPs are described in this chapter: low-risk level, medium-risk level, and high-risk level, and immediate use. Sterile compounding differs from nonsterile compounding (see *Pharmaceutical Compounding—Nonsterile Preparations* <795> and *Good Compounding Practices* <1075>) primarily by requiring the maintenance of sterility when compounding exclusively with sterile ingredients and components (i.e., with immediate-use CSPs, low-risk level CSPs, and medium-risk level CSPs) and the achievement of sterility when compounding with nonsterile ingredients and components (i.e., with high-risk level CSPs). Some differences between standards for sterile compounding in this chapter and those for nonsterile compounding in *Pharmaceutical Compounding—Nonsterile Preparations* (795) include, but are not limited to, ISO-classified air environments (see *Table 1*); personnel garbing and gloving; personnel training and testing in principles and practices of aseptic manipulations and sterilization; environmental quality specifications and monitoring; and disinfection of gloves and surfaces of ISO Class 5 (see *Table 1*) sources.

Table 1. ISO Classification of Particulate Matter in Room Air
(limits are in particles of 0.5 μm and larger per cubic meter [current ISO] and cubic feet [former Federal Standard No. 209E, FS 209E])*

| Class Name | | Particle Count | |
|------------|---------------|-------------------|------------------------|
| ISO Class | U.S. FS 209E | ISO, m^3 | FS 209E, ft^3 |
| 3 | Class 1 | 35.2 | 1 |
| 4 | Class 10 | 352 | 10 |
| 5 | Class 100 | 3,520 | 100 |
| 6 | Class 1,000 | 35,200 | 1,000 |
| 7 | Class 10,000 | 352,000 | 10,000 |
| 8 | Class 100,000 | 3,520,000 | 100,000 |

*Adapted from former Federal Standard No. 209E, General Services Administration, Washington, DC, 20407 (September 11, 1992) and ISO 14644-1:1999, Cleanrooms and associated controlled environments—Part 1: Classification of air cleanliness. For example, 3,520 particles of 0.5 μm per m^3 or larger (ISO Class 5) is equivalent to 100 particles per ft^3 (Class 100) ($1 \text{ m}^3 = 35.2 \text{ ft}^3$).

The standards in this chapter are intended to apply to all persons who prepare CSPs and all places where CSPs are prepared (e.g., hospitals and other healthcare institutions, patient treatment clinics, pharmacies, physicians’ practice facilities, and other locations and facilities in which CSPs are prepared, stored, and transported). Persons who perform sterile compounding include pharmacists, nurses, pharmacy technicians, and physicians. These terms recognize that most sterile compounding is performed by or under the supervision of pharmacists in pharmacies and also that this chapter applies to all healthcare personnel who prepare, store, and transport CSPs. For the purposes of this chapter, CSPs include any of the following:

- (1) Compounded biologics, diagnostics, drugs, nutrients, and radiopharmaceuticals, including but not limited to the following dosage forms that must be sterile when they are administered to patients: aqueous bronchial and nasal inhalations, baths and soaks for live organs and tissues, injections (e.g., colloidal dispersions, emulsions, solutions, suspensions), irrigations for wounds and body cavities, ophthalmic drops and ointments, and tissue implants.
- (2) Manufactured sterile products that are either prepared strictly according to the instructions appearing in manufacturers’ approved labeling (product package inserts) or prepared differently than published in such labeling. [NOTE—The FDA states that “Compounding does not include mixing, reconstituting, or similar acts that are performed in accordance with the directions contained in approved labeling provided by the product’s manufacturer and other manufacturer directions consistent with that labeling” [21 USC 321 (k) and (m)]. However, the FDA-approved labeling (product package insert) rarely describes environmental quality (e.g., ISO Class air designation, exposure durations to non-ISO classified air, personnel garbing and gloving, and other aseptic precautions by which sterile products are to be prepared for administration). Beyond-use exposure and storage dates or times (see *General Notices and Requirements* and *Pharmaceutical Compounding—Nonsterile Preparations* (795)) for sterile products that have been either opened or prepared for administration are not specified in all package inserts for all sterile products. Furthermore, when such durations are specified, they may refer to chemical stability and not necessarily to microbiological purity or safety.]

ORGANIZATION OF THIS CHAPTER

The sections in this chapter are organized to facilitate the practitioner’s understanding of the fundamental accuracy and quality practices for preparing CSPs. They provide a

foundation for the development and implementation of essential procedures for the safe preparation of low-risk, medium-risk, and high-risk level CSPs and immediate-use CSPs, which are classified according to the potential for microbial, chemical, and physical contamination. The chapter is divided into the following main sections:

- Definitions
- Responsibility of Compounding Personnel
- CSP Microbial Contamination Risk Levels
- Personnel Training and Evaluation in Aseptic Manipulation Skills
- Immediate-Use CSPs
- Single-Dose and Multiple-Dose Containers
- Hazardous Drugs as CSPs
- Radiopharmaceuticals as CSPs
- Allergen Extracts as CSPs
- Verification of Compounding Accuracy and Sterility
- Environmental Quality and Control
- Suggested Standard Operating Procedures (SOPs)
- Elements of Quality Control
- Verification of Automated Compounding Devices (ACDs) for Parenteral Nutrition Compounding
- Finished Preparation Release Checks and Tests
- Storage and Beyond-Use Dating
- Maintaining Sterility, Purity, and Stability of Dispensed and Distributed CSPs
- Patient or Caregiver Training
- Patient Monitoring and Adverse Events Reporting
- Quality Assurance (QA) Program
- Abbreviations and Acronyms
- Appendices I–V

The requirements and recommendations in this chapter are summarized in *Appendix I*. A list of abbreviations and acronyms is included at the end of the main text, before the *Appendices*.

All personnel who prepare CSPs shall be responsible for understanding these fundamental practices and precautions, for developing and implementing appropriate procedures, and for continually evaluating these procedures and the quality of final CSPs to prevent harm.

DEFINITIONS

Ante-Area—An ISO Class 8 (see *Table 1*) or better area where personnel hand hygiene and garbing procedures, staging of components, order entry, CSP labeling, and other high-particulate-generating activities are performed. It is also a transition area that (1) provides assurance that pressure relationships are constantly maintained so that air flows from clean to dirty areas and (2) reduces the need for the heating, ventilating, and air-conditioning (HVAC) control system to respond to large disturbances.¹

Aseptic Processing (see *Microbiological Evaluation of Clean Rooms and Other Controlled Environments* (1116))—A mode of processing pharmaceutical and medical products that involves the separate sterilization of the product and of the package (containers–closures or packaging material for medical devices) and the transfer of the product into the container and its closure under at least ISO Class 5 (see *Table 1*) conditions.

Beyond-Use Date (BUD) (see *General Notices and Requirements and Pharmaceutical Compounding—Nonsterile Preparations* (795))—For the purpose of this chapter, the date or time after which a CSP shall not be stored or transported. The date is determined from the date or time the preparation is compounded.

Biological Safety Cabinet (BSC)—A ventilated cabinet for CSPs, personnel, product, and environmental protection having an open front with inward airflow for personnel protection, downward high-efficiency particulate air (HEPA)-

filtered laminar airflow for product protection, and HEPA-filtered exhausted air for environmental protection.

Buffer Area—An area where the primary engineering control (PEC) is physically located. Activities that occur in this area include the preparation and staging of components and supplies used when compounding CSPs.

Clean Room (see *Microbiological Evaluation of Clean Rooms and Other Controlled Environments* (1116) and also the definition of *Buffer Area*)—A room in which the concentration of airborne particles is controlled to meet a specified airborne particulate cleanliness class. Microorganisms in the environment are monitored so that a microbial level for air, surface, and personnel gear are not exceeded for a specified cleanliness class.

Compounding Aseptic Containment Isolator (CACI)—A compounding aseptic isolator (CAI) designed to provide worker protection from exposure to undesirable levels of airborne drug throughout the compounding and material transfer processes and to provide an aseptic environment for compounding sterile preparations. Air exchange with the surrounding environment should not occur unless the air is first passed through a microbial retentive filter (HEPA minimum) system capable of containing airborne concentrations of the physical size and state of the drug being compounded. Where volatile hazardous drugs are prepared, the exhaust air from the isolator should be appropriately removed by properly designed building ventilation.

Compounding Aseptic Isolator (CAI)—A form of isolator specifically designed for compounding pharmaceutical ingredients or preparations. It is designed to maintain an aseptic compounding environment within the isolator throughout the compounding and material transfer processes. Air exchange into the isolator from the surrounding environment should not occur unless the air has first passed through a microbially retentive filter (HEPA minimum).²

Critical Area—An ISO Class 5 (see *Table 1*) environment.

Critical Site—A location that includes any component or fluid pathway surfaces (e.g., vial septa, injection ports, beakers) or openings (e.g., opened ampuls, needle hubs) exposed and at risk of direct contact with air (e.g., ambient room or HEPA filtered), moisture (e.g., oral and mucosal secretions), or touch contamination. Risk of microbial particulate contamination of the critical site increases with the size of the openings and exposure time.

Direct Compounding Area (DCA)—A critical area within the ISO Class 5 (see *Table 1*) primary engineering control (PEC) where critical sites are exposed to unidirectional HEPA-filtered air, also known as first air.

Disinfectant—An agent that frees from infection, usually a chemical agent but sometimes a physical one, and that destroys disease-causing pathogens or other harmful microorganisms but may not kill bacterial and fungal spores. It refers to substances applied to inanimate objects.

First Air—The air exiting the HEPA filter in a unidirectional air stream that is essentially particle free.

Hazardous Drugs—Drugs are classified as hazardous if studies in animals or humans indicate that exposures to them have a potential for causing cancer, development or reproductive toxicity, or harm to organs. (See current NIOSH publication.)

Labeling [see *General Notices and Requirements* and 21 USC 321 (k) and (m)]—A term that designates all labels and other written, printed, or graphic matter on an immediate container of an article or preparation or on, or in, any package or wrapper in which it is enclosed, except any outer shipping container. The term “label” designates that part of the labeling on the immediate container.

¹ See *American Society of Heating, Refrigerating and Air-Conditioning Engineers, Inc. (ASHRAE), Laboratory Design Guide*.

² *CETA Applications Guide for the Use of Compounding Isolators in Compounding Sterile Preparations in Healthcare Facilities*, CAG-001-2005, Controlled Environment Testing Association (CETA), November 8, 2005.

Media-Fill Test (see *Microbiological Evaluation of Clean Rooms and Other Controlled Environments* (1116))—A test used to qualify aseptic technique of compounding personnel or processes and to ensure that the processes used are able to produce sterile product without microbial contamination. During this test, a microbiological growth medium such as Soybean–Casein Digest Medium is substituted for the actual drug product to simulate admixture compounding.³ The issues to consider in the development of a media-fill test are media-fill procedures, media selection, fill volume, incubation, time and temperature, inspection of filled units, documentation, interpretation of results, and possible corrective actions required.

Multiple-Dose Container (see *General Notices and Requirements* and *Containers for Injections* under *Injections* (1))—A multiple-unit container for articles or preparations intended for parenteral administration only and usually containing antimicrobial preservatives. The beyond-use date (BUD) for an opened or entered (e.g., needle-punctured) multiple-dose container with antimicrobial preservatives is 28 days (see *Antimicrobial Effectiveness Testing* (51)), unless otherwise specified by the manufacturer.

Negative Pressure Room—A room that is at a lower pressure than the adjacent spaces and, therefore, the net flow of air is *into* the room.¹

Pharmacy Bulk Package (see *Containers for Injections* under *Injections* (1))—A container of a sterile preparation for parenteral use that contains many single doses. The contents are intended for use in a pharmacy admixture program and are restricted to the preparation of admixtures for infusion or, through a sterile transfer device, for the filling of empty sterile syringes. The closure shall be penetrated only one time after constitution with a suitable sterile transfer device or dispensing set, which allows measured dispensing of the contents. The pharmacy bulk package is to be used only in a suitable work area such as a laminar flow hood (or an equivalent clean air compounding area).

Where a container is offered as a pharmacy bulk package, the label shall (a) state prominently “Pharmacy Bulk Package—Not for Direct Infusion,” (b) contain or refer to information on proper techniques to help ensure safe use of the product, and (c) bear a statement limiting the time frame in which the container may be used once it has been entered, provided it is held under the labeled storage conditions.

Primary Engineering Control (PEC)—A device or room that provides an ISO Class 5 (see *Table 1*) environment for the exposure of critical sites when compounding CSPs. Such devices include, but may not be limited to, laminar airflow workbenches (LAFWs), biological safety cabinets (BSCs), compounding aseptic isolators (CAIs), and compounding aseptic containment isolators (CACIs).

Preparation—A preparation, or a CSP, that is a sterile drug or nutrient compounded in a licensed pharmacy or other healthcare-related facility pursuant to the order of a licensed prescriber; the article may or may not contain sterile products.

Product—A commercially manufactured sterile drug or nutrient that has been evaluated for safety and efficacy by the FDA. Products are accompanied by full prescribing information, which is commonly known as the FDA-approved manufacturer’s labeling or product package insert.

Positive Pressure Room—A room that is at a higher pressure than the adjacent spaces and, therefore, the net airflow is *out* of the room.¹

Single-Dose Container (see *General Notices and Requirements* and *Containers for Injections* under *Injections* (1))—A single-dose container is a single-unit container for articles (see *General Notices and Requirements*) or preparations intended for parenteral administration only. It is intended for a single use. A single-dose container is labeled as such. Ex-

amples of single-dose containers include prefilled syringes, cartridges, fusion-sealed containers, and closure-sealed containers when so labeled.

Segregated Compounding Area—A designated space, either a demarcated area or room, that is restricted to preparing low-risk level CSPs with 12-hour or less BUD. Such area shall contain a device that provides unidirectional airflow of ISO Class 5 (see *Table 1*) air quality for preparation of CSPs and shall be void of activities and materials that are extraneous to sterile compounding.

Sterilizing Grade Membranes—Membranes that are documented to retain 100% of a culture of 10⁷ microorganisms of a strain of *Brevundimonas (Pseudomonas) diminuta* per square centimeter of membrane surface under a pressure of not less than 30 psi (2.0 bar). Such filter membranes are nominally at 0.22- μ m or 0.2- μ m nominal pore size, depending on the manufacturer’s practice.

Sterilization by Filtration—Passage of a fluid or solution through a sterilizing grade membrane to produce a sterile effluent.

Terminal Sterilization—The application of a lethal process (e.g., steam under pressure or autoclaving) to sealed containers for the purpose of achieving a predetermined sterility assurance level of usually less than 10⁻⁶, or a probability of less than one in one million of a nonsterile unit.³

Unidirectional Flow (see footnote 3)—An airflow moving in a single direction in a robust and uniform manner and at sufficient speed to reproducibly sweep particles away from the critical processing or testing area.

RESPONSIBILITY OF COMPOUNDING PERSONNEL

Compounding personnel are responsible for ensuring that CSPs are accurately identified, measured, diluted, and mixed and are correctly purified, sterilized, packaged, sealed, labeled, stored, dispensed, and distributed. These performance responsibilities include maintaining appropriate cleanliness conditions and providing labeling and supplementary instructions for the proper clinical administration of CSPs.

Compounding supervisors shall ensure, through either direct measurement or appropriate information sources, that specific CSPs maintain their labeled strength within monograph limits for *USP* articles, or within 10% if not specified, until their BUDs. All CSPs are prepared in a manner that maintains sterility and minimizes the introduction of particulate matter.

A written quality assurance procedure includes the following in-process checks that are applied, as appropriate, to specific CSPs: accuracy and precision of measuring and weighing; the requirement for sterility; methods of sterilization and purification; safe limits and ranges for strength of ingredients, bacterial endotoxins, and particulate matter; pH; labeling accuracy and completeness; BUD assignment; and packaging and storage requirements. The dispenser shall, when appropriate and practicable, obtain and evaluate results of testing for identity, strength, purity, and sterility before a CSP is dispensed. Qualified licensed healthcare professionals who supervise compounding and dispensing of CSPs shall ensure that the following objectives are achieved:

1. Compounding personnel are adequately skilled, educated, instructed, and trained to correctly perform and document the following activities in their sterile compounding duties:
 - a. perform antiseptic hand cleansing and disinfection of nonsterile compounding surfaces;
 - b. select and appropriately don protective garb;
 - c. maintain or achieve sterility of CSPs in ISO Class 5 (see *Table 1*) PEC devices and protect personnel and compounding environments from contamination by radioactive, cytotoxic, and chemotoxic

³ U.S. Food and Drug Administration, Guidance for Industry, *Sterile Drug Products Produced by Aseptic Processing—Current Good Manufacturing Practice*, September 2004.

drugs (see *Hazardous Drugs as CSPs and Radiopharmaceuticals as CSPs*);

- d. identify, weigh, and measure ingredients; and
 - e. manipulate sterile products aseptically, sterilize high-risk level CSPs, and label and quality inspect CSPs.
2. Ingredients have their correct identity, quality, and purity.
 3. Opened or partially used packages of ingredients for subsequent use in CSPs are properly stored under restricted access conditions in the compounding facility. Such packages cannot be used when visual inspection detects unauthorized breaks in the container, closure, and seal; when the contents do not possess the expected appearance, aroma, and texture; when the contents do not pass identification tests specified by the compounding facility; and when either the BUD or expiration date has been exceeded.
 4. Water-containing CSPs that are nonsterile during any phase of the compounding procedure are sterilized within 6 hours after completing the preparation in order to minimize the generation of bacterial endotoxins.
 5. Sterilization methods achieve sterility of CSPs while maintaining the labeled strength of active ingredients and the physical integrity of packaging.
 6. Measuring, mixing, sterilizing, and purifying devices are clean, appropriately accurate, and effective for their intended use.
 7. Potential harm from added substances and differences in rate and extent of bioavailability of active ingredients for other than oral route of administration are carefully evaluated before such CSPs are dispensed and administered.
 8. Packaging selected for CSPs is appropriate to preserve the sterility and strength until the BUD.
 9. While being used, the compounding environment maintains the sterility or the presterilization purity, whichever is appropriate, of the CSP.
 10. Labels on CSPs list the names and amounts or concentrations of active ingredients, and the labels or labeling of injections (see *Preservation, Packaging, Storage, and Labeling in the General Notices and Requirements*) list the names and amounts or concentrations of all ingredients (see *Injections* (1)). Before being dispensed or administered, the clarity of solutions is visually confirmed; also, the identity and amounts of ingredients, procedures to prepare and sterilize CSPs, and specific release criteria are reviewed to ensure their accuracy and completeness.
 11. BUDs are assigned on the basis of direct testing or extrapolation from reliable literature sources and other documentation (see *Stability Criteria and Beyond-Use Dating under Pharmaceutical Compounding—Nonsterile Preparations* (795)).
 12. Procedures for measuring, mixing, dilution, purification, sterilization, packaging, and labeling conform to the correct sequence and quality established for the specified CSP.
 13. Deficiencies in compounding, labeling, packaging, and quality testing and inspection can be rapidly identified and corrected.
 14. When time and personnel availability so permit, compounding manipulations and procedures are separated from postcompounding quality inspection and review before CSPs are dispensed.

This chapter emphasizes the need to maintain high standards for the quality and control of processes, components, and environments and for the skill and knowledge of personnel who prepare CSPs. The rigor of in-process quality-control checks and of postcompounding quality inspection and testing increases with the potential hazard of the route of administration. For example, nonsterility, excessive bacterial endotoxin contamination, large errors in strength of correct ingredients, and incorrect ingredients in CSPs are po-

tentially more dangerous to patients when the CSPs are administered into the vascular and central nervous systems than when administered by most other routes.

CSP MICROBIAL CONTAMINATION RISK LEVELS

The three contamination categories for CSPs described in this section are assigned primarily according to the potential for microbial contamination during the compounding of low-risk level CSPs and medium-risk level CSPs or the potential for not sterilizing high-risk level CSPs, any of which would subject patients to risk of harm, including death. High-risk level CSPs must be sterilized before being administered to patients. The appropriate risk level—low, medium, or high—is assigned according to the corresponding probability of contaminating a CSP with (1) microbial contamination (e.g., microbial organisms, spores, endotoxins) and (2) chemical and physical contamination (e.g., foreign chemicals, physical matter). Potential sources of contamination include, but are not limited to, solid and liquid matter from compounding personnel and objects; nonsterile components employed and incorporated before terminal sterilization; inappropriate conditions within the restricted compounding environment; prolonged presterilization procedures with aqueous preparations; and nonsterile dosage forms used to compound CSPs.

The characteristics described below for low-, medium-, and high-risk level CSPs are intended as a guide to the breadth and depth of care necessary in compounding, but they are neither exhaustive nor prescriptive. The licensed healthcare professionals who supervise compounding are responsible for determining the procedural and environmental quality practices and attributes that are necessary for the risk level they assign to specific CSPs.

These risk levels apply to the quality of CSPs immediately after the final aseptic mixing or filling or immediately after the final sterilization, unless precluded by the specific characteristics of the preparation. Upon subsequent storage and shipping of freshly finished CSPs, an increase in the risks of chemical degradation of ingredients, contamination from physical damage to packaging, and permeability of plastic and elastomeric packaging is expected. In such cases, compounding personnel are responsible for considering the potential additional risks to the integrity of CSPs when assigning BUDs. The pre-administration storage duration and temperature limits specified in the following subsections apply in the absence of direct sterility testing results that justify different limits for specific CSPs.

Low-Risk Level CSPs

CSPs compounded under all the following conditions are at a low risk of contamination.

Low-Risk Conditions—

1. The CSPs are compounded with aseptic manipulations entirely within ISO Class 5 (see *Table 1*) or better air quality using only sterile ingredients, products, components, and devices.
2. The compounding involves only transfer, measuring, and mixing manipulations using not more than three commercially manufactured packages of sterile products and not more than two entries into any one sterile container or package (e.g., bag, vial) of sterile product or administration container/device to prepare the CSP.
3. Manipulations are limited to aseptically opening ampuls, penetrating disinfected stoppers on vials with sterile needles and syringes, and transferring sterile liquids in sterile syringes to sterile administration devices, package containers of other sterile products, and containers for storage and dispensing.

4. For a low-risk level preparation, in the absence of passing a sterility test (see *Sterility Tests (71)*), the storage periods cannot exceed the following time periods: before administration, the CSPs are properly stored and are exposed for not more than 48 hours at controlled room temperature (see *General Notices and Requirements*), for not more than 14 days at a cold temperature (see *General Notices and Requirements*), and for 45 days in solid frozen state between -25° and -10° .

Examples of Low-Risk Compounding—

1. Single-volume transfers of sterile dosage forms from ampuls, bottles, bags, and vials using sterile syringes with sterile needles, other administration devices, and other sterile containers. The solution content of ampuls should be passed through a sterile filter to remove any particles.
2. Simple aseptic measuring and transferring with not more than three packages of manufactured sterile products, including an infusion or diluent solution to compound drug admixtures and nutritional solutions.

Low-Risk Level CSPs with 12-Hour or Less BUD—If the PEC is a CAI or CACI that does not meet the requirements described in *Placement of Primary Engineering Controls* or is a laminar airflow workbench (LAFW) or a biological safety cabinet (BSC) that cannot be located within an ISO Class 7 (see *Table 1*) buffer area, then only low-risk level nonhazardous and radiopharmaceutical CSPs pursuant to a physician's order for a specific patient may be prepared, and administration of such CSPs shall commence within 12 hours of preparation or as recommended in the manufacturers' package insert, whichever is less. Low-risk level CSPs with a 12-hour or less BUD shall meet all of the following four criteria:

1. PECs (LAFWs, BSCs, CAIs, CACIs,) shall be certified and maintain ISO Class 5 (see *Table 1*) as described in *Facility Design and Environmental Controls* for exposure of critical sites and shall be in a segregated compounding area restricted to sterile compounding activities that minimize the risk of CSP contamination.
2. The segregated compounding area shall not be in a location that has unsealed windows or doors that connect to the outdoors or high traffic flow, or that is adjacent to construction sites, warehouses, or food preparation. Note that this list is not intended to be all inclusive.
3. Personnel shall follow the procedures described in *Personnel Cleansing and Garbing* and *Additional Personnel Requirements* prior to compounding. Sinks should not be located adjacent to the ISO Class 5 (see *Table 1*) PEC. Sinks should be separated from the immediate area of the ISO Class 5 (see *Table 1*) PEC device.
4. The specifications in *Cleaning and Disinfecting the Sterile Compounding Areas*, *Personnel Training and Competency Evaluation of Garbing, Aseptic Work Practices and Cleaning/Disinfection Procedures*, and *Viable and Non-viable Environmental Sampling (ES) Testing* shall be followed as described in the chapter.

Compounding personnel must recognize that the absence of an ISO Class 7 (see *Table 1*) buffer area environment in a general uncontrolled environment increases the potential of microbial contamination, and administration durations of microbially contaminated CSPs exceeding a few hours increase the potential for clinically significant microbial colonization, and thus for patient harm, especially in critically ill or immunocompromised patients.

Quality Assurance—Quality assurance practices include, but are not limited to the following:

1. Routine disinfection and air quality testing of the direct compounding environment to minimize microbial surface contamination and maintain ISO Class 5 (see *Table 1*) air quality.
2. Visual confirmation that compounding personnel are properly donning and wearing appropriate items and

types of protective garments, including eye protection and face masks.

3. Review of all orders and packages of ingredients to ensure that the correct identity and amounts of ingredients were compounded.
4. Visual inspection of CSPs to ensure the absence of particulate matter in solutions, the absence of leakage from vials and bags, and the accuracy and thoroughness of labeling.

Media-Fill Test Procedure—This test or an equivalent test is performed at least annually by each person authorized to compound in a low-risk level environment under conditions that closely simulate the most challenging or stressful conditions encountered during compounding of low-risk level CSPs. Once begun, this test is completed without interruption. *Example of test procedure:* within an ISO Class 5 (see *Table 1*) air quality environment, three sets of four 5-mL aliquots of sterile Soybean–Casein Digest Medium (also known as trypticase soy broth or trypticase soy agar [TSA]) are transferred with the same sterile 10-mL syringe and vented needle combination into separate sealed, empty, sterile 30-mL clear vials (i.e., four 5-mL aliquots into each of three 30-mL vials). Sterile adhesive seals are aseptically affixed to the rubber closures on the three filled vials, then the vials are incubated at 20° to 25° or at 30° to 35° for a minimum of 14 days. If two temperatures are used for incubation of media-filled samples, then these filled containers should be incubated for at least 7 days at each temperature (see *Microbiological Evaluation of Clean Rooms and Other Controlled Environments (1116)*). Inspect for microbial growth over 14 days as described in *Personnel Training and Competency Evaluation of Garbing, Aseptic Work Practices and Cleaning/Disinfection Procedures*.

Medium-Risk Level CSPs

When CSPs are compounded aseptically under *Low-Risk Conditions* and one or more of the following conditions exists, such CSPs are at a medium risk of contamination.

Medium-Risk Conditions—

1. Multiple individual or small doses of sterile products are combined or pooled to prepare a CSP that will be administered either to multiple patients or to one patient on multiple occasions.
2. The compounding process includes complex aseptic manipulations other than the single-volume transfer.
3. The compounding process requires unusually long duration, such as that required to complete dissolution or homogeneous mixing.
4. For a medium-risk preparation, in the absence of passing a sterility test (see *Sterility Tests (71)*), the storage periods cannot exceed the following time periods: before administration, the CSPs are properly stored and are exposed for not more than 30 hours at controlled room temperature (see *General Notices and Requirements*), for not more than 9 days at a cold temperature (see *General Notices and Requirements*), and for 45 days in solid frozen state between -25° and -10° .

Examples of Medium-Risk Compounding—

1. Compounding of total parenteral nutrition fluids using manual or automated devices during which there are multiple injections, detachments, and attachments of nutrient source products to the device or machine to deliver all nutritional components to a final sterile container.
2. Filling of reservoirs of injection and infusion devices with more than three sterile drug products and evacuation of air from those reservoirs before the filled device is dispensed.
3. Transfer of volumes from multiple ampuls or vials into one or more final sterile containers.

Quality Assurance—Quality assurance procedures for medium-risk level CSPs include all those for low-risk level CSPs, as well as a more challenging media-fill test passed annually or more frequently.

Media-Fill Test Procedure—This test or an equivalent test is performed at least annually under conditions that closely simulate the most challenging or stressful conditions encountered during compounding. Once begun, this test is completed without interruption. *Example of test procedure:* within an ISO Class 5 (see *Table 1*) air quality environment, six 100-mL aliquots of sterile Soybean–Casein Digest Medium are aseptically transferred by gravity through separate tubing sets into separate evacuated sterile containers. The six containers are then arranged as three pairs, and a sterile 10-mL syringe and 18-gauge needle combination is used to exchange two 5-mL aliquots of medium from one container to the other container in the pair. For example, after a 5-mL aliquot from the first container is added to the second container in the pair, the second container is agitated for 10 seconds, then a 5-mL aliquot is removed and returned to the first container in the pair. The first container is then agitated for 10 seconds, and the next 5-mL aliquot is transferred from it back to the second container in the pair. Following the two 5-mL aliquot exchanges in each pair of containers, a 5-mL aliquot of medium from each container is aseptically injected into a sealed, empty, sterile 10-mL clear vial, using a sterile 10-mL syringe and vented needle. Sterile adhesive seals are aseptically affixed to the rubber closures on the three filled vials, then the vials are incubated at 20° to 25° or at 30° to 35° for a minimum of 14 days. If two temperatures are used for incubation of media-filled samples, then these filled containers should be incubated for at least 7 days at each temperature (see *Microbiological Evaluation of Clean Rooms and Other Controlled Environments* (1116)). Inspect for microbial growth over 14 days as described in *Personnel Training and Competency Evaluation of Garbing, Aseptic Work Practices and Cleaning/Disinfection Procedures*.

High-Risk Level CSPs

CSPs compounded under any of the following conditions are either contaminated or at a high risk to become contaminated.

High-Risk Conditions—

1. Nonsterile ingredients, including manufactured products not intended for sterile routes of administration (e.g., oral), are incorporated or a nonsterile device is employed before terminal sterilization.
2. Any of the following are exposed to air quality worse than ISO Class 5 (see *Table 1*) for more than 1 hour (see *Immediate-Use CSPs*):
 - sterile contents of commercially manufactured products,
 - CSPs that lack effective antimicrobial preservatives, and
 - sterile surfaces of devices and containers for the preparation, transfer, sterilization, and packaging of CSPs.
3. Compounding personnel are improperly garbed and gloved (see *Personnel Cleansing and Use of Barrier Protective Equipment*).
4. Nonsterile water-containing preparations are stored for more than 6 hours before being sterilized.
5. It is assumed, and not verified by examination of labeling and documentation from suppliers or by direct determination, that the chemical purity and content strength of ingredients meet their original or compendial specifications in unopened or in opened packages of bulk ingredients (see *Ingredient Selection under Pharmaceutical Compounding—Nonsterile Preparations* (795)).

For a sterilized high-risk level preparation, in the absence of passing a sterility test, the storage periods cannot exceed

the following time periods: before administration, the CSPs are properly stored and are exposed for not more than 24 hours at controlled room temperature (see *General Notices and Requirements*), for not more than 3 days at a cold temperature (see *General Notices and Requirements*), and for 45 days in solid frozen state between –25° and –10°.

[NOTE—Sterility tests for autoclaved CSPs are not required unless they are prepared in batches of more than 25 units.]

All nonsterile measuring, mixing, and purifying devices are rinsed thoroughly with sterile, pyrogen-free water, and then thoroughly drained or dried immediately before use for high-risk compounding. All high-risk level CSP solutions subjected to terminal sterilization are prefiltered by passing through a filter with a nominal pore size not larger than 1.2 µm preceding or during filling into their final containers to remove particulate matter. Sterilization of high-risk level CSPs by filtration shall be performed with a sterile 0.2-µm or 0.22-µm nominal pore size filter entirely within an ISO Class 5 (see *Table 1*) or superior air quality environment.

Examples of High-Risk Conditions—

1. Dissolving nonsterile bulk drug and nutrient powders to make solutions that will be terminally sterilized.
2. Exposing the sterile ingredients and components used to prepare and package CSPs to room air quality worse than ISO Class 5 (see *Table 1*) for more than 1 hour (see *Immediate-Use CSPs*).
3. Measuring and mixing sterile ingredients in nonsterile devices before sterilization is performed.
4. Assuming, without appropriate evidence or direct determination, that packages of bulk ingredients contain at least 95% by weight of their active chemical moiety and have not been contaminated or adulterated between uses.

Quality Assurance—Quality assurance procedures for high-risk level CSPs include all those for low-risk level CSPs. In addition, a media-fill test that represents high-risk level compounding is performed semiannually by each person authorized to compound high-risk level CSPs.

Media-Fill Test Procedure for CSPs Sterilized by

Filtration—This test or an equivalent test is performed under conditions that closely simulate the most challenging or stressful conditions encountered when compounding high-risk level CSPs. Once begun, this test is completed without interruption. *Example of test procedure* (in the following sequence):

1. Dissolve 3 g of nonsterile commercially available Soybean–Casein Digest Medium in 100 mL of nonbacteriostatic water to make a 3% nonsterile solution.
2. Draw 25 mL of the medium into each of three 30-mL sterile syringes. Transfer 5 mL from each syringe into separate sterile 10-mL vials. These vials are the positive controls to generate exponential microbial growth, which is indicated by visible turbidity upon incubation.
3. Under aseptic conditions and using aseptic techniques, affix a sterile 0.2-µm or 0.22-µm nominal pore size filter unit and a 20-gauge needle to each syringe. Inject the next 10 mL from each syringe into three separate 10-mL sterile vials. Repeat the process for three more vials. Label all vials, affix sterile adhesive seals to the closure of the nine vials, and incubate them at 20° to 25° or at 30° to 35° for a minimum of 14 days. If two temperatures are used for incubation of media-filled samples, then these filled containers should be incubated for at least 7 days at each temperature (see *Microbiological Evaluation of Clean Rooms and Other Controlled Environments* (1116)). Inspect for microbial growth over 14 days as described in *Personnel Training and Competency Evaluation of Garbing, Aseptic Work Practices and Cleaning/Disinfection Procedures*.

PERSONNEL TRAINING AND EVALUATION IN ASEPTIC MANIPULATION SKILLS

Personnel who prepare CSPs shall be trained conscientiously and skillfully by expert personnel and through audio–video instructional sources and professional publications in the theoretical principles and practical skills of aseptic manipulations and in achieving and maintaining ISO Class 5 (see *Table 1*) environmental conditions before they begin to prepare CSPs. Compounding personnel shall perform didactic review and pass written and media-fill testing of aseptic manipulative skills initially, at least annually thereafter for low- and medium-risk level compounding, and semiannually for high-risk level compounding. Compounding personnel who fail written tests or whose media-fill test vials result in gross microbial colonization shall be immediately re-instructed and re-evaluated by expert compounding personnel to ensure correction of all aseptic practice deficiencies.

Media-Fill Challenge Testing—The skill of personnel to aseptically prepare CSPs may be evaluated using sterile fluid bacterial culture media-fill verification³ (i.e., sterile bacterial culture medium transfer via a sterile syringe and needle). Media-fill testing is used to assess the quality of the aseptic skill of compounding personnel. Media-fill tests represent the most challenging or stressful conditions actually encountered by the personnel being evaluated when they prepare particular risk level CSPs and when sterilizing high-risk level CSPs. Media-fill challenge tests that simulate high-risk level compounding are also used to verify the capability of the compounding environment and process to produce a sterile preparation.

Commercially available sterile fluid culture media, such as Soybean–Casein Digest Medium (see *Sterility Tests (71)*), shall be able to promote exponential colonization of bacteria that are most likely to be transmitted to CSPs from the compounding personnel and environment. Media-filled vials are generally incubated at 20° to 25° or at 30° to 35° for a minimum of 14 days. If two temperatures are used for incubation of media-filled samples, then these filled containers should be incubated for at least 7 days at each temperature (see *Microbiological Evaluation of Clean Rooms and Other Controlled Environments (1116)*). Failure is indicated by visible turbidity in the medium on or before 14 days.

IMMEDIATE-USE CSPs

The immediate-use provision is intended only for those situations where there is a need for emergency or immediate patient administration of a CSP. Such situations may include cardiopulmonary resuscitation, emergency room treatment, preparation of diagnostic agents, or critical therapy where the preparation of the CSP under conditions described for *Low-Risk Level CSPs* subjects the patient to additional risk due to delays in therapy. Immediate-use CSPs are not intended for storage for anticipated needs or batch compounding. Preparations that are medium-risk level and high-risk level CSPs shall not be prepared as immediate-use CSPs.

Immediate-use CSPs are exempt from the requirements described for *Low-Risk Level CSPs* only when all of the following criteria are met:

1. The compounding process involves simple transfer of not more than three commercially manufactured packages of sterile nonhazardous products or diagnostic radiopharmaceutical products from the manufacturers' original containers and not more than two entries into any one container or package (e.g., bag, vial) of sterile infusion solution or administration container/device. For example, anti-neoplastics shall not be prepared as immediate-use CSPs because they are hazardous drugs.

2. Unless required for the preparation, the compounding procedure is a continuous process not to exceed 1 hour.
3. During preparation, aseptic technique is followed and, if not immediately administered, the finished CSP is under continuous supervision to minimize the potential for contact with nonsterile surfaces, introduction of particulate matter or biological fluids, mix-ups with other CSPs, and direct contact of outside surfaces.
4. Administration begins not later than 1 hour following the start of the preparation of the CSP.
5. Unless immediately and completely administered by the person who prepared it or immediate and complete administration is witnessed by the preparer, the CSP shall bear a label listing patient identification information, the names and amounts of all ingredients, the name or initials of the person who prepared the CSP, and the exact 1-hour BUD and time.
6. If administration has not begun within 1 hour following the start of preparing the CSP, the CSP shall be promptly, properly, and safely discarded.

Compounding in worse than ISO Class 5 (see *Table 1*) conditions increases the likelihood of microbial contamination, and administration durations of microbially contaminated CSPs exceeding a few hours increase the potential for clinically significant microbial colonization and thus for patient harm, especially in critically ill or immunocompromised patients.

SINGLE-DOSE AND MULTIPLE-DOSE CONTAINERS

Opened or needle-punctured single-dose containers, such as bags, bottles, syringes, and vials of sterile products and CSPs shall be used within 1 hour if opened in worse than ISO Class 5 (see *Table 1*) air quality (see *Immediate-Use CSPs*), and any remaining contents must be discarded. Single-dose vials exposed to ISO Class 5 (see *Table 1*) or cleaner air may be used up to 6 hours after initial needle puncture. Opened single-dose ampuls shall not be stored for any time period. Multiple-dose containers (e.g., vials) are formulated for removal of portions on multiple occasions because they usually contain antimicrobial preservatives. The BUD after initially entering or opening (e.g., needle-punctured) multiple-dose containers is 28 days (see *Antimicrobial Effectiveness Testing (51)*) unless otherwise specified by the manufacturer.

HAZARDOUS DRUGS AS CSPs

Although the potential therapeutic benefits of compounded sterile hazardous drug preparations generally outweigh the risks of their adverse effects in ill patients, exposed healthcare workers risk similar adverse effects with no therapeutic benefit. Occupational exposure to hazardous drugs can result in (1) acute effects, such as skin rashes; (2) chronic effects, including adverse reproductive events; and (3) possibly cancer (see Appendix A of NIOSH Publication no. 2004-165).

Hazardous drugs shall be prepared for administration only under conditions that protect the healthcare workers and other personnel in the preparation and storage areas. Hazardous drugs shall be stored separately from other inventory in a manner to prevent contamination and personnel exposure. Many hazardous drugs have sufficient vapor pressures that allow volatilization at room temperature; thus storage is preferably within a containment area such as a negative pressure room. The storage area should have sufficient gen-

eral exhaust ventilation, at least 12 air changes per hour (ACPH)⁴ to dilute and remove any airborne contaminants.

Hazardous drugs shall be handled with caution at all times using appropriate chemotherapy gloves during receiving, distribution, stocking, inventorying, preparation for administration, and disposal. Hazardous drugs shall be prepared in an ISO Class 5 (see *Table 1*) environment with protective engineering controls in place and following aseptic practices specified for the appropriate contamination risk levels defined in this chapter. Access shall be limited to areas where drugs are stored and prepared to protect persons not involved in drug preparation.

All hazardous drugs shall be prepared in a BSC⁵ or a CACI that meets or exceeds the standards for CACI in this chapter. The ISO Class 5 (see *Table 1*) BSC or CACI shall be placed in an ISO Class 7 (see *Table 1*) area that is physically separated (i.e., a different area from other preparation areas) and optimally has not less than 0.01-inch water column negative pressure to adjacent positive pressure ISO Class 7 (see *Table 1*) or better ante-areas, thus providing inward air-flow to contain any airborne drug. A pressure indicator shall be installed that can be readily monitored for correct room pressurization. The BSC and CACI optimally should be 100% vented to the outside air through HEPA filtration.

If a CACI that meets the requirements of this chapter is used outside of a buffer area, the compounding area shall maintain a minimum negative pressure of 0.01-inch water column and have a minimum of 12 ACPHs.

When closed-system vial-transfer devices (CSTDs) (i.e., vial-transfer systems that allow no venting or exposure of hazardous substance to the environment) are used, they shall be used within the ISO Class 5 (see *Table 1*) environment of a BSC or CACI. The use of a CSTD is preferred because of their inherent closed system process. In facilities that prepare a low volume of hazardous drugs, the use of two tiers of containment (e.g., CSTD within a BSC or CACI that is located in a non-negative pressure room) is acceptable.

Appropriate personnel protective equipment (PPE) shall be worn when compounding in a BSC or CACI and when using CSTD devices. PPE should include gowns, face masks, eye protection, hair covers, shoe covers or dedicated shoes, double gloving with sterile chemo-type gloves, and compliance with manufacturers' recommendations when using a CACI.

All personnel who compound hazardous drugs shall be fully trained in the storage, handling, and disposal of these drugs. This training shall occur prior to preparing or handling hazardous CSPs, and its effectiveness shall be verified by testing specific hazardous drugs preparation techniques. Such verification shall be documented for each person at least annually. This training shall include didactic overview of hazardous drugs, including mutagenic, teratogenic, and carcinogenic properties, and it shall include ongoing training for each new hazardous drug that enters the marketplace. Compounding personnel of reproductive capability shall confirm in writing that they understand the risks of handling hazardous drugs. The training shall include at least the following: (1) safe aseptic manipulation practices; (2) negative pressure techniques when utilizing a BSC or CACI; (3) correct use of CSTD devices; (4) containment, cleanup, and disposal procedures for breakages and spills; and (5) treatment of personnel contact and inhalation exposure.

NOTE—Because standards of assay and unacceptable quantities of contamination of each drug have not been established in the literature, the following paragraph is a recommendation only. Future standards will be adopted as these assay methods are developed and proven.

In order to ensure containment, especially in operations preparing large volumes of hazardous drugs, environmental

sampling to detect uncontained hazardous drugs should be performed routinely (e.g., initially as a benchmark and at least every 6 months or more often as needed to verify containment). This sampling should include surface wipe sampling of the working area of BSCs and CACIs; counter tops where finished preparations are placed; areas adjacent to BSCs and CACIs, including the floor directly under the working area; and patient administration areas. Common marker hazardous drugs that can be assayed include cyclophosphamide, ifosfamide, methotrexate, and fluorouracil. If any measurable contamination (cyclophosphamide levels greater than 1.00 ng per cm² have been found to cause human uptake) is found by any of these quality assurance procedures, practitioners shall make the decision to identify, document, and contain the cause of contamination. Such action may include retraining, thorough cleaning (utilizing high-pH soap and water), and improving engineering controls. Examples of improving engineering controls are (1) venting BSCs or CACIs 100% to the outside, (2) implementing a CSTD, or (3) re-assessing types of BSCs or CACIs.

Disposal of all hazardous drug wastes shall comply with all applicable federal and state regulations. All personnel who perform routine custodial waste removal and cleaning activities in storage and preparation areas for hazardous drugs shall be trained in appropriate procedures to protect themselves and prevent contamination.

RADIOPHARMACEUTICALS AS CSPs

In the case of production of radiopharmaceuticals for positron emission tomography (PET), general test chapter *Radiopharmaceuticals for Positron Emission Tomography—Compounding* (823) supersedes this chapter. Upon release of a PET radiopharmaceutical as a finished drug product from a production facility, the further handling, manipulation, or use of the product will be considered compounding, and the content of this section and chapter is applicable.

For the purposes of this chapter, radiopharmaceuticals compounded from sterile components in closed sterile containers and with a volume of 100 mL or less for a single-dose injection or not more than 30 mL taken from a multiple-dose container (see *Injections* (1)) shall be designated as, and conform to, the standards for *Low-Risk Level CSPs*.

These radiopharmaceuticals shall be compounded using appropriately shielded vials and syringes in a properly functioning and certified ISO Class 5 (see *Table 1*) PEC located in an ISO Class 8 (see *Table 1*) or cleaner air environment to permit compliance with special handling, shielding, and negative air flow requirements.

Radiopharmaceutical vials designed for multi-use, compounded with technetium-99m, exposed to ISO Class 5 (see *Table 1*) environment, and punctured by needles with no direct contact contamination may be used up to the time indicated by manufacturers' recommendations. Storage and transport of properly shielded vials of radiopharmaceutical CSPs may occur in a limited access ambient environment without a specific ISO class designation.

Technetium-99m/molybdenum-99 generator systems shall be stored and eluted (operated) under conditions recommended by manufacturers and applicable state and federal regulations. Such generator systems shall be eluted in an ISO Class 8 (see *Table 1*) or cleaner air environment to permit special handling, shielding, and air flow requirements. To limit acute and chronic radiation exposure of inspecting personnel to a level that is as low as reasonably achievable (ALARA), direct visual inspection of radiopharmaceutical CSPs containing high concentrations of doses of radioactivity shall be conducted in accordance with ALARA.

Radiopharmaceuticals prepared as *Low-Risk Level CSPs with 12-Hour or Less BUD* shall be prepared in a segregated compounding area. A line of demarcation defining the segregated compounding area shall be established. Materials and garb exposed in a patient care and treatment area shall not

⁴ Guidelines for Environmental Infection Control in Health-Care Facilities, Recommendations of CDC and the Healthcare Infection Control Practices Advisory Committee (HICPAC), MMWR, vol. 52, no. RR-10, June 6, 2003, figure 3, pg. 12.

⁵ NSF/ANSI 49.

cross a line of demarcation into the segregated compounding area.

ALLERGEN EXTRACTS AS CSPs

Allergen extracts as CSPs are single-dose and multiple-dose *intradermal or subcutaneous injections* that are prepared by specially trained physicians and personnel under their direct supervision. Allergen extracts as CSPs are not subject to the personnel, environmental, and storage requirements for all *CSP Microbial Contamination Risk Levels* in this chapter only when all of the following criteria are met:

1. The compounding process involves simple transfer via sterile needles and syringes of commercial sterile allergen products and appropriate sterile added substances (e.g., glycerin, phenol in sodium chloride injection).
2. All allergen extracts as CSPs shall contain appropriate substances in effective concentrations to prevent the growth of microorganisms. Nonpreserved allergen extracts shall comply with the appropriate CSP risk level requirements in the chapter.
3. Before beginning compounding activities, personnel perform a thorough hand-cleansing procedure by removing debris from under fingernails using a nail cleaner under running warm water followed by vigorous hand and arm washing to the elbows for at least 30 seconds with either nonantimicrobial or antimicrobial soap and water.
4. Compounding personnel don hair covers, facial hair covers, gowns, and face masks.
5. Compounding personnel perform antiseptic hand cleansing with an alcohol-based surgical hand scrub with persistent activity.
6. Compounding personnel don powder-free sterile gloves that are compatible with sterile 70% isopropyl alcohol (IPA) before beginning compounding manipulations.
7. Compounding personnel disinfect their gloves intermittently with sterile 70% IPA when preparing multiple allergen extracts as CSPs.
8. Ampul necks and vial stoppers on packages of manufactured sterile ingredients are disinfected by careful wiping with sterile 70% IPA swabs to ensure that the critical sites are wet for at least 10 seconds and allowed to dry before they are used to compound allergen extracts as CSPs.
9. The aseptic compounding manipulations minimize direct contact contamination (e.g., from glove fingertips, blood, nasal and oral secretions, shed skin and cosmetics, other nonsterile materials) of critical sites (e.g., needles, opened ampuls, vial stoppers).
10. The label of each multiple-dose vial (MDV) of allergen extracts as CSPs lists the name of one specific patient and a BUD and storage temperature range that is assigned based on manufacturers' recommendations or peer-reviewed publications.
11. Single-dose allergen extracts as CSPs shall not be stored for subsequent additional use.

Personnel who compound allergen extracts as CSPs must be aware of greater potential risk of microbial and foreign material contamination when allergen extracts as CSPs are compounded in compliance with the foregoing criteria instead of the more rigorous standards in this chapter for *CSP Microbial Contamination Risk Levels*. Although contaminated allergen extracts as CSPs can pose health risks to patients when they are injected *intradermally or subcutaneously*, these risks are substantially greater if the extract is inadvertently injected *intravenously*.

VERIFICATION OF COMPOUNDING ACCURACY AND STERILITY

The compounding procedures and sterilization methods for CSPs correspond to correctly designed and verified written documentation in the compounding facility. Verification requires planned testing, monitoring, and documentation to demonstrate adherence to environmental quality requirements, personnel practices, and procedures critical to achieving and maintaining sterility, accuracy, and purity of finished CSPs. For example, sterility testing (see *Test for Sterility of the Product To Be Examined* under *Sterility Tests* (71)) may be applied to specimens of low- and medium-risk level CSPs, and standard self-contained biological indicators (BI) shall be added to nondispensable specimens of high-risk level CSPs before terminal sterilization for subsequent evaluation to determine whether the sterilization cycle was adequate (see *Biological Indicators for Sterilization* (1035)). Packaged and labeled CSPs shall be visually inspected for physical integrity and expected appearance, including final fill amount. The accuracy of identities, concentrations, amounts, and purities of ingredients in CSPs shall be confirmed by reviewing labels on packages, observing and documenting correct measurements with approved and correctly standardized devices, and reviewing information in labeling and certificates of analysis provided by suppliers. When the correct identity, purity, strength, and sterility of ingredients and components of CSPs cannot be confirmed (in cases of, for example, unlabeled syringes, opened ampuls, punctured stoppers of vials and bags, containers of ingredients with incomplete labeling), such ingredients and components shall be discarded immediately.

Some individual ingredients, such as bulk drug substances, are not labeled with expiration dates when they are stable indefinitely in their commercial packages under their labeled storage conditions. However, despite retaining full chemical stability, such ingredients may gain or lose moisture during storage and use. Changes in moisture content may require testing (see *Loss on Drying* (731)) to determine the correct amount to weigh for accurate content of active chemical moieties in CSPs (see *Pharmaceutical Calculations in Prescription Compounding* (1160)).

Although not required, a quantitative stability-indicating chemical assay is recommended to ensure compounding accuracy of CSPs, especially those that contain drug ingredients with a narrow therapeutic plasma concentration range.

Sterilization Methods

The licensed healthcare professionals who supervise compounding shall be responsible for determining that the selected sterilization method (see *Methods of Sterilization* under *Sterilization and Sterility Assurance of Compendial Articles* (1211)) both sterilizes and maintains the strength, purity, quality, and packaging integrity of CSPs. The selected sterilization process is obtained from experience and appropriate information sources (e.g., see *Sterilization and Sterility Assurance of Compendial Articles* (1211))—and, preferably, verified wherever possible—to achieve sterility in the particular CSPs. General guidelines for matching CSPs and components to appropriate sterilization methods include the following:

1. CSPs have been ascertained to remain physically and chemically stable when subjected to the selected sterilization method.
2. Glass and metal devices may be covered tightly with aluminum foil, then exposed to dry heat in an oven at a mean temperature of 250° for 30 minutes to achieve sterility and depyrogenation (see *Dry-Heat Sterilization* under *Sterilization and Sterility Assurance of Compendial Articles* (1211) and *Bacterial Endotoxins Test* (85)). Such items are either used immediately or stored until use in an environment suitable for com-

pounding *Low-Risk Level CSPs* and *Medium-Risk Level CSPs*.

- Personnel ascertain from appropriate information sources that the sterile microporous membrane filter used to sterilize CSP solutions, during either compounding or administration, is chemically and physically compatible with the CSP.

STERILIZATION OF HIGH-RISK LEVEL CSPs BY FILTRATION

Commercially available sterile filters shall be approved for human-use applications in sterilizing pharmaceutical fluids. Sterile filters used to sterilize CSPs shall be pyrogen free and have a nominal pore size of 0.2 or 0.22 μm . They shall be certified by the manufacturer to retain at least 10^7 microorganisms of a strain of *Brevundimonas (Pseudomonas) diminuta* on each square centimeter of upstream filter surface area under conditions similar to those in which the CSPs will be sterilized (see *High-Risk Conditions in High-Risk Level CSPs*).

The compounding supervisor shall ensure, directly or from appropriate documentation, that the filters are chemically and physically stable at the pressure and temperature conditions to be used, that they have enough capacity to filter the required volumes, and that they will achieve sterility and maintain prefiltration pharmaceutical quality, including strength of ingredients of the specific CSP. The filter dimensions and liquid material to be sterile-filtered shall permit the sterilization process to be completed rapidly, without the replacement of the filter during the process. When CSPs are known to contain excessive particulate matter, a prefilter of larger nominal pore size membrane is placed upstream from the sterilizing filter to remove gross particulate contaminants in order to maximize the efficiency of the sterilizing filter.

Filter units used to sterilize CSPs shall also be subjected to manufacturers' recommended integrity test, such as the bubble point test.

Compounding personnel shall ascertain that selected filters will achieve sterilization of the particular CSPs being sterilized. Large deviations from usual or expected chemical and physical properties of CSPs (e.g., water-miscible alcohols) may cause undetectable damage to filter integrity and shrinkage of microorganisms to sizes smaller than filter nominal pore size.

STERILIZATION OF HIGH-RISK LEVEL CSPs BY STEAM

The process of thermal sterilization employing saturated steam under pressure, or autoclaving, is the preferred method to terminally sterilize aqueous preparations that have been verified to maintain their full chemical and physical stability under the conditions employed (see *Steam Sterilization under Sterilization and Sterility Assurance of Compensial Articles* (1211)). To achieve sterility, all materials are to be exposed to steam at 121° under a pressure of about 1 atmosphere or 15 psi for the duration verified by testing to achieve sterility of the items, which is usually 20 to 60 minutes for CSPs. An allowance shall be made for the time required for the material to reach 121° before the sterilization exposure duration is timed.

Not directly exposing items to pressurized steam may result in survival of microbial organisms and spores. Before their sterilization, plastic, glass, and metal devices are tightly wrapped in low-particle-shedding paper or fabrics or sealed in envelopes that prevent poststerilization microbial penetration. Immediately before filling ampuls and vials that will be steam sterilized, solutions are passed through a filter having a nominal pore size not larger than 1.2 μm for removal of particulate matter. Sealed containers shall be able to generate steam internally; thus, stoppered and crimped empty vials shall contain a small amount of moisture to generate steam.

The description of steam sterilization conditions and duration for specific CSPs shall be included in written documentation in the compounding facility. The effectiveness of steam sterilization shall be verified using appropriate BIs of *Bacillus stearothermophilus* (see *Biological Indicators* (1035)) and other confirmation methods such as temperature-sensing devices (see *Sterilization and Sterility Assurance of Compensial Articles* (1211) and *Sterility Tests* (71)).

STERILIZATION OF HIGH-RISK LEVEL CSPs BY DRY HEAT

Dry heat sterilization is usually done as a batch process in an oven designed for sterilization. Heated filtered air shall be evenly distributed throughout the chamber by a blower device. The oven should be equipped with a system for controlling temperature and exposure period. Sterilization by dry heat requires higher temperatures and longer exposure times than does sterilization by steam. Dry heat shall be used only for those materials that cannot be sterilized by steam, when either the moisture would damage the material or the material is impermeable. During sterilization, sufficient space shall be left between materials to allow for good circulation of the hot air. The description of dry heat sterilization conditions and duration for specific CSPs shall be included in written documentation in the compounding facility. The effectiveness of dry heat sterilization shall be verified using appropriate BIs of *Bacillus subtilis* (see *Biological Indicators* (1035)) and other confirmation methods such as temperature-sensing devices (see *Sterilization and Sterility Assurance of Compensial Articles* (1211) and *Sterility Tests* (71)). [NOTE—Dry heat sterilization may be performed at a lower temperature than may be effective for depyrogenation].

Depyrogenation by Dry Heat

Dry heat depyrogenation shall be used to render glassware or containers such as vials free from pyrogens as well as viable microbes. A typical cycle would be 30 minutes at 250°. The description of the dry heat depyrogenation cycle and duration for specific load items shall be included in written documentation in the compounding facility. The effectiveness of the dry heat depyrogenation cycle shall be verified using endotoxin challenge vials (ECVs). The bacterial endotoxin test should be performed on the ECVs to verify that the cycle is capable of achieving a 3-log reduction in endotoxin (see *Sterilization and Sterility Assurance of Compensial Articles* (1211) and *Bacterial Endotoxins Test* (85)).

ENVIRONMENTAL QUALITY AND CONTROL

Achieving and maintaining sterility and overall freedom from contamination of a CSP is dependent on the quality status of the components incorporated, the process utilized, personnel performance, and the environmental conditions under which the process is performed. The standards required for the environmental conditions depend on the amount of exposure of the CSP to the immediate environment anticipated during processing. The quality and control of environmental conditions for each risk level of operation are explained in this section. In addition, operations using nonsterile components require the use of a method of preparation designed to produce a sterile preparation.

Exposure of Critical Sites

Maintaining the sterility and cleanliness (i.e., freedom from sterile foreign materials) of critical sites is a primary safeguard for CSPs. Critical sites are locations that include any component or fluid pathway surfaces (e.g., vial septa, injection ports, beakers) or openings (e.g., opened ampuls, needle hubs) exposed and at risk of direct contact with air (e.g., ambient room or HEPA filtered), moisture (e.g., oral

and mucosal secretions), or touch contamination. The risk of, or potential for, critical sites to be contaminated with microorganisms and foreign matter increases with increasing exposed area of the critical sites, the density or concentration of contaminants, and exposure duration to worse than ISO Class 5 (see *Table 1*) air. Examples include an opened ampul or vial stopper on a 10-mL or larger vial or an injection port on a package of intravenous solution having an area larger than the point of a needle or the tip of a syringe.

The nature of a critical site also affects the risk of contamination. The relatively rough, permeable surface of an elastomeric closure retains microorganisms and other contaminants after swabbing with a sterile 70% IPA pad more readily than does the smoother glass surface of the neck of an ampul. Therefore, the surface disinfection can be expected to be more effective for an ampul.

Protection of critical sites by precluding physical contact and airborne contamination shall be given the highest priority in sterile compounding practice. Airborne contaminants, especially those generated by sterile compounding personnel, are much more likely to reach critical sites than are contaminants that are adhering to the floor or other surfaces below the work level. Furthermore, large and high-density particles that are generated and introduced by compounding manipulations and personnel have the potential to settle on critical sites even when those critical sites are exposed within ISO Class 5 (see *Table 1*) air.

ISO Class 5 Air Sources, Buffer Areas, and Ante-Areas

The most common sources of ISO Class 5 (see *Table 1*) air quality for exposure of critical sites are horizontal and vertical LAFWs, CAIs, and CACIs. A clean room (see *Microbiological Evaluation of Clean Rooms and Other Controlled Environments* (1116)) is a compounding environment that is supplied with HEPA or HEPA-filtered air that meets ISO Class 7 (see *Table 1*), the access to which is limited to personnel trained and authorized to perform sterile compounding and facility cleaning. A buffer area is an area that provides at least ISO Class 7 (see *Table 1*) air quality.

Figure 1 is a conceptual representation of the placement of an ISO Class 5 (see *Table 1*) PEC in a segregated compounding area used for low-risk level CSPs with 12-hour or less BUD. This plan depicts the most critical operation area located within the PEC in a designated area (see definition of *Segregated Compounding Area*) separated from activities not essential to the preparation of CSPs. Placement of devices (e.g., computers, printers) and objects (e.g., carts, cabinets) that are not essential to compounding in the segregated area should be restricted or limited, depending on their effect on air quality in the ISO Class 5 (see *Table 1*) PEC.

Conceptual representation of USP Chapter <797> facility requirements

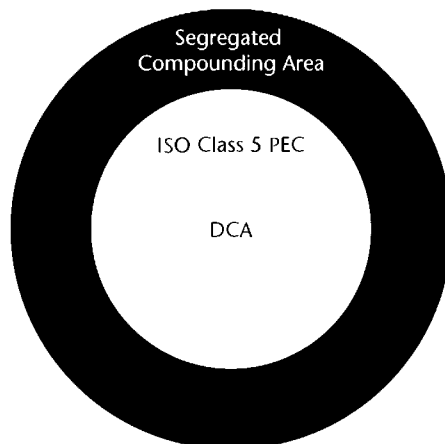


Figure 1. Conceptual representation of the placement of an ISO Class 5 PEC in a segregated compounding area used for low-risk level CSPs with 12-hour or less BUD.

Figure 2 is a conceptual representation of the arrangement of a facility for preparation of CSPs categorized as low-, medium-, and high-risk level. The quality of the environmental air increases with movement from the outer boundary to the direct compounding area (DCA). Placement of devices in ante-areas and buffer areas is dictated by their effect on the designated environmental quality of atmospheres and surfaces, which shall be verified by monitoring (see *Viable and Nonviable Environmental Sampling (ES) Testing*). It is the responsibility of each compounding facility to ensure that each source of ISO Class 5 (see *Table 1*) environment for exposure of critical sites and sterilization by filtration is properly located, operated, maintained, monitored, and verified.

Conceptual representation of USP Chapter <797> facility requirements

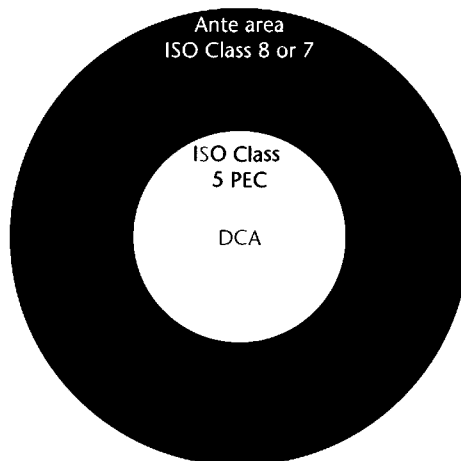


Figure 2. Conceptual representation of the arrangement of a facility for preparation of CSPs categorized as low-, medium-, and high-risk level.

Placement of devices (e.g., computers, printers) and objects (e.g., carts, cabinets) that are not essential to compounding in buffer areas is dictated by their effect on the required environmental quality of air atmospheres and surfaces, which shall be verified by monitoring (see *Viable and Nonviable Environmental Sampling (ES) Testing*). It is the responsibility of each compounding facility to ensure that

each source of ISO Class 5 (see *Table 1*) environment for exposure of critical sites and sterilization by filtration is properly located, operated, maintained, monitored, and verified.

Facility Design and Environmental Controls

Compounding facilities are physically designed and environmentally controlled to minimize airborne contamination from contacting critical sites. These facilities shall also provide a comfortable and well-lighted working environment, which typically includes a temperature of 20° or cooler, to maintain comfortable conditions for compounding personnel to perform flawlessly when attired in the required aseptic compounding garb. PECs typically include, but are not limited to, LAFWs, BSCs, CAls, and CACIs, which provide an ISO Class 5 (see *Table 1*) environment for the exposure of critical sites. PECs shall maintain ISO Class 5 (see *Table 1*) or better conditions for 0.5- μ m particles (dynamic operating conditions) while compounding CSPs. Secondary engineering controls such as buffer areas and ante-areas generally serve as a core for the location of the PEC. Buffer areas are designed to maintain at least ISO Class 7 (see *Table 1*) conditions for 0.5- μ m particles under dynamic conditions and ISO Class 8 (see *Table 1*) conditions for 0.5- μ m and larger particles under dynamic conditions for the ante-areas. Airborne contamination control is achieved in the PEC through the use of HEPA filters. The airflow in the PEC shall be unidirectional (laminar flow), and because of the particle collection efficiency of the filter, the “first air” at the face of the filter is, for the purposes of aseptic compounding, free from airborne particulate contamination. HEPA-filtered air shall be supplied in critical areas (ISO Class 5, see *Table 1*) at a velocity sufficient to sweep particles away from the compounding area and maintain unidirectional airflow during operations. Proper design and control prevents turbulence and stagnant air in the critical area. In situ air pattern analysis via smoke studies shall be conducted at the critical area to demonstrate unidirectional airflow and sweeping action over and away from the product under dynamic conditions.

The principles of HEPA-filtered unidirectional airflow in the work environment shall be understood and practiced in the compounding process in order to achieve the desired environmental conditions. Policies and procedures for maintaining and working within the PEC area shall be written and followed. The policies and procedures will be determined by the scope and risk levels of the aseptic compounding activities utilized during the preparation of the CSPs. The CSP work environment is designed to have the cleanest work surfaces (PEC) located in a buffer area. The buffer area shall maintain at least ISO Class 7 (see *Table 1*) conditions for 0.5- μ m and larger particles under dynamic operating conditions. The room shall be segregated from surrounding, unclassified spaces to reduce the risk of contaminants being blown, dragged, or otherwise introduced into the filtered unidirectional airflow environment, and this segregation shall be continuously monitored. For rooms providing a physical separation through the use of walls, doors, and pass-throughs, a minimum differential positive pressure of 0.02- to 0.05-inch water column is required. For buffer areas not physically separated from the ante-areas, the principle of displacement airflow shall be employed. This concept utilizes a low pressure differential, high airflow principle. Using displacement airflow typically requires an air velocity of 40 ft per minute or more from the buffer area across the line of demarcation into the ante-area.

The displacement concept shall not be used for high-risk compounding.⁶ The PEC shall be placed within a buffer area in such a manner as to avoid conditions that could adversely affect their operation. For example, strong air currents from opened doors, personnel traffic, or air streams from the HVAC systems can disrupt the unidirectional air-

flow in open-faced workbenches. The operators may also create disruptions in airflow by their own movements and by the placement of objects onto the work surface. The PEC shall be placed out of the traffic flow and in a manner to avoid disruption from the HVAC system and room cross-drafts. Room air exchanges are typically expressed as ACPHs. Adequate HEPA-filtered airflow supplied to the buffer area and ante-area is required to maintain cleanliness classification during operational activity through the number of ACPHs. Factors that should be considered when determining air-change requirements include number of personnel working in the room and compounding processes that generate particulates, as well as temperature effects. An ISO Class 7 (see *Table 1*) buffer area and ante-area supplied with HEPA-filtered air shall receive an ACPH of not less than 30. The PEC is a good augmentation to generating air changes in the air supply of an area but cannot be the sole source of HEPA-filtered air. If the area has an ISO Class 5 (see *Table 1*) recirculating device, a minimum of 15 ACPHs through the area supply HEPA filters is adequate, providing the combined ACPH is not less than 30. More air changes may be required, depending on the number of personnel and processes. HEPA-filtered supply air shall be introduced at the ceiling, and returns should be mounted low on the wall, creating a general top-down dilution of area air with HEPA-filtered make-up air. Ceiling-mounted returns are not recommended. All HEPA filters should be efficiency tested using the most penetrating particle size and should be leak tested at the factory and then leak tested again in situ after installation.⁷

Activities and tasks carried out within the buffer area shall be limited to only those necessary when working within a controlled environment. Only the furniture, equipment, supplies, and other material required for the compounding activities to be performed shall be brought into the area, and they shall be nonpermeable, nonshedding, cleanable, and resistant to disinfectants. Whenever such items are brought into the area, they shall first be cleaned and disinfected. Whenever possible, equipment and other items used in the buffer area shall not be taken out of the area except for calibration, servicing, or other activities associated with the proper maintenance of the item.

The surfaces of ceilings, walls, floors, fixtures, shelving, counters, and cabinets in the buffer area shall be smooth, impervious, free from cracks and crevices, and nonshedding, thereby promoting cleanability and minimizing spaces in which microorganisms and other contaminants may accumulate. The surfaces shall be resistant to damage by disinfectant agents. Junctures of ceilings to walls shall be coved or caulked to avoid cracks and crevices where dirt can accumulate. If ceilings consist of inlaid panels, the panels shall be impregnated with a polymer to render them impervious and hydrophobic, and they shall be caulked around each perimeter to seal them to the support frame. Walls may be constructed of flexible material (e.g., heavy gauge polymer), panels locked together and sealed, or of epoxy-coated gypsum board. Preferably, floors are overlaid with wide sheet vinyl flooring with heat-welded seams and coving to the sidewall. Dust-collecting overhangs, such as ceiling utility pipes, and ledges, such as windowsills, should be avoided. The exterior lens surface of ceiling lighting fixtures should be smooth, mounted flush, and sealed. Any other penetrations through the ceiling or walls shall be sealed. The buffer area shall not contain sources of water (sinks) or floor drains. Work surfaces shall be constructed of smooth, impervious materials, such as stainless steel or molded plastic, so that they are easily cleaned and disinfected. Carts should be of stainless steel wire, nonporous plastic, or sheet metal construction with good quality, cleanable casters to promote mobility. Storage shelving, counters, and cabinets shall be smooth, impervious, free from cracks and crevices, nonshed-

⁶ ISO 14644-4:2001 Cleanrooms and associated controlled environments—Design, construction, and start-up, *Case Postale 56*, CH-1211 Geneva 20, Switzerland, tel. +41 22 749 01 11.

⁷ By definition (TEST RP CC 001.4), HEPA filters are a minimum of 99.97% efficient when tested using 0.3- μ m thermally generated particles and a photometer or rated at their most penetrating particle size using a particle counter.

ding, cleanable, and disinfectable; their number, design, and manner of installation shall promote effective cleaning and disinfection.

Placement of Primary Engineering Controls

PECs (LAFWs, BSCs, CAIs, and CACIs) shall be located within a restricted access ISO Class 7 (see *Table 1*) buffer area (see *Figure 1*), with the following CAI/CACI exceptions below:

- Only authorized personnel and materials required for compounding and cleaning shall be permitted in the buffer area.
- Presterilization procedures for high-risk level CSPs, such as weighing and mixing, shall be completed in no worse than an ISO Class 8 (see *Table 1*) environment.
- PECs shall be located out of traffic patterns and away from room air currents that could disrupt the intended airflow patterns.

CAIs and CACIs shall be placed in an ISO Class 7 (see *Table 1*) buffer area *unless* they meet all of the following conditions:

- The isolator shall provide isolation from the room and maintain ISO Class 5 (see *Table 1*) during dynamic operating conditions, including transferring ingredients, components, and devices into and out of the isolator and during preparation of CSPs.
- Particle counts sampled approximately 6 to 12 inches upstream of the critical exposure site shall maintain ISO Class 5 (see *Table 1*) levels during compounding operations.
- Not more than 3520 particles (0.5 μm and larger) per m^3 shall be counted during material transfer, with the particle counter probe located as near to the transfer door as possible without obstructing the transfer.⁸

It is incumbent on the compounding personnel to obtain documentation from the manufacturer that the CAI/CACI will meet this standard when located in environments where the background particle counts exceed ISO Class 8 (see *Table 1*) for 0.5- μm and larger particles. When isolators are used for sterile compounding, the recovery time to achieve ISO Class 5 (see *Table 1*) air quality shall be documented and internal procedures developed to ensure that adequate recovery time is allowed after material transfer before and during compounding operations.

If the PEC is a CAI or CACI that does not meet the requirements above or is a LAFW or BSC that cannot be located within an ISO Class 7 (see *Table 1*) buffer area, then only low-risk level nonhazardous and radiopharmaceutical CSPs pursuant to a physician order for a specific patient may be prepared, and administration of the CSP shall commence within 12 hours of preparation or as recommended in the manufacturer's package insert, whichever is less.

Viable and Nonviable Environmental Sampling (ES) Testing

The ES program should provide information to staff and leadership to demonstrate that the PEC is maintaining an environment within the compounding area that consistently ensures acceptably low viable and nonviable particle levels. The compounding area includes the ISO Class 5 (see *Table 1*) PEC (LAFWs, BSCs, CAIs, and CACIs), buffer areas, ante-areas, and segregated compounding areas.

Environmental sampling shall occur as part a comprehensive quality management program and shall occur minimally under any of the following conditions:

- as part of the commissioning and certification of new facilities and equipment;

- following any servicing of facilities and equipment;
- as part of the re-certification of facilities and equipment (i.e., every 6 months);
- in response to identified problems with end products or staff technique; or
- in response to issues with CSPs, observed compounding personnel work practices, or patient-related infections (where the CSP is being considered as a potential source of the infection).

ENVIRONMENTAL NONVIALE PARTICLE TESTING PROGRAM

A program to sample nonviable airborne particles differs from that for viable particles in that it is intended to directly measure the performance of the engineering controls used to create the various levels of air cleanliness, for example, ISO Class 5, 7, or 8 (see *Table 1*).

Engineering Control Performance Verification—PECs (LAFWs, BSCs, CAIs, and CACIs) and secondary engineering controls (buffer and ante-areas) are essential components of the overall contamination control strategy for aseptic compounding. As such, it is imperative that they perform as designed and that the resulting levels of contamination be within acceptable limits. Certification procedures such as those outlined in *Certification Guide for Sterile Compounding Facilities* (CAG-003-2006)⁹ shall be performed by a qualified individual no less than every 6 months and whenever the device or room is relocated or altered or major service to the facility is performed.

Total Particle Counts—Certification that each ISO classified area, for example, ISO Class 5, 7, and 8 (see *Table 1*), is within established guidelines shall be performed no less than every 6 months and whenever the LAFW, BSC, CAI, or CACI is relocated or the physical structure of the buffer area or ante-area has been altered. Testing shall be performed by qualified operators using current, state-of-the-art electronic equipment with results of the following:

- ISO Class 5: not more than 3520 particles 0.5 μm and larger size per cubic meter of air for any LAFW, BSC, CAI, and CACI;
- ISO Class 7: not more than 352,000 particles of 0.5 μm size and larger per cubic meter of air for any buffer area;
- ISO Class 8: not more than 3,520,000 particles or 0.5 μm size and larger per cubic meter of air for any ante-area.

All certification records shall be maintained and reviewed by supervising personnel or other designated employees to ensure that the controlled environments comply with the proper air cleanliness, room pressures, and ACPHs.

PRESSURE DIFFERENTIAL MONITORING

A pressure gauge or velocity meter shall be installed to monitor the pressure differential or airflow between the buffer area and the ante-area and between the ante-area and the general environment outside the compounding area. The results shall be reviewed and documented on a log at least every work shift (minimum frequency shall be at least daily) or by a continuous recording device. The pressure between the ISO Class 7 (see *Table 1*) and the general pharmacy area shall not be less than 5 Pa (0.02 inch water column). In facilities where low- and medium-risk level CSPs are prepared, differential airflow shall maintain a minimum velocity of 0.2 meters per second (40 feet per minute) between buffer area and ante-area.

⁹ Controlled Environment Testing Association, 1500 Sunday Drive, Ste. 102, Raleigh, NC 27607; www.CETAinternational.org.

⁸ Sample procedures are detailed in CETA Applications Guide CAG-002-2006—section 2.09.

ENVIRONMENTAL VIABLE AIRBORNE PARTICLE TESTING PROGRAM

The risk of contaminating a CSP prepared under low-risk level and medium-risk level conditions is highly dependent on proper hand hygiene and garbing practices, compounding personnel aseptic technique, and the presence of surface contamination, assuming that all work is performed in a certified and properly functioning ISO Class 5 (see *Table 1*) PEC and secondary engineering controls, ISO Class 7 (see *Table 1*) buffer area, and ISO Class 8 (see *Table 1*) ante-area. High-risk level CSPs pose the greatest threat to patients because compounding personnel are tasked with the requirement of processing nonsterile components and devices in order to achieve sterility.

A sampling program in conjunction with an observational audit is designed to evaluate the competency of compounding personnel work practices, allowing for the implementation of corrective actions on an ongoing basis (see *Personnel Training and Competency Evaluation of Garbing, Aseptic Work Practices and Cleaning/Disinfection Procedures*).

Sampling Plan—An appropriate environmental sampling plan shall be developed for airborne viable particles based on a risk assessment of compounding activities performed.

Selected sampling sites shall include locations within each ISO Class 5 (see *Table 1*) environment and in the ISO Class 7 and 8 (see *Table 1*) areas and in the segregated compounding areas at greatest risk of contamination (e.g., work areas near the ISO Class 5 [see *Table 1*] environment, counters near doors, pass-through boxes). The plan shall include sample location, method of collection, frequency of sampling, volume of air sampled, and time of day as related to activity in the compounding area and action levels.

Review of the data generated during a sampling event may detect elevated amounts of airborne microbial bioburden; such changes may be indicative of adverse changes within the environment. It is recommended that compounding personnel refer to *Microbiological Evaluation of Clean Rooms and Other Controlled Environments* (1116) and the CDC's "Guidelines for Environmental Infection Control in Healthcare Facilities, 2003" for more information.

Growth Medium—A general microbiological growth medium such as Soybean-Casein Digest Medium shall be used to support the growth of bacteria. Malt extract agar or some other media that supports the growth of fungi shall be used in high-risk level compounding environments. Media used for surface sampling must be supplemented with additives to neutralize the effects of disinfecting agents (e.g., TSA with lecithin and polysorbate 80).

Viable Air Sampling—Evaluation of airborne microorganisms using volumetric collection methods in the controlled air environments (LAFWs, CAIs, clean room or buffer areas, and ante-areas) shall be performed by properly trained individuals for all compounding risk levels.

Impaction shall be the preferred method of volumetric air sampling. Use of settling plates for qualitative air sampling may not be able to determine adequately the quality of air in the controlled environment. The settling of particles by gravity onto culture plates depends on the particle size and may be influenced by air movement. Consequently, the number of colony-forming units (cfu) on a settling plate may not always relate to the concentrations of viable particles in the sampled environment.

For low-, medium-, and high-risk level compounding, air sampling shall be performed at locations that are prone to contamination during compounding activities and during other activities such as staging, labeling, gowning, and cleaning. Locations shall include zones of air backwash turbulence within LAFW and other areas where air backwash turbulence may enter the compounding area (doorways, in and around ISO Class 5 [see *Table 1*] PEC and environments). Consideration should be given to the overall effect the chosen sampling method will have on the unidirectional airflow within a compounding environment.

For low-risk level CSPs with 12-hour or less BUD prepared in a PEC (LAFWs, BSCs, CAIs) that maintains an ISO Class 5 (see *Table 1*), air sampling shall be performed at locations inside the ISO Class 5 (see *Table 1*) environment and other areas that are in close proximity to the ISO Class 5 (see *Table 1*) environment during the certification of the PEC.

Air Sampling Devices—There are a number of manufacturers of electronic air sampling equipment. It is important that personnel refer to the manufacturer's recommended procedures when using the equipment to perform volumetric air sampling procedures. The instructions in the manufacturer's user's manual for verification and use of electric air samplers that actively collect volumes of air for evaluation must be followed. A sufficient volume of air (400 to 1000 liters) shall be tested at each location in order to maximize sensitivity. The volumetric air sampling devices need to be serviced and calibrated as recommended by the manufacturer.

It is recommended that compounding personnel also refer to *Methodology and Instrumentation for Quantitation of Viable Airborne Microorganisms* under *Microbiological Evaluation of Clean Rooms and Other Controlled Environments* (1116), which provides more information on the use of volumetric air samplers and volume of air that should be sampled to detect environmental bioburden excursions.

Air Sampling Frequency and Process—Air sampling shall be performed at least semiannually (i.e., every 6 months) as part of the re-certification of facilities and equipment. If compounding occurs in multiple locations within an institution (e.g., main pharmacy, satellites), environmental sampling is required for each individual compounding area. A sufficient volume of air shall be sampled and the manufacturer's guidelines for use of the electronic air sampling equipment followed. Any facility construction or equipment servicing may require that air sampling be performed during these events.

Incubation Period—At the end of the designated sampling or exposure period for air sampling activities, the microbial growth media plates are recovered and their covers secured (e.g., taped), and they are inverted and incubated at a temperature and for a time period conducive to multiplication of microorganisms. TSA should be incubated at 30° to 35° for 48 to 72 hours. Malt extract agar or other suitable fungal media should be incubated at 26° to 30° for 5 to 7 days. The number of discrete colonies of microorganisms are counted and reported as cfu and documented on an environmental sampling form. Counts from air sampling need to be transformed into cfu per cubic meter of air and evaluated for adverse trends.

Action Levels, Documentation, and Data Evaluation—The value of viable microbial sampling of the air in the compounding environment is realized when the data are used to identify and correct an unacceptable situation. Sampling data shall be collected and reviewed on a periodic basis as a means of evaluating the overall control of the compounding environment. If an activity consistently shows elevated levels of microbial growth, competent microbiology personnel shall be consulted.

Any cfu count that exceeds its respective action level (see *Table 2*) should prompt a re-evaluation of the adequacy of personnel work practices, cleaning procedures, operational procedures, and air filtration efficiency within the aseptic compounding location. An investigation into the source of the contamination shall be conducted. Sources could include HVAC systems, damaged HEPA filters, and changes in personnel garbing or work practices. The source of the problem shall be eliminated, the affected area cleaned, and resampling performed.

Counts of cfu are to be used as an approximate measure of the environmental microbial bioburden. Action levels are determined on the basis of cfu data gathered at each sampling location and trended over time. The numbers in *Table 2* should be used only as guidelines. Regardless of the number of cfu identified in the pharmacy, further corrective ac-

tions will be dictated by the identification of microorganisms recovered (at least the genus level) by an appropriate credentialed laboratory of any microbial bioburden captured as a cfu using an impaction air sampler. Highly pathogenic microorganisms (e.g., Gram-negative rods, coagulase positive staphylococcus, molds and yeasts) can be potentially fatal to patients receiving CSPs and must be immediately remedied, regardless of cfu count, with the assistance of a competent microbiologist, infection control professional, or industrial hygienist.

Table 2. Recommended Action Levels for Microbial Contamination*

†(cfu per cubic meter [1000 liters] of air per plate)

| Classification | Air Sample† |
|----------------------|-------------|
| ISO Class 5 | > 1 |
| ISO Class 7 | > 10 |
| ISO Class 8 or worse | > 100 |

* Guidance for Industry—Sterile Drug Products Produced by Aseptic Processing—Current Good Manufacturing Practice—US HHS, FDA September 2004.

Additional Personnel Requirements

Food, drinks, and materials exposed in patient care and treatment areas shall not enter ante-areas, buffer areas, or segregated compounding areas where components and ingredients of CSPs are present. When compounding activities require the manipulation of a patient’s blood-derived or other biological material (e.g., radiolabeling a patient’s or donor’s white blood cells), the manipulations shall be clearly separated from routine material-handling procedures and equipment used in CSP preparation activities, and they shall be controlled by specific SOPs in order to avoid any cross-contamination. Packaged compounding supplies and components, such as needles, syringes, tubing sets, and small- and large-volume parenterals, should be uncartoned and wiped down with a disinfectant that does not leave a residue (e.g., sterile 70% IPA), when possible in an ante-area of ISO Class 8 (see Table 1) air quality, before being passed into the buffer areas. Personnel hand hygiene and garbing procedures are also performed in the ante-area, which may contain a sink that enables hands-free use with a closed system of soap dispensing to minimize the risk of extrinsic contamination. There shall be some demarcation designation that separates the ante-area from the buffer area. Adequate provision for performing antiseptic hand cleansing using an alcohol-based surgical hand scrub with persistent activity followed by the donning of sterile gloves should be provided after entry into the buffer area.

Cleaning and Disinfecting the Compounding Area

Environmental contact is a major source of microbial contamination of CSPs. Consequently, scrupulous attention to cleaning and disinfecting the sterile compounding areas is required to minimize this as a source of CSP contamination.

The cleaning and disinfecting practices and frequencies in this section apply to ISO Class 5 (see Table 1) compounding areas for exposure of critical sites as well as buffer areas, ante-areas, and segregated compounding areas. Compounding personnel are responsible for ensuring that the frequency of cleaning is in accordance with the requirements stated in Table 3 and determining the cleaning and disinfecting products to be used (see Appendix II). Any organizational or institutional policies regarding disinfectant selection should be considered by compounding personnel. All cleaning and disinfecting practices and policies for the compounding of CSPs shall be included in written SOPs and shall be followed by all compounding personnel.

The selection and use of disinfectants in healthcare facilities is guided by several properties, such as microbicidal activity, inactivation by organic matter, residue, and shelf life (see Appendix II). In general, highly toxic disinfectants, such as glutaraldehyde, are not used on housekeeping surfaces (e.g., floors, countertops). Many disinfectants registered by the EPA are one-step disinfectants. This means that the disinfectant has been formulated to be effective in the presence of light to moderate soiling without a pre-cleaning step.

Surfaces in LAFWs, BSCs, CAls, and CACIs, which are intimate to the exposure of critical sites, require disinfecting more frequently than do housekeeping surfaces such as walls and ceilings. Disinfecting sterile compounding areas shall occur on a regular basis at the intervals noted in Table 3 when spills occur, when the surfaces are visibly soiled, and when microbial contamination is known to have been or is suspected of having been introduced into the compounding areas.

When the surface to be disinfected has heavy soiling, a cleaning step is recommended prior to the application of the disinfectant. Trained compounding personnel are responsible for developing, implementing, and practicing the procedures for cleaning and disinfecting the DCAs written in the SOPs. Cleaning and disinfecting shall occur before compounding is performed. Items shall be removed from all areas to be cleaned, and surfaces shall be cleaned by removing loose material and residue from spills; for example, water-soluble solid residues are removed with sterile water (for injection or irrigation) and low-shedding wipes. This shall be followed by wiping with a residue-free disinfecting agent such as sterile 70% IPA, which is allowed to dry before compounding begins.

Cleaning and disinfecting surfaces in the LAFWs, BSCs, CAls, and CACIs are the most critical practices before the preparation of CSPs. Consequently, such surfaces shall be cleaned and disinfected frequently, including at the beginning of each work shift, before each batch preparation is started, every 30 minutes during continuous compounding periods of individual CSPs, when there are spills, and when surface contamination is known or suspected from procedural breaches.

Work surfaces in the ISO Class 7 (see Table 1) buffer areas and ISO Class 8 (see Table 1) ante-areas as well as segregated compounding areas shall be cleaned and disinfected at least daily, and dust and debris shall be removed when necessary from storage sites for compounding ingredients and supplies using a method that does not degrade the ISO Class 7 or 8 (see Table 1) air quality (see Disinfectants and Antiseptics <1072>).

Table 3. Minimum Frequency of Cleaning and Disinfecting Compounding Areas

| Site | Minimum Frequency |
|--|---|
| ISO Class 5 (see Table 1) Primary Engineering Control (e.g., LAFW, BSC, CAI, CACI) | At the beginning of each shift, before each batch, not longer than 30 minutes following the previous surface disinfection when ongoing compounding activities are occurring, after spills, and when surface contamination is known or suspected |
| Counters and easily cleanable work surfaces | Daily |
| Floors | Daily |
| Walls | Monthly |
| Ceilings | Monthly |
| Storage shelving | Monthly |

Floors in the buffer or clean area, ante-area, and segregated compounding area are cleaned by mopping with a cleaning and disinfecting agent once daily at a time when no aseptic operations are in progress. Mopping shall be performed by trained personnel using approved agents and

procedures described in the written SOPs. It is incumbent on compounding personnel to ensure that such cleaning is performed properly. In the buffer or clean area, ante-area, and segregated compounding area, walls, ceilings, and shelving shall be cleaned and disinfected monthly. Cleaning and disinfecting agents are to be used with careful consideration of compatibilities, effectiveness, and inappropriate or toxic residues (see *Appendix I*). Their schedules of use and methods of application shall be in accordance with written SOPs and followed by custodial or compounding personnel.

All cleaning materials, such as wipers, sponges, and mops, shall be nonshedding, preferably composed of synthetic micro fibers, and dedicated to use in the buffer or clean area, ante-area, and segregated compounding areas and shall not be removed from these areas except for disposal. Floor mops may be used in both the buffer or clean area and ante-area, but only in that order. Ideally, all cleaning tools are discarded after one use by collection in suitable plastic bags and removed with minimal agitation. If cleaning materials (e.g., mops) are reused, procedures shall be developed (based on manufacturers' recommendations) that ensure that the effectiveness of the cleaning device is maintained and that repeated use does not add to the bioburden of the area being cleaned.

Supplies and equipment removed from shipping cartons shall be wiped with a suitable disinfecting agent (e.g., sterile 70% IPA) delivered from a spray bottle or other suitable delivery method. After the disinfectant is sprayed or wiped on a surface to be disinfected, the disinfectant shall be allowed to dry, during which time the item shall not be used for compounding purposes.

Wiping with small sterile 70% IPA swabs that are commercially available in individual foil-sealed packages (or a comparable method) is preferred for disinfecting entry points on bags and vials, allowing the IPA to dry before piercing stoppers with sterile needles and breaking necks of ampuls. The surface of the sterile 70% IPA swabs used for disinfecting entry points of sterile packages and devices shall not contact any other object before contacting the surface of the entry point. Sterile 70% IPA wetted gauze pads or other particle-generating material shall not be used to disinfect the sterile entry points of packages and devices.

When sterile supplies are received in sealed pouches designed to keep them sterile until opening, the sterile supplies may be removed from the covering pouches as the supplies are introduced into the ISO Class 5 (see *Table 1*) PEC (LAFW, BSC, CAI, CACI) without the need to disinfect the individual sterile supply items. No shipping or other external cartons may be taken into the buffer or clean area or segregated compounding area.

Personnel Cleansing and Garbing

The careful cleansing of hands and arms and the correct donning of PPE by compounding personnel constitute the first major step in preventing microbial contamination in CSPs. Personnel shall also be thoroughly competent and highly motivated to perform flawless aseptic manipulations with ingredients, devices, and components of CSPs. Squamous cells are normally shed from the human body at a rate of 10^6 or more per hour, and those skin particles are laden with microorganisms.^{10, 11} When individuals are experiencing rashes, sunburn, weeping sores, conjunctivitis, active respiratory infection, as well as when they wear cosmetics, they shed these particles at even higher rates. Particles shed from compounding personnel pose an increased risk of microbial contamination of critical sites of CSPs. Therefore, compounding personnel with such conditions as mentioned above shall be excluded from working in ISO Class 5 (see

Table 1) and ISO Class 7 (see *Table 1*) compounding areas until their conditions are remedied.

Before entering the buffer area or segregated compounding area (see *Low-Risk Level CSPs with 12-Hour or Less BUD*), compounding personnel shall remove personal outer garments (e.g., bandannas, coats, hats, jackets, scarves, sweaters, vests); all cosmetics, because they shed flakes and particles; and all hand, wrist, and other visible jewelry or piercings (e.g., earrings, lip or eyebrow piercings) that can interfere with the effectiveness of PPE (e.g., fit of gloves and cuffs of sleeves). The wearing of artificial nails or extenders is prohibited while working in the sterile compounding environment. Natural nails shall be kept neat and trimmed.

Personnel shall don the following PPE in an order that proceeds from those activities considered the dirtiest to those considered the cleanest. Garbing activities considered the dirtiest include donning of dedicated shoes or shoe covers, head and facial hair covers (e.g., beard covers in addition to face masks), and face masks/eye shields. Eye shields are optional unless working with irritants such as germicidal disinfecting agents or when preparing hazardous drugs.

After donning dedicated shoes or shoe covers, head and facial hair covers, and face masks, a hand cleansing procedure shall be performed by removing debris from underneath fingernails using a nail cleaner under running warm water followed by vigorous hand washing. Hands and forearms shall be washed to the elbows for at least 30 seconds with soap (either nonantimicrobial or antimicrobial) and water while in the ante-area. The use of antimicrobial scrub brushes is not recommended because they can cause skin irritation and skin damage. Hands and forearms to the elbows will be completely dried using either lint-free disposable towels or an electronic hand dryer. After completion of hand washing, a nonshedding gown with sleeves that fit snugly around the wrists and enclosed at the neck is donned. Gowns designated for buffer area use shall be worn, and preferably they should be disposable. If reusable gowns are worn, they should be laundered appropriately for buffer area use.

Once inside the buffer area or segregated compounding area (see *Low-Risk Level CSPs with 12-Hour or Less BUD*), and prior to donning sterile powder-free gloves, antiseptic hand cleansing shall be performed using a waterless alcohol-based surgical hand scrub with persistent activity¹² following manufacturers' recommendations. Hands are allowed to dry thoroughly before donning sterile gloves.

Sterile gloves shall be the last item donned before compounding begins. Gloves become contaminated when they contact nonsterile surfaces during compounding activities. Disinfection of contaminated gloved hands may be accomplished by wiping or rubbing sterile 70% IPA to all contact surface areas of the gloves and letting the gloved hands dry thoroughly. Only use gloves that have been tested for compatibility with alcohol disinfection by the manufacturer. Routine application of sterile 70% IPA shall occur throughout the compounding process and whenever nonsterile surfaces (e.g. vials, counter tops, chairs, carts) are touched. Gloves on hands shall also be routinely inspected for holes, punctures, or tears and replaced immediately if such are detected. Antiseptic hand cleansing shall be performed as indicated above. Compounding personnel shall be trained and evaluated in the avoidance of touching critical sites.

When compounding personnel exit the compounding area during a work shift, the exterior gown may be removed and retained in the compounding area if not visibly soiled, to be re-donned during that same work shift only. However, shoe covers, hair and facial hair covers, face masks/eye shields, and gloves shall be replaced with new ones before re-entering the compounding area, and proper hand hygiene shall be performed.

During high-risk compounding activities that precede terminal sterilization, such as weighing and mixing of nonster-

¹⁰ Agalloco J, Akers JE. Aseptic Processing: A Vision of the Future. *Pharmaceutical Technology*, 2005. Aseptic Processing supplement, s16.

¹¹ Eaton T. Microbial Risk Assessment for Aseptically Prepared Products. *Am Pharm Rev*. 2005; 8 (5, Sep/Oct): 46–51.

¹² *Guideline for Hand Hygiene in Health care Settings*, MMWR, October 25, 2002, vol. 51, No. RR-16 available on the Internet at <http://www.cdc.gov/handhygiene/>.

ile ingredients, compounding personnel shall be garbed and gloved the same as when performing compounding in an ISO Class 5 (see *Table 1*) environment. Properly garbed and gloved compounding personnel who are exposed to air quality that is either known or suspected to be worse than ISO Class 7 (see *Table 1*) shall re-garb PPE along with washing their hands properly, performing antiseptic hand cleansing with a waterless alcohol-based surgical hand scrub, and donning sterile gloves upon re-entering the ISO Class 7 (see *Table 1*) buffer area. When CAIs and CACIs are the source of the ISO Class 5 (see *Table 1*) environment, the garbing and gloving requirements for compounding personnel should be as described above, unless the isolator manufacturer can provide written documentation based on validated environmental testing that any component(s) of PPE or personnel cleansing are not required.

Personnel Training and Competency Evaluation of Garbing, Aseptic Work Practices, and Cleaning/Disinfection Procedures

Personnel who prepare CSPs shall be trained conscientiously and skillfully by expert personnel and through multimedia instructional sources and professional publications in the theoretical principles and practical skills of garbing procedures, aseptic work practices, achieving and maintaining ISO Class 5 (see *Table 1*) environmental conditions, and cleaning and disinfection procedures. This training shall be completed and documented before any compounding personnel begin to prepare CSPs. Compounding personnel shall complete didactic training, pass written competence assessments, undergo skill assessment using observational audit tools, and media-fill testing (see *Appendices III–V*).

Media-fill testing of aseptic work skills shall be performed initially before beginning to prepare CSPs and at least annually thereafter for low- and medium-risk level compounding and semiannually for high-risk level compounding.

Compounding personnel who fail written tests or observational audits or whose media-fill test vials have one or more units showing visible microbial contamination shall be re-instructed and re-evaluated by expert compounding personnel to ensure correction of all aseptic work practice deficiencies. Compounding personnel shall pass all evaluations prior to resuming compounding of sterile preparations. In addition to didactic evaluation and aseptic media fill, compounding personnel must demonstrate proficiency of proper hand hygiene, garbing, and consistent cleaning procedures.

In the event that cleaning and disinfecting procedures are also performed by other support personnel (e.g., institutional environmental services, housekeeping), thorough training of proper hand hygiene, garbing, and cleaning and disinfection procedures shall be done by a qualified aseptic compounding expert. After completion of training, support personnel shall routinely undergo performance evaluation of proper hand hygiene, garbing, and all applicable cleaning and disinfecting procedures conducted by a qualified aseptic compounding expert.

COMPETENCY EVALUATION OF GARBING AND ASEPTIC WORK PRACTICE

The risk of contaminating a CSP prepared under low-risk level and medium-risk level conditions is highly dependent on proper hand hygiene and garbing practices, compounding personnel aseptic technique, and the presence of surface contamination, assuming that all work is performed in a certified and properly functioning ISO Class 5 (see *Table 1*) PEC and secondary engineering controls, ISO Class 7 (see *Table 1*) buffer area, and ISO Class 8 (see *Table 1*) ante-area. High-risk level CSPs pose the greatest threat to patients because compounding personnel are tasked with the requirement of processing nonsterile components and devices in order to achieve sterility. Compounding personnel shall be

evaluated initially prior to beginning compounding CSPs and whenever an aseptic media fill is performed using a form such as the *Sample Form for Assessing Hand Hygiene and Garbing Related Practices of Compounding Personnel* (see *Appendix III*) and the personnel glove fingertip sampling procedures indicated below.

Aseptic Work Practice Assessment and Evaluation via Personnel Glove Fingertip Sampling—Sampling of compounding personnel glove fingertips shall be performed for all CSP risk level compounding because direct touch contamination is the most likely source of introducing microorganisms into CSPs prepared by humans. Glove fingertip sampling shall be used to evaluate the competency of personnel in performing hand hygiene and garbing procedures in addition to educating compounding personnel on proper work practices, which include frequent and repeated glove disinfection using sterile 70% IPA during actual compounding of CSPs. All personnel shall demonstrate competency in proper hand hygiene and garbing procedures and in aseptic work practices (e.g., disinfection of component surfaces, routine disinfection of gloved hands).

Sterile contact agar plates shall be used to sample the gloved fingertips of compounding personnel after garbing in order to assess garbing competency and after completing the media-fill preparation (without applying sterile 70% IPA) in order to assess the adequacy of aseptic work practices prior to being initially allowed to prepare CSPs for human use and for more experienced personnel to maintain their qualifications to prepare CSPs for human use.

Garbing And Gloving Competency Evaluation—Compounding personnel shall be visually observed during the process of performing hand hygiene and garbing procedures (see *Personnel Cleansing and Garbing under Personnel Training and Evaluation in Aseptic Manipulation Skills* above). The visual observation shall be documented on a form such as the *Sample Form for Assessing Hand Hygiene and Garbing Related Practices of Compounding Personnel* (see *Appendix III*) and maintained to provide a permanent record and long-term assessment of personnel competency.

Gloved Fingertip Sampling—All compounding personnel shall successfully complete an initial competency evaluation and gloved fingertip/thumb sampling procedure (zero cfu) no less than three times before initially being allowed to compound CSPs for human use. Immediately after the compounding employee completes the hand hygiene and garbing procedure (e.g., donning of sterile gloves prior to any disinfection with sterile 70% IPA), the evaluator will collect a gloved fingertip and thumb sample from both hands of the compounding employee onto appropriate agar plates by lightly pressing each fingertip into the agar. The plates will be incubated for the appropriate incubation period and at the appropriate temperature (see *Incubation Period*). After completing the initial gowning and gloving competency evaluation, re-evaluation of all compounding personnel for this competency shall occur at least annually for personnel who compound low- and medium-risk level CSPs and semiannually for personnel who compound high-risk level CSPs using one or more sample collections during any media-fill test procedure before they are allowed to continue compounding CSPs for human use.

Immediately prior to sampling, gloves shall not be disinfected with sterile 70% IPA. Disinfecting gloves immediately before sampling will provide false negative results. Plates filled with nutrient agar with neutralizing agents such as lecithin and polysorbate 80 added shall be used when sampling personnel fingertips. Personnel shall “touch” the agar with the fingertips of both hands in separate plates in a manner to create a slight impression in the agar. The sampled gloves shall be immediately discarded and proper hand hygiene performed after sampling. The nutrient agar plates shall be incubated as stated below (see *Incubation Period*). Results should be reported separately as number of cfu per employee per hand (left hand, right hand). The cfu action

level for gloved hands will be based on the total number of cfu on both gloves, not per hand.

Incubation Period—At the end of the designated sampling period for compounding personnel competency assessment activities (surface or personnel), the agar plates are recovered and covers secured and they are inverted and incubated at a temperature and for a time period conducive to multiplication of microorganisms. TSA with lecithin and polysorbate 80 shall be incubated at 30° to 35° for 48 to 72 hours.

Aseptic Manipulation Competency Evaluation—After successful completion of an initial Hand Hygiene and Garbing Competency Evaluation, all compounding personnel shall have their aseptic technique and related practice competency evaluated initially during the *Media-Fill Test Procedure* and subsequent annual or semi-annual *Media-Fill Test Procedures*. Records of these evaluations will be maintained using a form such as the *Sample Form for Assessing Aseptic Technique and Related Practices of Compounding Personnel* (see *Appendix IV*) and maintained to provide a permanent record of and long-term assessment of personnel competency.

Media-Fill Test Procedure—The skill of personnel to aseptically prepare CSPs shall be evaluated using sterile fluid bacterial culture media-fill verification, (i.e., sterile bacterial culture medium transfer via a sterile syringe and needle). Media-fill testing is used to assess the quality of the aseptic skill of compounding personnel. Media-fill tests shall represent the most challenging or stressful conditions actually encountered by the personnel being evaluated when they prepare low- and medium-risk level CSPs and when sterilizing high-risk level CSPs. Media-fill challenge tests are also used to verify the capability of the compounding environment and processes to produce sterile preparations.

A commercially available sterile fluid culture media, such as Soybean–Casein Digest Medium (see *Sterility Tests* (71)), that is able to promote exponential colonization of bacteria that are most likely to be transmitted to CSPs from the compounding personnel and environment is commonly used. For high-risk level CSPs nonsterile commercially available Soybean–Casein Digest Medium may be used to make a 3% solution. Normal processing steps, including filter sterilization, shall be mimicked. Media-filled vials shall be incubated at 20° to 25° or at 30° to 35° for a minimum of 14 days. If two temperatures are used for incubation of media-filled samples, then these filled containers should be incubated for at least 7 days at each temperature (see *Microbiological Evaluation of Clean Rooms and Other Controlled Environments* (116)). Failure is indicated by visible turbidity in any one of the media-fill units on or before 14 days. Other methodologies recommended by a competent microbiologist to enhance recovery time and sensitivity to detect microbial contamination may be considered (see *CSP Microbial Contamination Risk Levels* for examples of media-fill procedures).

SURFACE CLEANING AND DISINFECTION SAMPLING AND ASSESSMENT

Surface sampling is an important component of the maintenance of a suitable microbially controlled environment for compounding CSPs, especially since transfer of microbial contamination from improperly disinfected work surfaces via inadvertent touch contact by compounding personnel can be a potential source of contamination into CSPs. It is useful for evaluating facility and work surface cleaning and disinfecting procedures and employee competency in work practices such as disinfection of component/vial surface cleaning. Surface sampling shall be performed in all ISO classified areas on a periodic basis. Sampling can be accomplished using contact plates or swabs, and it shall be done at the conclusion of compounding. Locations to be sampled shall be defined in a sample plan or on a form. The size of the

plate to be used for each sampled location usually ranges from 24 to 30 cm². Contact plates are filled with general solid agar growth medium and neutralizing agents above the rim of the plate, and they are used for sampling regular or flat surfaces. Swabs may be used for sampling irregular surfaces, especially for equipment (see *Microbiological Evaluation of Clean Rooms and Other Controlled Environments* (116)).

Cleaning and Disinfecting Competency Evaluation—Compounding personnel and other personnel responsible for cleaning shall be visually observed during the process of performing cleaning and disinfecting procedures, during initial personnel training on cleaning procedures, during changes in cleaning staff, and at the completion of any media-fill test procedure (see *Cleaning and Disinfecting of Compounding Areas*).

The visual observation shall be documented using a form such as the *Sample Form for Assessing Cleaning and Disinfection Procedures* (see *Appendix V*) and maintained to provide a permanent record and long-term assessment of personnel competency.

Surface Collection Methods—To sample surfaces using a contact plate, gently touch the sample area with the agar surface and roll the plate across the surface to be sampled. The contact plate will leave a growth media residue behind; therefore, immediately after sampling with the contact plate, the sampled area shall be thoroughly wiped with a nonshedding wipe soaked in sterile 70% IPA.

If an area is sampled via the swab method, collection of the sample is processed by using appropriate procedures that will result in the surface location equivalent to that of a contact plate. After swabbing the surface to be sampled, swabs are placed in an appropriate diluent; an aliquot is planted on or in the specified nutrient agar. Results should be reported as cfu per unit of surface area.

Action Levels, Documentation, and Data Evaluation

The value of viable microbial monitoring of gloved fingertips and surfaces of components and the compounding environment are realized when the data are used to identify and correct an unacceptable work practice. Sampling data shall be collected and reviewed on a routine basis as a means of evaluating the overall control of the compounding environment. If an activity consistently shows elevated levels of microbial growth, competent microbiology personnel shall be consulted.

Any cfu count that exceeds its respective action level (see *Table 4*) should prompt a re-evaluation of the adequacy of personnel work practices, cleaning procedures, operational procedures, and air filtration efficiency within the aseptic compounding location. An investigation into the source of the contamination shall be conducted. Sources could include HVAC systems, damaged HEPA filters, and changes in personnel garbing or working practices. The source of the problem shall be eliminated, the affected area cleaned, and resampling performed.

When gloved fingertip sample results exceed action levels after proper incubation, a review of hand hygiene and garbing procedures as well as glove and surface disinfection procedures and work practices shall be performed and documented. Employee training may be required to correct the source of the problem.

Counts of cfu are to be used as an approximate measure of the environmental microbial bioburden. Action levels are determined on the basis of cfu data gathered at each sampling location and trended over time. The numbers in *Table 4* should be used only as guidelines. Regardless of the number of cfu identified in the compounding facility, further corrective actions will be dictated by the identification of microorganisms recovered (at least the genus level) by an appropriate credentialed laboratory of any microbial bi-

oburden captured as a cfu using an impaction air sampler. Highly pathogenic microorganisms (e.g., Gram-negative rods, coagulase positive staphylococcus, molds and yeasts) can be potentially fatal to patients receiving CSPs and shall be immediately remedied, regardless of cfu count, with the assistance of a competent microbiologist, infection control professional, or industrial hygienist.

Table 4. Recommended Action Levels for Microbial Contamination*

| Classification | Fingertip Sample | Surface Sample (Contact Plate) (cfu per plate) |
|----------------------|------------------|---|
| ISO Class 5 | > 3 | > 3 |
| ISO Class 7 | N/A | > 5 |
| ISO Class 8 or worse | N/A | > 100 |

* Pharmaceutical Inspection Co-operation Scheme (PIC/S) Guide to Good Manufacturing Practice for Medicinal Products Annexes PE 009-6, 5 April 2007.

SUGGESTED STANDARD OPERATING PROCEDURES (SOPs)

The compounding facility shall have written, properly approved SOPs designed to ensure the quality of the environment in which a CSP is prepared. The following procedures are recommended:

- Access to the buffer area is restricted to qualified personnel with specific responsibilities or assigned tasks in the compounding area.
- All cartoned supplies are decontaminated in the area by removing them from shipping cartons and wiping or spraying them with a nonresidue-generating disinfecting agent while they are being transferred to a clean and properly disinfected cart or other conveyance for introduction into the buffer area. Manufacturers' directions or published data for minimum contact time will be followed. Individual pouched sterile supplies need not be wiped because the pouches can be removed as these sterile supplies are introduced into the buffer area.
- Supplies that are required frequently or otherwise needed close at hand but not necessarily needed for the scheduled operations of the shift are decontaminated and stored on shelving in the ante-area.
- Carts used to bring supplies from the storeroom cannot be rolled beyond the demarcation line in the ante-area, and carts used in the buffer area cannot be rolled outward beyond the demarcation line unless cleaned and disinfected before returning.
- Generally, supplies required for the scheduled operations of the shift are wiped down with an appropriate disinfecting agent and brought into the buffer area, preferably on one or more movable carts. Supplies that are required for back-up or general support of operations may be stored on the designated shelving in the buffer area, but excessive amounts of supplies are to be avoided.
- Nonessential objects that shed particles shall not be brought into the buffer area, including pencils, cardboard cartons, paper towels, and cotton items (e.g., gauze pads).
- Essential paper-related products (e.g., paper syringe overwraps, work records contained in a protective sleeve) shall be wiped down with an appropriate disinfecting agent prior to being brought into the buffer area.
- Traffic flow in and out of the buffer area shall be minimized.
- Personnel preparing to enter the buffer area shall remove all personal outer garments, cosmetics (because they shed flakes and particles), and all hand, wrist, and other visible jewelry or piercings that can interfere with the effectiveness of PPE.
- Personnel entering the ante-area shall don attire as described in *Personnel Cleansing and Garbing and Personnel Training and Competency Evaluation of Garbing, Aseptic Work Practices and Cleaning/Disinfection Procedures*.
- Personnel shall then thoroughly wash hands and forearms to the elbow with soap and water for at least 30 seconds. An air dryer or disposable nonshedding towels are used to dry hands and forearms after washing.
- Personnel entering the buffer area shall perform anti-septic hand cleansing prior to donning sterile gloves using a waterless alcohol-based surgical hand scrub with persistent activity.
- Chewing gum, drinks, candy, or food items shall not be brought into the buffer area or ante-area. Materials exposed in patient care and treatment areas shall never be introduced into areas where components and ingredients for CSPs are present.
- At the beginning of each compounding activity session, and whenever liquids are spilled, the surfaces of the direct compounding environment are first cleaned with USP Purified Water to remove water-soluble residues. Immediately thereafter, the same surfaces are disinfected with a nonresidue-generating agent using a nonlinting wipe.
- Primary engineering controls shall be operated continuously during compounding activity. When the blower is turned off and before other personnel enter to perform compounding activities, only one person shall enter the buffer area for the purposes of turning on the blower (for at least 30 minutes) and disinfecting the work surfaces.
- Traffic in the area of the DCA is minimized and controlled.
- Supplies used in the DCA for the planned procedures are accumulated and then decontaminated by wiping or spraying the outer surface with sterile 70% IPA or removing the outer wrap at the edge of the DCA as the item is introduced into the aseptic work area.
- All supply items are arranged in the DCA so as to reduce clutter and provide maximum efficiency and order for the flow of work.
- After proper introduction into the DCA of supply items required for and limited to the assigned operations, they are so arranged that a clear, uninterrupted path of HEPA-filtered air will bathe all critical sites at all times during the planned procedures. That is, no objects may be placed between the first air from HEPA filters and an exposed critical site.
- All procedures are performed in a manner designed to minimize the risk of touch contamination. Gloves are disinfected with adequate frequency with an approved disinfectant such as sterile 70% IPA.
- All rubber stoppers of vials and bottles and the necks of ampuls are disinfected by wiping with sterile 70% IPA and waiting for at least 10 seconds before they are used to prepare CSPs.
- After the preparation of every CSP, the contents of the container are thoroughly mixed and then inspected for the presence of particulate matter, evidence of incompatibility, or other defects.
- After procedures are completed, used syringes, bottles, vials, and other supplies are removed, but with a minimum of exit and re-entry into the DCA so as to minimize the risk of introducing contamination into the aseptic workspace.

ELEMENTS OF QUALITY CONTROL

A written description of specific training and performance evaluation program for individuals involved in the use of aseptic techniques for the preparation of sterile products shall be developed for each site. This program equips personnel with the appropriate knowledge and trains them in the required skills necessary to perform the assigned tasks. Each person assigned to the aseptic area in the preparation of sterile products shall successfully complete specialized training in aseptic techniques and aseptic area practices prior to preparing CSPs (see *Personnel Training and Evaluation in Aseptic Manipulation Skills* and *Personnel Training and Competency Evaluation of Garbing, Aseptic Work Practices and Cleaning/Disinfection Procedures*).

Ingredients and Devices

Compounding personnel ascertain that ingredients for CSPs are of the correct identity and appropriate quality using the following information: vendor labels, labeling, certificates of analysis, direct chemical analysis, and knowledge of compounding facility storage conditions.

STERILE INGREDIENTS AND DEVICES

Commercially available sterile drug products, sterile ready-to-use containers, and devices are examples of sterile components. A written procedure for unit-by-unit physical inspection preparatory to use is followed to ensure that these components are sterile, free from defects, and otherwise suitable for their intended use.

NONSTERILE INGREDIENTS AND DEVICES

If any nonsterile components, including containers and ingredients, are used to make a CSP, such CSPs must be high risk. Nonsterile active ingredients and added substances or excipients for CSPs should preferably be official *USP* or *NF* articles. When nonofficial ingredients are used, they shall be accompanied by certificates of analysis from their suppliers to aid compounding personnel in judging the identity, quality, and purity in relation to the intended use in a particular CSP. Physical inspection of a package of ingredients is necessary in order to detect breaks in the container, looseness in the cap or closure, and deviation from the expected appearance, aroma, and texture of the contents.

Bulk or unformulated drug substances and added substances or excipients shall be stored in tightly closed containers under temperature, humidity, and lighting conditions that are either indicated in official monographs or approved by suppliers. The date of receipt by the compounding facility shall be clearly and indelibly marked on each package of ingredient. After receipt by the compounding facility, packages of ingredients that lack a supplier's expiration date cannot be used after 1 year unless either appropriate inspection or testing indicates that the ingredient has retained its purity and quality for use in CSPs.

Careful consideration and evaluation of nonsterile ingredient sources is especially warranted when the CSP will be administered into the vascular system, central nervous system, or eyes.

Upon receipt of each lot of the bulk drug substance or excipient used for CSPs, the individual compounding the preparation performs a visual inspection of the lot for evidence of deterioration, other types of unacceptable quality, and wrong identification. For bulk drug substances or excipients, visual inspection is performed on a routine basis as described in the written protocol.

Equipment

It is necessary that equipment, apparatus, and devices used to compound a CSP be consistently capable of operating properly and within acceptable tolerance limits. Written procedures outlining required equipment calibration, annual maintenance, monitoring for proper function, and controlled procedures for use of the equipment and specified time frames for these activities are established and followed. Routine maintenance and frequencies shall be outlined in these SOPs. Results from the equipment calibration, annual maintenance reports, and routine maintenance are kept on file for the lifetime of the equipment. Personnel are prepared through an appropriate combination of specific training and experience to operate or manipulate any piece of equipment, apparatus, or device they may use when preparing CSPs. Training includes gaining the ability to determine whether any item of equipment is operating properly or is malfunctioning.

VERIFICATION OF AUTOMATED COMPOUNDING DEVICES (ACDs) FOR PARENTERAL NUTRITION COMPOUNDING

ACDs for the preparation of parenteral nutrition admixtures are widely used by pharmacists in hospitals and other healthcare settings. They are designed to streamline the labor-intensive processes involved in the compounding of these multiple-component formulations by automatically delivering the individual nutritional components in a predetermined sequence under computerized control. Parenteral nutrition admixtures often contain 20 or more individual additives representing as many as 50 or more individual components (e.g., 15 to 20 crystalline amino acids, dextrose monohydrate, and lipids; 10 to 12 electrolyte salts; 5 to 7 trace minerals; and 12 vitamins). Thus, ACDs can provide improved accuracy and precision of the compounding process over the traditional manual compounding methods.

Accuracy

The accuracy of an ACD can be determined in various ways to ensure that the correct quantities of nutrients, electrolytes, or other nutritional components are delivered to the final infusion container. Initially, the ACD is tested for its volume and weight accuracy. For volume accuracy, a suitable volume of Sterile Water for Injection, USP, which represents a typical additive volume (e.g., 40 mL for small-volume range of 1 to 100 mL, 300 mL for large-volume range of 100 to 1000 mL), is programmed into the ACD and delivered to the appropriate volumetric container. The compounding personnel should then consult *Volumetric Apparatus* (31) for appropriate parameters to assess the volumetric performance of the ACD. For gravimetric accuracy, the balance used in conjunction with the ACD is tested using various weight sizes that represent the amounts typically used to deliver the various additives. Compounding personnel should consult *Weights and Balances* (41) for acceptable tolerances of the weights used. In addition, the same volume of *Sterile Water for Injection* used to assess volumetric accuracy is then weighed on the balance used in conjunction with the ACD. For example, if 40 mL of water was used in the volumetric assessment, its corresponding weight should be about 40 g (assuming the relative density of water is 1.0). In addition, during the use of the ACD, certain additives, such as potassium chloride (corrected for density differences), can also be tested in the same manner as with an in-process test.

Finally, additional tests of accuracy may be employed that determine the content of certain ingredients in the final volume of the parenteral nutrition admixture. Generally, pharmacy departments do not have the capability to routinely

perform chemical analyses such as analyses of dextrose or electrolyte concentrations. Consequently, hospital or institutional laboratories may be called upon to perform these quality assurance tests. However, the methods in such laboratories are often designed for biological, not pharmaceutical, systems. Thus, their testing procedures shall be verified to meet the *USP* requirements stated in the individual monograph for the component being tested. For example, under *Dextrose Injection*, the following is stated: It contains not less than 95.0% and not more than 105.0% of the labeled amount of $C_6H_{12}O_6 \cdot H_2O$. The hospital or institutional chemistry laboratories must validate their methods to apply to this range and correct for their typical measurement of anhydrous dextrose versus dextrose monohydrate. Similar ranges and issues exist, for example, for injections of calcium gluconate, magnesium sulfate, and potassium chloride. The critical point is the use of *USP* references and possible laboratory procedural differences.

Precision

The intermediate precision of the ACD can be determined on the basis of the day-to-day variations in performance of the accuracy measures. Thus, compounding personnel shall keep a daily record of the above-described accuracy assessments and review the results over time. This review shall occur at least at weekly intervals to avoid potentially clinically significant cumulative errors over time. This is especially true for additives with a narrow therapeutic index, such as potassium chloride.

FINISHED PREPARATION RELEASE CHECKS AND TESTS

The following quality metrics shall be performed for all CSPs before they are dispensed or administered.

Inspection of Solution Dosage Forms and Review of Compounding Procedures

All CSPs that are intended to be solutions shall be visually examined for the presence of particulate matter and not administered or dispensed when such matter is observed. The prescription orders, written compounding procedure, preparation records, and expended materials used to make CSPs at all contamination risk levels are inspected for accuracy of correct identities and amounts of ingredients, aseptic mixing and sterilization, packaging, labeling, and expected physical appearance before they are administered or dispensed.

PHYSICAL INSPECTION

Finished CSPs are individually inspected in accordance with written procedures after compounding. If not distributed promptly, these CSPs are individually inspected just prior to leaving the storage area. Those CSPs that are not immediately distributed are stored in an appropriate location as described in the written procedures. Immediately after compounding, and as a condition of release, each CSP unit, where possible, should be inspected against lighted white or black background or both for evidence of visible particulates or other foreign matter. Prerelease inspection also includes container–closure integrity and any other apparent visual defect. CSPs with observed defects should be immediately discarded or marked and segregated from acceptable products in a manner that prevents their administration. When CSPs are not distributed promptly after preparation, a predistribution inspection is conducted to ensure that a CSP with defects, such as precipitation, cloudiness, and leakage, which may develop between the time of release and the time of distribution, is not released.

Compounding Accuracy Checks

Written procedures for double-checking compounding accuracy shall be followed for every CSP during preparation and immediately prior to release. The double-check system should meet state regulations and include label accuracy and accuracy of the addition of all drug products or ingredients used to prepare the finished product and their volumes or quantities. The used additive containers and, for those additives for which the entire container was not expended, the syringes used to measure the additive should be quarantined with the final products until the final product check is completed. Compounding personnel shall visually confirm that ingredients measured in syringes match the written order being compounded. Preferably, a person other than the compounder can verify that correct volumes of correct ingredients were measured to make each CSP. For example, compounding personnel would pull the syringe plunger back to the volume measured.

When practical, the accuracy of measurements is confirmed by weighing a volume of the measured fluid, then calculating that volume by dividing the weight by the accurate value of the density, or specific gravity, of the measured fluid. Correct density or specific gravity values programmed in ACDs, which measure by weight using the quotient of the programmed volume divided by the density or specific gravity, shall be confirmed to be accurate before and after delivering volumes of the liquids assigned to each channel or port. These volume accuracy checks and the following additional safety and accuracy checks in this section shall be included in the SOP manual of the CSP facility.

Sterility Testing

All high-risk level CSPs that are prepared in groups of more than 25 identical individual single-dose packages (e.g., ampuls, bags, syringes, vials) or in multiple-dose vials (MDVs) for administration to multiple patients or that are exposed longer than 12 hours at 2° to 8° and longer than 6 hours at warmer than 8° before they are sterilized shall meet the sterility test (see *Sterility Tests <71>*) before they are dispensed or administered. The *Membrane Filtration* method is the method of choice where feasible (e.g., components are compatible with the membrane). A method not described in the *USP* may be used if verification results demonstrate that the alternative is at least as effective and reliable as the *USP Membrane Filtration* method or the *USP Direct Inoculation of the Culture Medium* method where the *Membrane Filtration* method is not feasible.

When high-risk level CSPs are dispensed before receiving the results of their sterility tests, there shall be a written procedure requiring daily observation of the incubating test specimens and immediate recall of the dispensed CSPs when there is any evidence of microbial growth in the test specimens. In addition, the patient and the physician of the patient to whom a potentially contaminated CSP was administered are notified of the potential risk. Positive sterility test results should prompt a rapid and systematic investigation of aseptic technique, environmental control, and other sterility assurance controls to identify sources of contamination and correct problems in the methods or processes.

Bacterial Endotoxin (Pyrogen) Testing

All high-risk level CSPs, except those for inhalation and ophthalmic administration, that are prepared in groups of more than 25 identical individual single-dose packages (e.g., ampuls, bags, syringes, vials) or in MDVs for administration to multiple patients or that are exposed longer than 12 hours at 2° to 8° and longer than 6 hours at warmer than 8° before they are sterilized shall be tested to ensure that they do not contain excessive bacterial endotoxins (see

Bacterial Endotoxins Test (85) and *Pyrogen Test* (151)). In the absence of a bacterial endotoxins limit in the official monograph or other CSP formula source, the CSP shall not exceed the amount of USP Endotoxin Units (per hour per kilogram of body weight or square meters of body surface area) specified in *Bacterial Endotoxins Test* (85) referenced above for the appropriate route of administration.

Identity and Strength Verification of Ingredients

Compounding facilities shall have at least the following written procedures for verifying the correct identity and quality of CSPs before they are dispensed and administered:

1. That labels of CSPs bear correct names and amounts or concentrations of ingredients, the total volume, the BUD, the appropriate route(s) of administration, the storage conditions, and other information for safe use.
2. That there are correct identities, purities, and amounts of ingredients by comparing the original written order with the written compounding record for the CSP.
3. That correct fill volumes in CSPs and correct quantities of filled units of the CSPs were obtained. When the strength of finished CSPs cannot be confirmed to be accurate, based on the above three inspections, the CSPs shall be assayed by methods that are specific for the active ingredients.

STORAGE AND BEYOND-USE DATING

BUDs for compounded preparations are usually assigned on the basis of professional experience, which should include careful interpretation of appropriate information sources for the same or similar formulations (see *Stability Criteria and Beyond-Use Dating under Pharmaceutical Compounding—Nonsterile Preparations* (795)). BUDs for CSPs are rarely based on preparation-specific chemical assay results, which are used with the Arrhenius equation to determine expiration dates (see *General Notices and Requirements*) for manufactured products. The majority of CSPs are aqueous solutions in which hydrolysis of dissolved ingredients is the most common chemical degradation reaction. The extent of hydrolysis and other heat-catalyzed degradation reactions at any particular time point in the life of a CSP represents the thermodynamic sum of exposure temperatures and durations. Such lifetime stability exposure is represented in the mean kinetic temperature calculation (see *Pharmaceutical Calculations in Prescription Compounding* (1160)). Drug hydrolysis rates increase exponentially with arithmetic temperature increase; thus, exposure of a beta-lactam antibiotic solution for 1 day at controlled room temperature (see *General Notices and Requirements*) will have an equivalent effect on the extent of hydrolysis of approximately 3 to 5 days in cold temperatures (see *General Notices and Requirements*).

Personnel who prepare, dispense, and administer CSPs shall store them strictly in accordance with the conditions stated on the label of ingredient products and finished CSPs. When CSPs are known to have been exposed to temperatures warmer than the warmest labeled limit or to temperatures exceeding 40° (see *General Notices and Requirements*) for more than 4 hours, such CSPs should be discarded unless direct assay data or appropriate documentation confirms their continued stability.

Determining Beyond-Use Dates

BUDs and expiration dates are not the same (see *General Notices and Requirements*). Expiration dates for the chemical and physical stability of manufactured sterile products are determined from results of rigorous analytical and performance testing, and they are specific for a particular formula-

tion in its container and at stated exposure conditions of illumination and temperature. When CSPs deviate from conditions in the approved labeling of manufactured products contained in CSPs, compounding personnel may consult the manufacturer of particular products for advice on assigning BUDs based on chemical and physical stability parameters. BUDs for CSPs that are prepared strictly in accordance with manufacturers' product labeling shall be those specified in that labeling or from appropriate literature sources or direct testing. BUDs for CSPs that lack justification from either appropriate literature sources or by direct testing evidence shall be assigned as described in *Stability Criteria and Beyond-Use Dating under Pharmaceutical Compounding—Nonsterile Preparations* (795).

In addition, compounding personnel may refer to applicable publications to obtain relevant stability, compatibility, and degradation information regarding the drug or its congeners. When assigning a beyond-use date, compounding personnel should consult and apply drug-specific and general stability documentation and literature where available, and they should consider the nature of the drug and its degradation mechanism, the container in which it is packaged, the expected storage conditions, and the intended duration of therapy (see *Expiration Date and Beyond-Use Date under Labeling in the General Notices and Requirements*). Stability information must be carefully interpreted in relation to the actual compounded formulation and conditions for storage and use. Predictions based on other evidence, such as publications, charts, and tables, would result in theoretical BUDs. Theoretically predicted beyond-use dating introduces varying degrees of assumptions and, hence, a likelihood of error or at least inaccuracy. The degree of error or inaccuracy would be dependent on the extent of differences between the CSPs' characteristics (e.g., composition, concentration of ingredients, fill volume, container type and material) and the characteristics of the products from which stability data or information is to be extrapolated. The greater the doubt of the accuracy of theoretically predicted beyond-use dating, the greater the need to determine dating periods experimentally. Theoretically predicted beyond-use dating periods should be carefully considered for CSPs prepared from nonsterile bulk active ingredients having therapeutic activity, especially where these CSPs are expected to be compounded routinely. When CSPs will be distributed to and administered in residential locations other than healthcare facilities, the effect of potentially uncontrolled and unmonitored temperature conditions shall be considered when assigning BUDs. It must be ascertained that CSPs will not be exposed to warm temperatures (see *General Notices and Requirements*) unless the compounding facility has evidence to justify stability of CSPs during such exposure.

It should be recognized that the truly valid evidence of stability for predicting beyond-use dating can be obtained only through product-specific experimental studies. Semi-quantitative procedures such as thin-layer chromatography (TLC) may be acceptable for many CSPs. However, quantitative stability-indicating assays such as high-performance liquid chromatographic (HPLC) assays would be more appropriate for certain CSPs. Examples include CSPs with a narrow therapeutic index, where close monitoring or dose titration is required to ensure therapeutic effectiveness and to avoid toxicity; where a theoretically established beyond-use dating period is supported by only marginal evidence; or where a significant margin of safety cannot be verified for the proposed beyond-use dating period. In short, because beyond-use dating periods established from product-specific data acquired from the appropriate instrumental analyses are clearly more reliable than those predicted theoretically, the former approach is strongly urged to support dating periods exceeding 30 days.

To ensure consistent practices in determining and assigning BUDs, the compounding facility should have written policies and procedures governing the determination of the BUDs for all compounded products. When attempting to

predict a theoretical BUD, a compounded or an admixed preparation should be considered as a unique system that has physical and chemical properties and stability characteristics that differ from its components. For example, antioxidant, buffering, or antimicrobial properties of a sterile vial for injection (SVI) might be lost upon its dilution, with the potential of seriously compromising the chemical stability of the SVI's active ingredient or the physical or microbiological stability of the SVI formulation in general. Thus, the properties stabilized in the SVI formulation usually cannot be expected to be carried over to the compounded or admixed preparation. Preparation-specific, experimentally determined stability data evaluation protocols are preferable to published stability information. Compounding personnel should consult general information chapter *Pharmaceutical Stability* (1150) for the appropriate stability parameters to be considered when initiating or evaluating a preparation-specific stability study.

Compounding personnel who assign BUDs to CSPs when lacking direct chemical assay results must critically interpret and evaluate the most appropriate available information sources to determine a conservative and safe BUD. The SOP manual of the compounding facility and each specific CSP formula record shall describe the general basis used to assign the BUD and storage conditions.

When manufactured MDVs (see *Multiple-Dose Container under Preservation, Packaging, Storage, and Labeling* in the *General Notices and Requirements*) of sterile ingredients are used in CSPs, the stoppers of the MDVs are inspected for physical integrity and disinfected by wiping with a sterile 70% IPA swab before each penetration with a sterile withdrawal device. When contaminants or abnormal properties are suspected or observed in MDVs, such MDVs shall be discarded. The BUD after initially entering or opening (e.g., needle puncturing) multiple-dose containers is 28 days (see *Antimicrobial Effectiveness Testing* (51)) unless otherwise specified by the manufacturer.

Proprietary Bag and Vial Systems

The sterility storage and stability beyond-use times for attached and activated (where activated is defined as allowing contact of the previously separate diluent and drug contents) container pairs of drug products for intravascular administration (e.g., ADD-Vantage®, Mini Bag Plus®) shall be applied as indicated by the manufacturer. In other words, follow manufacturers' instructions for handling and storing ADD-Vantage®, Mini Bag Plus®, Add A Vial®, Add-Ease® products, and any others.

Monitoring Controlled Storage Areas

To ensure that product potency is retained through the manufacturer's labeled expiration date, compounding personnel shall monitor the drug storage areas within the compounding facility. Controlled temperature areas in compounding facilities include controlled room temperature, 20° to 25° with mean kinetic temperature 25°; controlled cold temperature, 2° to 8° with mean kinetic temperature 8°; cold temperature, 2° to 8°; freezing temperature, -25° and -10° (see *General Notices and Requirements*) if needed to achieve freezing, and the media-specific temperature range for microbial culture media. A controlled temperature area shall be monitored at least once daily and the results documented on a temperature log. Additionally, compounding personnel shall note the storage temperature when placing the product into or removing the product from the storage unit in order to monitor any temperature aberrations. Suitable temperature recording devices may include a calibrated continuous recording device or a National Institute of Standards and Technology (NIST) calibrated thermometer that has adequate accuracy and sensitivity for the intended purpose, and it shall be properly calibrated at suitable intervals. If the compounding facility uses a continuous temperature

recording device, compounding personnel shall verify at least once daily that the recording device itself is functioning properly.

The temperature-sensing mechanisms shall be suitably placed in the controlled temperature storage space to reflect accurately its true temperature. In addition, the compounding facility shall adhere to appropriate procedures of all controlled storage spaces to ensure that such spaces are not subject to significantly prolonged temperature fluctuations as may occur, for example, by leaving a refrigerator door open too long.

MAINTAINING STERILITY, PURITY, AND STABILITY OF DISPENSED AND DISTRIBUTED CSPs

This section summarizes the responsibilities of compounding facilities for maintaining quality and control of CSPs that are dispensed and administered within their parent health-care organizations.

Compounding personnel shall ensure proper storage and security of CSPs prepared by or dispensed from the compounding facility until either their BUDs are reached or they are administered to patients. In fulfilling this general responsibility, the compounding facility is responsible for the proper packaging, handling, transport, and storage of CSPs prepared by or dispensed from it, including the appropriate education, training, and supervision of compounding personnel assigned to these functions. The compounding facility should assist in the education and training of noncompounding personnel responsible for carrying out any aspect of these functions.

Establishing, maintaining, and ensuring compliance with comprehensive written policies and procedures encompassing these responsibilities is a further responsibility of the compounding facility. Where noncompounding personnel are assigned tasks involving any of these responsibilities, the policies and procedures encompassing those tasks should be developed by compounding supervisors. The quality and control activities related to distribution of CSPs are summarized in the following five subsections. Activities or concerns that should be addressed as the compounding facility fulfills these responsibilities are as follows.

Packaging, Handling, and Transport

Inappropriate processes or techniques involved with packaging, handling, and transport can adversely affect quality and package integrity of CSPs. Although compounding personnel routinely perform many of the tasks associated with these functions, some tasks, such as transport, handling, and placement into storage, may be fulfilled by noncompounding personnel who are not under the direct administrative control of the compounding facility. Under these circumstances, appropriate SOPs shall be established by the compounding facility with the involvement of other departments or services whose personnel are responsible for carrying out those CSP-related functions for which the compounding facility has a direct interest. The performance of the noncompounding personnel is monitored for compliance to established policies and procedures.

The critical requirements that are unique to CSPs and that are necessary to ensure CSP quality and packaging integrity shall be addressed in SOPs. For example, techniques should be specified to prevent the depression of syringe plungers or dislodging of syringe tips during handling and transport. Additionally, disconnection of system components (e.g., where CSPs are dispensed with administration sets attached to them) shall be prevented through the BUD of the CSP. Foam padding or inserts are particularly useful where CSPs are transported by pneumatic tube systems. Regardless of the methods used, the compounding facility must evaluate their effectiveness and the reliability of the intended protec-

tion. Evaluation should be continuous—for example, through a surveillance system, including a system of problem reporting to the compounding facility.

Inappropriate transport and handling can adversely affect the quality of certain CSPs having unique stability concerns. For example, the physical shaking that might occur during pneumatic tube transport or undue exposure to heat or light must be addressed on a preparation-specific basis. Alternative transport modes or special packaging measures might be needed for the proper assurance of quality of these CSPs. The use of tamper-evident closures and seals on CSP ports can add an additional measure of security to ensure product integrity regardless of the transport method used.

Chemotoxic and other hazardous CSPs require safeguards to maintain the integrity of the CSP and to minimize the exposure potential of these products to the environment and to personnel who may come in contact with them. Transportation by pneumatic tube should be discouraged because of potential breakage and contamination. Special requirements associated with the packaging, transport, and handling of these agents include the prevention of accidental exposures or spills and the training of personnel in the event of an exposure or spill. Examples of special requirements of these agents also include exposure-reducing strategies such as the use of Luer lock syringes and connections, syringe caps, the capping of container ports, sealed plastic bags, impact-resistant containers, and cautionary labeling.

Use and Storage

The compounding facility is responsible for ensuring that CSPs in the patient-care setting maintain their quality until administered. The immediate labeling of the CSP container will display prominently and understandably the requirements for proper storage and expiration dating. Delivery and patient-care-setting personnel shall be properly trained to deliver the CSP to the appropriate storage location. Outdated and unused CSPs shall be returned to the compounding facility for disposition.

SOPs must exist to ensure that storage conditions in the patient-care setting are suitable for the CSP-specific storage requirements. Procedures include daily monitoring and documentation of drug storage refrigerators to ensure temperatures between 2° and 8° and the monthly inspection of all drug storage locations by compounding personnel. Inspections shall confirm compliance with appropriate storage conditions, separation of drugs and food, proper use of MDVs, and the avoidance of using single-dose products as MDVs. CSPs, as well as all other drug products, shall be stored in the patient-care area in such a way as to secure them from unauthorized personnel, visitors, and patients.

Readying for Administration

Procedures essential for generally ensuring quality, especially sterility assurance, when readying a CSP for its subsequent administration include proper hand washing, aseptic technique, site care, and change of administration sets. Additional procedures may also be essential for certain CSPs, devices, or techniques. Examples where such special procedures are needed include in-line filtration, the operation of automated infusion control devices, and the replenishment of CSPs into the reservoirs of implantable or portable infusion pumps. When CSPs are likely to be exposed to warmer than 30° for more than 1 hour during their administration to patients, the maintenance of their sterility and stability should be confirmed from either relevant and reliable sources or direct testing.

Redispensed CSPs

The compounding facility shall have the sole authority to determine when unopened, returned CSPs may be redispensed. Returned CSPs may be redispensed only when personnel responsible for sterile compounding can ensure that such CSPs are sterile, pure, and stable (contain labeled strength of ingredients). The following may provide such assurance: the CSPs were maintained under continuous refrigeration and protected from light, if required, and no evidence of tampering or any readying for use outside the compounding facility exists. Assignment of new storage times and BUDs that exceed the original dates for returned CSPs is permitted only when there is supporting evidence from sterility testing and quantitative assay of ingredients. Thus, initial preparation and thaw times should be documented and reliable measures should have been taken to prevent and detect tampering. Compliance with all procedures associated with maintaining product quality is essential. The CSPs shall not be redispensed if there is not adequate assurance that preparation quality and packaging integrity (including the connections of devices, where applicable) were continuously maintained between the time the CSPs left and the time they were returned. Additionally, CSPs shall not be redispensed if redispensing cannot be supported by the originally assigned BUD.

Education and Training

The assurance of CSPs' quality and packaging integrity is highly dependent on the proper adherence of all personnel to the pertinent SOPs. Compounding personnel shall design, implement, and maintain a formal education, training, and competency assessment program that encompasses all the functions and tasks addressed in the foregoing sections and all personnel to whom such functions and tasks are assigned. This program includes the assessment and documentation of procedural breaches, administration mishaps, side effects, allergic reactions, and complications associated with dosage or administration, such as extravasation. This program should be coordinated with the institution's adverse-events and incident reporting programs.

Packing and Transporting CSPs

The following sections describe how to maintain sterility and stability of CSPs until they are delivered to patient care locations for administration.

PACKING CSPs FOR TRANSIT

When CSPs are distributed to locations outside the premises in which they are compounded, compounding personnel select packing containers and materials that are expected to maintain physical integrity, sterility, and stability of CSPs during transit. Packing is selected that simultaneously protects CSPs from damage, leakage, contamination, and degradation, and protects personnel who transport packed CSPs from harm. The SOP manual of the compounding facility specifically describes appropriate packing containers and insulating and stuffing materials, based on information from product specifications, vendors, and experience of compounding personnel. Written instructions that clearly explain how to safely open containers of packed CSPs are provided to patients and other recipients.

TRANSIT OF CSPS

Compounding facilities that ship CSPs to locations outside their own premises shall select modes of transport that are expected to deliver properly packed CSPs in undamaged, sterile, and stable condition to recipients.

Compounding personnel should ascertain that temperatures of CSPs during transit by the selected mode will not exceed the warmest temperature specified on the storage temperature range on CSP labels. It is recommended that compounding personnel communicate directly with the couriers to learn shipping durations and exposure conditions that CSPs may encounter.

Compounding personnel shall include specific handling and exposure instructions on the exteriors of containers packed with CSPs to be transported and obtain reasonable assurance of compliance therewith from transporters. Compounding personnel shall periodically review the delivery performance of couriers to ascertain that CSPs are being efficiently and properly transported.

Storage in Locations Outside Compounding Facilities

Compounding facilities that ship CSPs to patients and other recipients outside their own premises shall ascertain or provide, whichever is appropriate, the following assurances:

1. Labels and accessory labeling for CSPs include clearly readable BUDs, storage instructions, and disposal instructions for out-of-date units.
2. Each patient or other recipient is able to store the CSPs properly, including the use of a properly functioning refrigerator and freezer if CSPs are labeled for such storage.

PATIENT OR CAREGIVER TRAINING

A formal training program is provided as a means to ensure understanding and compliance with the many special and complex responsibilities placed on the patient or caregiver for the storage, handling, and administration of CSPs. The instructional objectives for the training program include all home care responsibilities expected of the patient or caregiver and is specified in terms of patient or caregiver competencies.

Upon the conclusion of the training program, the patient or caregiver should, correctly and consistently, be able to do the following:

1. Describe the therapy involved, including the disease or condition for which the CSPs are prescribed, goals of therapy, expected therapeutic outcome, and potential side effects of the CSPs.
2. Inspect all drug products, CSPs, devices, equipment, and supplies on receipt to ensure that proper temperatures were maintained during transport and that goods received show no evidence of deterioration or defects.
3. Handle, store, and monitor all drug products, CSPs, and related supplies and equipment in the home, including all special requirements related to same.
4. Visually inspect all drug products, CSPs, devices, and other items the patient or caregiver is required to use immediately prior to administration in a manner to ensure that all items are acceptable for use. For example, CSPs must be free from leakage, container cracks, particulates, precipitate, haziness, discoloration, or other deviations from the normal expected appearance, and the immediate packages of sterile devices must be completely sealed, with no evidence of loss of package integrity.
5. Check labels immediately prior to administration to ensure the right drug, dose, patient, and time of administration.

6. Clean the in-home preparation area, scrub hands, use proper aseptic technique, and manipulate all containers, equipment, apparatus, devices, and supplies used in conjunction with administration.
7. Employ all techniques and precautions associated with CSP administration; for example, preparing supplies and equipment, handling of devices, priming the tubing, and discontinuing an infusion.
8. Care for catheters, change dressings, and maintain site patency as indicated.
9. Monitor for and detect occurrences of therapeutic complications such as infection, phlebitis, electrolyte imbalance, and catheter misplacement.
10. Respond immediately to emergency or critical situations such as catheter breakage or displacement, tubing disconnection, clot formation, flow blockage, and equipment malfunction.
11. Know when to seek and how to obtain professional emergency services or professional advice.
12. Handle, contain, and dispose of wastes, such as needles, syringes, devices, biohazardous spills or residuals, and infectious substances.

Training programs include a hands-on demonstration and practice with actual items that the patient or caregiver is expected to use, such as CSP containers, devices, and equipment. The patient or caregiver practices aseptic and injection technique under the direct observation of a health professional.

The compounding facility, in conjunction with nursing or medical personnel, is responsible for ensuring initially and on an ongoing basis that the patient or caregiver understands, has mastered, and is capable of and willing to comply with all of these home care responsibilities. This is achieved through a formal, written assessment program. All specified competencies in the patient or caregiver training program are formally assessed. The patient or caregiver is expected to demonstrate to appropriate healthcare personnel mastery of assigned activities before being allowed to administer CSPs unsupervised by a health professional.

Printed material such as checklists or instructions provided during training may serve as continuing post-training reinforcement of learning or as reminders of specific patient or caregiver responsibilities. Post-training verbal counseling can also be used periodically, as appropriate, to reinforce training and to ensure continuing correct and complete fulfillment of responsibilities.

PATIENT MONITORING AND ADVERSE EVENTS REPORTING

Compounding facilities shall clinically monitor patients treated with CSPs according to the regulations and guidelines of their respective state healthcare practitioner licensure boards or of accepted standards of practice. Compounding facilities shall provide patients and other recipients of CSPs with a way to address their questions and report any concerns that they may have with CSPs and their administration devices.

The SOP manuals of compounding facilities shall describe specific instructions for receiving, acknowledging, and dating receipts, and for recording, or filing, and evaluating reports of adverse events and of the quality of preparation claimed to be associated with CSPs. Reports of adverse events with CSPs shall be reviewed promptly and thoroughly by compounding supervisors to correct and prevent future occurrences. Compounding personnel are encouraged to participate in adverse event reporting and product defects programs of the FDA and USP.

QUALITY ASSURANCE (QA) PROGRAM

A provider of CSPs shall have in place a formal QA program intended to provide a mechanism for monitoring, evaluating, correcting, and improving the activities and processes described in this chapter. Emphasis in the QA program is placed on maintaining and improving the quality of systems and the provision of patient care. In addition, the QA program ensures that any plan aimed at correcting identified problems also includes appropriate follow-up to make certain that effective corrective actions were performed.¹³

Characteristics of a QA program include the following:

1. Formalization in writing;
2. Consideration of all aspects of the preparations and dispensing of products as described in this chapter, including environmental testing and verification results;
3. Description of specific monitoring and evaluation activities;
4. Specification of how results are to be reported and evaluated;
5. Identification of appropriate follow-up mechanisms when action limits or thresholds are exceeded; and
6. Delineation of the individuals responsible for each aspect of the QA program.

In developing a specific plan, focus is on establishing objective, measurable indicators for monitoring activities and processes that are deemed high risk, high volume, or problem prone. In general, the selection of indicators and the effectiveness of the overall QA program is reassessed on an annual basis.

ABBREVIATIONS AND ACRONYMS

| | |
|-------|---------------------------------|
| ACD | automated compounding device |
| ACPH | air changes per hour |
| ALARA | as low as reasonably achievable |

¹³ The use of additional resources, such as the Accreditation Manual for Home Care from the Joint Commission on Accreditation of Healthcare Organizations, may prove helpful in the development of a QA plan.

| | |
|--------|---|
| ASHRAE | American Society of Heating, Refrigerating and Air-Conditioning Engineers |
| BI | biological indicator |
| BSC | biological safety cabinet |
| BUD | beyond-use date |
| CACI | compounding aseptic containment isolator |
| CAI | compounding aseptic isolator |
| CDC | Centers for Disease Control and Prevention |
| CETA | Controlled Environment Testing Association |
| cfu | colony-forming unit(s) |
| CSP | compounded sterile preparation |
| CSTD | closed-system vial-transfer device |
| DCA | direct compounding area |
| ECV | endotoxin challenge vial |
| EU | Endotoxin Unit |
| FDA | Food and Drug Administration |
| HEPA | high efficiency particulate air |
| HICPAC | Healthcare Infection Control Practices Advisory Committee |
| HVAC | heating, ventilation, and air conditioning |
| IPA | isopropyl alcohol |
| ISO | International Organization for Standardization |
| LAFW | laminar airflow workbench |
| MDVs | multiple-dose vials |
| MMWR | Morbidity and Mortality Weekly Report |
| NIOSH | National Institute for Occupational Safety and Health |
| NIST | National Institute of Standards and Technology |
| PEC | primary engineering control |
| PET | positron emission tomography |
| PPE | personnel protective equipment |
| psi | pounds per square inch |
| QA | quality assurance |
| SOP | standard operating procedure |
| SVI | sterile vial for injection |
| TSA | trypticase soy agar |
| USP | United States Pharmacopeia |

APPENDICES

Appendix I. Principal Competencies, Conditions, Practices, and Quality Assurances That Are Required († “shall”) and Recommended (‡ “should”) in USP Chapter <797>

NOTE—This tabular appendix selectively abstracts and condenses the full text of <797> for rapid reference only. Compounding personnel are responsible for reading, understanding and complying with the full text and all official USP terminology, content, and conditions therein.

INTRODUCTION

‡ Chapter purpose is to prevent harm and death to patients treated with CSPs.

† Chapter pertains to preparation, storage, and transportation, but not administration, of CSPs.

† Personnel and facilities to which <797> applies; therefore, for whom and which it may be enforced by regulatory and accreditation authorities.

† Types of preparations designated to be CSPs according to their physical forms, and their sites and routes of administration to patients.

† Compounding personnel must be meticulously conscientious to preclude contact contamination of CSPs both within and outside ISO Class 5 areas.

ORGANIZATION

† All compounding personnel shall be responsible for understanding fundamental practices and precautions within USP <797>, for developing and implementing appropriate procedures, and for continually evaluating these procedures and the quality of final CSPs to prevent harm.

DEFINITIONS

† Twenty-eight terms are defined and integral to complying with USP <797>.

RESPONSIBILITY OF COMPOUNDING PERSONNEL

† Practices and quality assurances required to prepare, store, and transport CSPs that are sterile, and acceptably accurate, pure, and stable.

CSP MICROBIAL CONTAMINATION RISK LEVELS

† Proper training and evaluation of personnel, proper cleansing and garbing of personnel, proper cleaning and disinfecting of compounding work environments, and proper maintenance and monitoring of controlled environmental locations (all of which are detailed in their respective sections).

Low-Risk Level CSPs

† Aseptic manipulations within an ISO Class 5 environment using three or fewer sterile products and entries into any container.

† In absence of passing sterility test, store not more than 48 hours at controlled room temperature, 14 days at cold temperature, and 45 days in solid frozen state at -25° to -10° or colder.

† Media-fill test at least annually by compounding personnel.

Low-Risk Level CSPs with 12-Hour or Less BUD

† Fully comply with all four specific criteria.

‡ Sinks should not be located adjacent to the ISO Class 5 primary engineering control.

‡ Sinks should be separated from the immediate area of the ISO Class 5 primary engineering control device.

Medium-Risk Level CSPs

† Aseptic manipulations within an ISO Class 5 environment using prolonged and complex mixing and transfer, more than three sterile products and entries into any container, and pooling ingredients from multiple sterile products to prepare multiple CSPs.

† In absence of passing sterility test, store not more than 30 hours at controlled room temperature, 9 days at cold temperature, and 45 days in solid frozen state at -25° to -10° or colder.

† Media-fill test at least annually by compounding personnel.

High-Risk Level CSPs

† Confirmed presence of nonsterile ingredients and devices, or confirmed or suspected exposure of sterile ingredients for more than one hour to air quality inferior to ISO Class 5 before final sterilization.

† Sterilization method verified to achieve sterility for the quantity and type of containers.

† Meet allowable limits for bacterial endotoxins.

† Maintain acceptable strength and purity of ingredients and integrity of containers after sterilization.

† In absence of passing sterility test, store not more than 24 hours at controlled room temperature, 3 days at cold temperature, and 45 days in solid frozen state at -25° to -10° or colder.

† Media-fill test at least semiannually by compounding personnel.

PERSONNEL TRAINING AND EVALUATION IN ASEPTIC MANIPULATIONS SKILLS

† Pass didactic, practical skill assessment and media-fill testing initially, followed by an annual assessment for a low- and medium-risk level compounding and semi-annual assessment for high-risk level compounding.

† Compounding personnel who fail written tests, or whose media-fill test vials result in gross microbial colonization, shall be immediately reinstructed and re-evaluated by expert compounding personnel to ensure correction of all aseptic practice deficiencies.

IMMEDIATE-USE CSPs

† Fully comply with all six specified criteria.

APPENDICES**Appendix I. Principal Competencies, Conditions, Practices, and Quality Assurances That Are Required († “shall”) and Recommended (‡ “should”) in USP Chapter (797) (Continued)**

SINGLE-DOSE AND MULTIPLE-DOSE CONTAINERS

- † Beyond-use date 28 days, unless specified otherwise by the manufacturer, for closure sealed multiple-dose containers after initial opening or entry.
- † Beyond-use time of 6 hours, unless specified otherwise by the manufacturer, for closure sealed single-dose containers in ISO Class 5 or cleaner air after initial opening or entry.
- † Beyond-use time of 1 hour for closure sealed single-dose containers after being opened or entered in worse than ISO Class 5 air.
- † Storage of opened single-dose ampuls is not permitted.

HAZARDOUS DRUGS AS CSPs

- † Appropriate personnel protective equipment.
- † Appropriate primary engineering controls (BSCs and CACIs) are used for concurrent personnel protection and exposure of critical sites.
- † Hazardous drugs shall be stored separately from other inventory in a manner to prevent contamination and personnel exposure.
- † At least 0.01 inch water column negative pressure and 12 air changes per hour in non-cleanrooms in which CACIs are located.
- † Hazardous drugs shall be handled with caution at all times using appropriate chemotherapy gloves during receiving, distribution, stocking, inventorying, preparing for administration, and disposal.
- † Hazardous drugs shall be prepared in an ISO Class 5 environment with protective engineering controls in place, and following aseptic practices specified for the appropriate contamination risk levels.
- † Access to drug preparation areas shall be limited to authorized personnel.
- † A pressure indicator shall be installed that can readily monitor room pressurization, which is documented daily.
- † Annual documentation of full training of personnel regarding storage, handling, and disposal of hazardous drugs.
- † When used, a CSTD shall be used in an ISO Class 5 primary engineering control device.
- † At least 0.01 inch water column negative pressure is required for compounding of hazardous drugs.
- ‡ Negative-pressure buffer area is not required for low-volume compounding operations when CSTD is used in BSC or CACI.
- † Compounding personnel of reproductive capability shall confirm in writing that they understand the risks of handling hazardous drugs.
- † Disposal of all hazardous drug wastes shall comply with all applicable federal and state regulations.
- ‡ Total external exhaust of primary engineering controls.
- ‡ Assay of surface wipe samples every 6 months.

RADIOPHARMACEUTICALS AS CSPs

- † Positron Emission Tomography is according to USP chapter (823).
- † Appropriate primary engineering controls and radioactivity containment and shielding.
- † Radiopharmaceuticals compounded from sterile components, in closed sterile containers, with volume of 100 mL or less for a single-dose injection or not more than 30 mL taken from a multiple-dose container shall be designated as and conform to the standards for low-risk level CSPs.
- † Radiopharmaceutical vials, designed for multi-use, compounded with technetium-99m, exposed to ISO Class 5 environment and punctured by needles with no direct contact contamination may be used up to the time indicated by manufacturers' recommendations.
- † Location of primary engineering controls permitted in ISO Class 8 controlled environment.
- † Technetium-99m/Molybdenum-99 generators used according to manufacturer, state, and federal requirements.
- † Radiopharmaceuticals prepared as low-risk level CSPs with 12-hour or less BUD shall be prepared in a segregated compounding area.
- † Materials and garb exposed in patient-care and treatment area shall not cross a line of demarcation into the segregated compounding area.
- † Technetium-99m/Molybdenum-99 generators must be eluted in ISO Class 8 conditions.
- † Segregated compounding area will be designated with a line of demarcation.
- ‡ Storage and transport of properly shielded vials of radiopharmaceutical CSPs may occur in a limited access ambient environment without a specific ISO class designation.

ALLERGEN EXTRACTS AS CSPs

- † Allergen extracts as CSPs are not subject to the personnel, environmental, and storage requirements for all CSP Microbial Contamination Risk Levels when certain criteria are met.

VERIFICATION OF COMPOUNDING ACCURACY AND STERILITY

- † Review labels and document correct measurements, aseptic manipulations, and sterilization procedures to confirm correct identity, purity, and strength of ingredients in, and sterility of, CSPs.
- ‡ Assay finished CSPs to confirm correct identity and, or, strength of ingredients.
- ‡ Sterility test finished CSPs.

Sterilization Methods

- † Verify that methods achieve sterility while maintaining appropriate strength, purity, quality, and packaging integrity.
- ‡ Prove effectiveness by USP chapter (71), equivalent, or superior sterility testing.

APPENDICES

Appendix I. Principal Competencies, Conditions, Practices, and Quality Assurances That Are Required († "shall") and Recommended (‡ "should") in USP Chapter <797> (Continued)**Sterilization of High-Risk Level CSPs by Filtration**

† Nominal 0.2- μm pore size sterile membranes that are chemically and physically compatible with the CSP.

† Complete rapidly without filter replacement.

† Subject filter to manufacturer's recommended integrity test (e.g., bubble point test) after filtering CSPs.

Sterilization of High-Risk Level CSPs by Steam

† Test to verify the mass of containers to be sterilized will be sterile after the selected exposure duration in the particular autoclave.

† Ensure live steam contacts all ingredients and surfaces to be sterilized.

† Pass solutions through a 1.2- μm or smaller nominal pore size filter into final containers to remove particulates before sterilization.

† Heated filtered air shall be evenly distributed throughout the chamber by a blower device.

† Dry heat shall only be used for those materials that cannot be sterilized by steam, when the moisture would either damage or be impermeable to the materials.

† Sufficient space shall be left between materials to allow for good circulation of the hot air.

† The description of dry heat sterilization conditions and duration for specific CSPs shall be included in written documentation in the compounding facility. The effectiveness of dry heat sterilization shall be verified using appropriate biological indicators and other confirmation.

‡ The oven should be equipped with a system for controlling temperature and exposure period.

Depyrogenation by Dry Heat

† Dry heat depyrogenation shall be used to render glassware or containers, such as vials free from pyrogens as well as viable microbes.

† The description of the dry heat depyrogenation cycle and duration for specific load items shall be included in written documentation in the compounding facility.

† The effectiveness of the dry heat depyrogenation cycle shall be verified using endotoxin challenge vials (ECVs).

‡ The bacterial endotoxin test should be performed on the ECVs to verify the cycle is capable of achieving a 3 log reduction in endotoxin.

ENVIRONMENTAL QUALITY AND CONTROL

Exposure of Critical Sites

† ISO Class 5 or better air.

† Preclude direct contact (e.g., touch and secretions) contamination.

ISO Class 5 Air Sources, Buffer Areas, and Ante-Areas

† A buffer area is an area that provides at least ISO Class 7 air quality.

† New representations of facility layouts.

† Each compounding facility shall ensure that each source of ISO Class 5 environment for exposure of critical sites and sterilization by filtration is properly located, operated, maintained, monitored, and verified.

† Devices (e.g., computers and printers) and objects (e.g., carts and cabinets) can be placed in buffer areas and shall be verified by testing or monitoring.

Viable and Nonviable Environmental Sampling (ES) Testing

† Environmental sampling shall occur as part a comprehensive quality management program and shall occur minimally when several conditions exist.

‡ The ES program should provide information to staff and leadership to demonstrate that the engineering controls are maintaining an environment within the compounding area that consistently maintains acceptably low viable and nonviable particle levels.

Environmental Nonviable Particle Testing Program

† Certification and testing of primary (LAFWs, BSCs, CAIs and CACIs) and secondary engineering controls (buffer and ante areas) shall be performed by a qualified individual no less than every six months and whenever the device or room is relocated, altered, or major service to the facility is performed. Certification procedures such as those outlined in the CETA Certification Guide for Sterile Compounding Facilities (CAG-003-2006) shall be used.

Total Particle Counts

† Certification that each ISO classified area (e.g., ISO Class 5, 7 and 8) is within established guidelines shall be performed no less than every 6 months and whenever the LAFW, BSC, CAI, or CACI is relocated or the physical structure of the buffer room or ante-area has been altered.

† Testing shall be performed by qualified operators using current, state-of-the-art electronic equipment with results meeting ISO Class 5, 7, or 8 depending on the requirements of the area.

† All certification records shall be maintained and reviewed by supervising personnel or other designated employee to ensure that the controlled environments comply with the proper air cleanliness, room pressures, and air changes per hour.

Pressure Differential Monitoring

† A pressure gauge or velocity meter shall be installed to monitor the pressure differential or airflow between the buffer area and ante-area, and the ante-area and the general environment outside the compounding area.

† The results shall be reviewed and documented on a log at least every work shift (minimum frequency shall be at least daily) or by a continuous recording device.

† The pressure between the ISO Class 7 and general pharmacy area shall not be less than 5 Pa (0.02 inch water column (w.c.)).

† In facilities where low- and medium-risk level CSPs are prepared, differential airflow shall maintain a minimum velocity of 0.2 meter/second (40 fpm) between buffer area and ante-area.

Environmental Viable Airborne Particle Testing Program—Sampling Plan

† An appropriate environmental sampling plan shall be developed for airborne viable particles based on a risk assessment of compounding activities performed.

† Selected sampling sites shall include locations within each ISO Class 5 environment and in the ISO Class 7 and 8 areas, and the segregated compounding areas at greatest risk of contamination (e.g., work areas near the ISO Class 5 environment, counters near doors, pass-through boxes).

APPENDICES**Appendix I. Principal Competencies, Conditions, Practices, and Quality Assurances That Are Required († "shall") and Recommended (‡ "should") in USP Chapter <797> (Continued)**

† The plan shall include sample location, method of collection, frequency of sampling, volume of air sampled, and time of day as related to activity in the compounding area and action levels.

‡ It is recommended that compounding personnel refer to USP Chapter *Microbiological Evaluation of Clean Rooms and Other Controlled Environments* (1116) and the CDC Guidelines for Environmental Infection Control in Healthcare Facilities-2003 for more information.

Growth Media

† A general microbiological growth medium such as Soybean–Casein Digest Medium (also known as trypticase soy broth (TSB) or agar (TSA)) shall be used to support the growth of bacteria.

† Malt extract agar (MEA) or some other media that supports the growth of fungi shall be used in high-risk level compounding environments.

† Media used for surface sampling shall be supplemented with additives to neutralize the effects of disinfecting agents (e.g., TSA with lecithin and polysorbate 80).

Viable Air Sampling

† Evaluation of airborne microorganisms using volumetric collection methods in the controlled air environments shall be performed by properly trained individuals for all compounding risk levels.

† Impaction shall be the preferred method of volumetric air sampling.

† For low-, medium-, and high-risk level compounding, air sampling shall be performed at locations that are prone to contamination during compounding activities and during other activities like staging, labeling, gowning, and cleaning.

† Locations shall include zones of air backwash turbulence within laminar airflow workbench and other areas where air backwash turbulence may enter the compounding area.

† For low-risk level CSPs with 12-hour or less BUD, air sampling shall be performed at locations inside the ISO Class 5 environment and other areas that are in close proximity to the ISO class 5 environment, during the certification of the primary engineering control.

‡ Consideration should be given to the overall effect the chosen sampling method will have on the unidirectional airflow within a compounding environment.

Air Sampling Devices

† The instructions in the manufacturer's user manual for verification and use of electric air samplers that actively collect volumes of air for evaluation shall be followed.

† A sufficient volume of air (400–1000 liters) shall be tested at each location in order to maximize sensitivity.

‡ It is recommended that compounding personnel also refer to USP Chapter (1116), which can provide more information on the use of volumetric air samplers and volume of air that should be sampled to detect environmental bioburden excursions.

Air Sampling Frequency and Process

† Air sampling shall be performed at least semiannually (i.e. every 6 months), as part of the re-certification of facilities and equipment for area where primary engineering controls are located.

† A sufficient volume of air shall be sampled and the manufacturer's guidelines for use of the electronic air sampling equipment followed.

‡ Any facility construction or equipment servicing may require the need to perform air sampling during these events.

Incubation Period

† The microbial growth media plates used to collect environmental sampling are recovered, covers secured (e.g., taped), inverted, and incubated at a temperature and for a time period conducive to multiplication of microorganisms.

† The number of discrete colonies of microorganisms shall be counted and reported as colony-forming units (cfu) and documented on an environmental monitoring form. Counts from air monitoring need to be transformed into cfu/cubic meter of air and evaluated for adverse trends.

‡ TSA should be incubated at $35^{\circ} \pm 2^{\circ}$ for 2–3 days.

‡ MEA or other suitable fungal media should be incubated at $28^{\circ} \pm 2^{\circ}$ for 5–7 days.

Action Levels, Documentation and Data Evaluation

† Sampling data shall be collected and reviewed on a periodic basis as a means of evaluating the overall control of the compounding environment.

† Competent microbiology personnel shall be consulted if an environmental sampling consistently shows elevated levels of microbial growth.

† An investigation into the source of the environmental contamination shall be conducted.

‡ Any cfu count that exceeds its respective action level should prompt a re-evaluation of the adequacy of personnel work practices, cleaning procedures, operational procedures, and air filtration efficiency within the aseptic compounding location.

‡ Table titled, Recommended Action Levels for Microbial Contamination should only be used as a guideline

Facility Design and Environmental Controls

† Compounding facilities are physically designed and environmentally controlled to minimize airborne contamination from contacting critical sites.

† Compounding facilities shall provide a comfortable and well-lighted working environment, which typically includes a temperature of 20° or cooler to maintain comfortable conditions for compounding personnel when attired in the required aseptic compounding garb.

† Primary engineering controls provide unidirectional (i.e., laminar) HEPA air at a velocity sufficient to prevent airborne particles from contacting critical sites.

† In situ air pattern analysis via smoke studies shall be conducted at the critical area to demonstrate unidirectional airflow and sweeping action over and away from the product under dynamic conditions.

† Policies and procedures for maintaining and working within the primary engineering control area shall be written and followed. The policies and procedures will be determined by the scope and risk levels of the aseptic compounding activities used during the preparation of the CSPs.

† The principles of HEPA-filtered unidirectional airflow in the work environment shall be understood and practiced in the compounding process in order to achieve the desired environmental conditions.

† Clean rooms for nonhazardous and nonradioactive CSPs are supplied with HEPA that enters from ceilings with return vents low on walls, and that provides not less than 30 air changes per hour.

† Buffer areas maintain 0.02- to 0.05-inch water column positive pressure, and do not contain sinks or drains.

† Air velocity from buffer rooms or zones to ante-areas is at least 40 feet/minute.

APPENDICES

Appendix I. Principal Competencies, Conditions, Practices, and Quality Assurances That Are Required († "shall") and Recommended (§ "should") in USP Chapter <797> (Continued)

- † The primary engineering controls shall be placed within a buffer area in such a manner as to avoid conditions that could adversely affect their operation.
- † The primary engineering controls shall be placed out of the traffic flow and in a manner to avoid disruption from the HVAC system and room cross-drafts.
- † HEPA-filtered supply air shall be introduced at the ceiling.
- † All HEPA filters shall be efficiency tested using the most penetrating particle size and shall be leak tested at the factory and then leak tested again in situ after installation.
- † Activities and tasks carried out within the buffer area shall be limited to only those necessary when working within a controlled environment.
- † Only the furniture, equipment, supplies, and other material required for the compounding activities to be performed shall be brought into the room.
- † Surfaces and essential furniture in buffer rooms or zones and clean rooms shall be nonporous, smooth, nonshedding, impermeable, cleanable, and resistant to disinfectants.
- † The surfaces of ceilings, walls, floors, fixtures, shelving, counters, and cabinets in the buffer area shall be smooth, impervious, free from cracks and crevices, and nonshedding, thereby promoting cleanability, and minimizing spaces in which microorganisms and other contaminants may accumulate.
- † The surfaces shall be resistant to damage by disinfectant agents.
- † Juncures of ceilings to walls shall be coved or caulked to avoid cracks and crevices where dirt can accumulate.
- † Ceiling tiles shall be caulked around each perimeter to seal them to the support frame.
- † The exterior lens surface of ceiling lighting fixtures shall be smooth, mounted flush, and sealed.
- † Any other penetrations through the ceiling or walls shall be sealed.
- † The buffer area shall not contain sources of water (sinks) or floor drains. Work surfaces shall be constructed of smooth, impervious materials, such as stainless steel or molded plastic, so that they are easily cleaned and disinfected.
- † Carts shall be of stainless steel wire, nonporous plastic, or sheet metal construction with good quality, cleanable casters to promote mobility.
- † Storage shelving, counters, and cabinets shall be smooth, impervious, free from cracks and crevices, nonshedding, cleanable, and disinfectable.
- † Their number, design, and manner of installation the itmes above shall promote effective cleaning and disinfection.
- ‡ If ceilings consist of inlaid panels, the panels should be impregnated with a polymer to render them impervious and hydrophobic.
- ‡ Dust-collecting overhangs, such as ceiling utility pipes, or ledges, such as windowsills, should be avoided.
- ‡ Air returns should be mounted low on the wall creating a general top-down dilution of room air with HEPA-filtered make-up air.

Placement of Primary Engineering Controls Within ISO Class 7 Buffer Areas

- † Primary engineering controls for nonhazardous and nonradioactive CSPs are located in buffer areas, except for CAIs that are proven to maintain ISO Class 5 air when particle counts are sampled 6 to 12 inches upstream of critical site exposure areas during performance of normal inward and outward transfer of materials, and compounding manipulations when such CAIs are located in air quality worse than ISO Class 7.
- † Sterilization procedures for high-risk level CSPs, such as weighing and mixing, shall be completed in no worse than an ISO Class 8 environment.
- † Primary engineering controls shall be located out of traffic patterns and away from room air currents that could disrupt the intended airflow patterns.
- † When isolators are used for sterile compounding, the recovery time to achieve ISO Class 5 air quality shall be documented and internal procedures developed to ensure that adequate recovery time is allowed after material transfer before and during compounding operations.
- † When compounding activities require the manipulation of a patient's blood-derived or other biological material (e.g., radiolabeling a patient's or a donor's white blood cells), the manipulations shall be clearly separated from routine material-handling procedures and equipment used in CSP preparation activities, and they shall be controlled by specific standard operating procedures in order to avoid any cross-contamination.
- † Food, drinks, and items exposed in patient care areas, and unpacking of bulk supplies and personnel cleansing and garbing are prohibited from buffer areas or rooms.
- † Demarcation designation between buffer areas or rooms and ante-areas.
- † Antiseptic hand cleansing and sterile gloves in buffer areas or rooms.
- ‡ Packaged compounding supplies and components, such as needles, syringes, tubing sets, and small- and large-volume parenterals, should be uncartoned and wiped down with a disinfectant that does not leave a residue (e.g., sterile 70% IPA) when possible in an ante-area, of ISO Class 8 air quality, before being passed into the buffer areas.

Cleaning and Disinfecting the Sterile Compounding Areas

- † Trained personnel write detailed procedures including cleansers, disinfectants, and non-shedding wipe and mop materials.
- † Cleaning and disinfecting surfaces in the LAFWs, BSCs, CAIs, and CACIs shall be cleaned and disinfected frequently, including at the beginning of each work shift, before each batch preparation is started, every 30 minutes during continuous compounding periods of individual CSPs, when there are spills, and when surface contamination is known or suspected from procedural breaches.
- † Trained compounding personnel are responsible for developing, implementing, and practicing the procedures for cleaning and disinfecting the DCAs written in the SOPs.
- † Cleaning and disinfecting shall occur before compounding is performed. Items shall be removed from all areas to be cleaned, and surfaces shall be cleaned by removing loose material and residue from spills, e.g., water-soluble solid residues are removed with Sterile Water (for Injection or Irrigation) and low-shedding wipes. This shall be followed by wiping with a residue-free disinfecting agent, such as sterile 70% IPA, which is allowed to dry before compounding begins.
- † Work surfaces in ISO Class 7 and 8 areas and segregated compounding areas are cleaned at least daily.
- † Dust and debris shall be removed when necessary from storage sites for compounding ingredients and supplies, using a method that does not degrade the ISO Class 7 or 8 air quality.
- † Floors in ISO Class 7 and 8 areas are cleaned daily when no compounding occurs.
- † IPA (70% isopropyl alcohol) remains on surfaces to be disinfected for at least 30 seconds before such surfaces are used to prepare CSPs.

APPENDICES**Appendix I. Principal Competencies, Conditions, Practices, and Quality Assurances That Are Required († “shall”) and Recommended (§ “should”) in USP Chapter (797) (Continued)**

- † Emptied shelving, walls, and ceilings in ante-areas are cleaned and disinfected at least monthly.
- † Mopping shall be performed by trained personnel using approved agents and procedures described in the written SOPs.
- † Cleaning and disinfecting agents, their schedules of use and methods of application shall be in accordance with written SOPs and followed by custodial and/or compounding personnel.
- † All cleaning materials, such as wipers, sponges, and mops, shall be nonshedding, preferably composed of synthetic micro fibers, and dedicated to use in the buffer area, or ante-area, and segregated compounding areas and shall not be removed from these areas except for disposal.
- † If cleaning materials are reused (e.g., mops), procedures shall be developed (based on manufacturer recommendations) that ensure that the effectiveness of the cleaning device is maintained and repeated use does not add to the bioburden of the area being cleaned.
- † Supplies and equipment removed from shipping cartons shall be wiped with a suitable disinfecting agent (e.g., sterile 70% IPA) delivered from a spray bottle or other suitable delivery method.
- † After the disinfectant is sprayed or wiped on a surface to be disinfected, the disinfectant shall be allowed to dry, and during this time the item shall not be used for compounding purposes.
- † Sterile 70% IPA wetted gauze pads or other particle-generating material shall not be used to disinfect the sterile entry points of packages and devices.

Personnel Cleansing and Garbing

- † Personnel shall also be thoroughly competent and highly motivated to perform flawless aseptic manipulations with ingredients, devices, and components of CSPs.
- † Personnel with rashes, sunburn, weeping sores, conjunctivitis, active respiratory infection, and cosmetics are prohibited from preparing CSPs.
- † Compounding personnel shall remove personal outer garments; cosmetics; artificial nails; hand, wrist, and body jewelry that can interfere with the fit of gowns and gloves; and visible body piercing above the neck.
- † Order of compounding garb and cleansing in ante-area: shoes or shoe covers, head and facial hair covers, face mask, fingernail cleansing, hand and forearm washing and drying; non-shedding gown.
- † Order of cleansing and gloving in buffer room or area: hand cleansing with a persistently active alcohol-based product with persistent activity; allow hands to dry; don sterile gloves.
- † Routinely disinfect gloves with sterile 70% IPA after contacting nonsterile objects.
- † Inspect gloves for holes and replace when breaches are detected.
- † Personnel repeat proper procedures after they are exposed to direct contact contamination or worse than ISO Class 8 air.
- † These requirements are exempted only for immediate-use CSPs and CAIs for which manufacturers provide written documentation based on validated testing that such personnel practices are not required to maintain sterility in CSPs.

Personnel Training and Competency Evaluation of Garbing, Aseptic Work Practices and Cleaning/Disinfection Procedures

- † Personnel who prepare CSPs shall be trained conscientiously and skillfully by expert personnel, multi-media instructional sources, and professional publications in the theoretical principles and practical skills of garbing procedures, aseptic work practices, achieving and maintaining ISO Class 5 environmental conditions, and cleaning and disinfection procedures.
- † This training shall be completed and documented before any compounding personnel begin to prepare CSPs.
- † Compounding personnel shall complete didactic training, pass written competence assessments, undergo skill assessment using observational audit tools, and media-fill testing.
- † Media-fill testing of aseptic work skills shall be performed initially before beginning to prepare CSPs and at least annually thereafter for low- and medium-risk level compounding; and semiannually for high-risk level compounding.
- † Compounding personnel who fail written tests, observational audits, or whose media-fill test vials have one or more units showing visible microbial contamination, shall be reinstructed and re-evaluated by expert compounding personnel to ensure correction of all aseptic work practice deficiencies.
- † Compounding personnel shall pass all evaluations prior to resuming compounding of sterile preparations.
- † Compounding personnel must demonstrate proficiency of proper hand hygiene, garbing, and consistent cleaning procedures in addition to didactic evaluation and aseptic media fill.
- † Cleaning and disinfecting procedures performed by other support personnel shall be thoroughly trained in proper hand hygiene, and garbing, cleaning, and disinfection procedures by a qualified aseptic compounding expert.
- † Support personnel shall routinely undergo performance evaluation of proper hand hygiene, garbing, and all applicable cleaning and disinfecting procedures conducted by a qualified aseptic compounding expert.

Competency Evaluation of Garbing and Aseptic Work Practices

- † Compounding personnel shall be evaluated initially prior to beginning compounding CSPs and whenever an aseptic media fill is performed using a Sample Form for Assessing Hand Hygiene and Garbing Related Practices of Compounding Personnel and the personnel glove fingertip sampling procedures.

Aseptic Work Practice Assessment and Evaluation via Personnel Glove Fingertip Sampling

- † Monitoring of compounding personnel glove fingertips shall be performed for all CSP risk level compounding.
- † Glove fingertip sampling shall be used to evaluate the competency of personnel in performing hand hygiene and garbing procedures in addition to educating compounding personnel on proper work practices.
- † All personnel shall demonstrate competency in proper hand hygiene and garbing procedures in addition to aseptic work practices.
- † Sterile contact agar plates shall be used to sample the gloved fingertips of compounding personnel after garbing to assess garbing competency and after completing the media-fill preparation.
- † Gloves shall not be disinfected with sterile 70% IPA immediately prior to sampling.

APPENDICES**Appendix I. Principal Competencies, Conditions, Practices, and Quality Assurances That Are Required († "shall") and Recommended (‡ "should") in USP Chapter <797> (Continued)****Garbing and Gloving Competency Evaluation**

- † Compounding personnel shall be visually observed during the process of performing hand hygiene and garbing procedures.
- † The visual observation shall be documented on a Sample Form for Assessing Hand Hygiene and Garbing Related Practices of Compounding Personnel and maintained to provide a permanent record of and long-term assessment of personnel competency.

Gloved Fingertip Sampling

- † Immediately after the compounder completes the hand hygiene and garbing procedure, the evaluator shall collect a gloved fingertip and thumb sample from both hands of the compounder onto appropriate agar plates by lightly pressing each finger tip into the agar.
- † The plates shall be incubated for the appropriate incubation period and at the appropriate temperature.
- † All employees shall successfully complete an initial competency evaluation and gloved fingertip/thumb sampling procedure (0 cfu) no less than three times before initially being allowed to compound CSPs for human use.
- † After completing the initial gowning and gloving competency evaluation, re-evaluation of all compounding personnel shall occur at least annually for low- and medium-risk level CSPs and semiannually for high-risk level CSPs before being allowed to continue compounding CSPs.
- † Gloves shall not be disinfected with sterile 70% IPA prior to testing.
- † The sampled gloves shall be immediately discarded and proper hand hygiene performed after sampling. The nutrient agar plates shall be incubated as stated below.
- † The cfu action level for gloved hands shall be based on the total number of cfu on both gloves and not per hand.
- ‡ Results should be reported separately as number of cfu per employee per hand (left hand, right hand).

Incubation Period

- † At the end of the designated sampling period, the agar plates are recovered, covers secured, inverted and incubated at a temperature and for a time period conducive to multiplication of microorganisms. Trypticase soy agar (TSA) with lecithin and polysorbate 80 shall be incubated at $35^{\circ} \pm 2^{\circ}$ for 2–3 days.

Aseptic Manipulation Competency Evaluation

- † All compounding personnel shall have their aseptic technique and related practice competency evaluated initially during the media-fill test procedure and subsequent annual or semiannual media-fill test procedures on the Sample Form for Assessing Aseptic Technique and Related Practices of Compounding Personnel.

Media-Fill Test Procedure

- † The skill of personnel to aseptically prepare CSPs shall be evaluated using sterile fluid bacterial culture media-fill verification.
- † Media-filled vials shall be incubated within a range of $35^{\circ} \pm 2^{\circ}$ for 14 days.

Surface Cleaning and Disinfection Sampling and Assessment

- † Surface sampling shall be performed in all ISO classified areas on a periodic basis and can be accomplished using contact plates and/or swabs and shall be done at the conclusion of compounding.
- † Locations to be sampled shall be defined in a sample plan or on a form.

Cleaning and Disinfecting Competency Evaluation

- † Compounding personnel and other personnel responsible for cleaning shall be visually observed during the process of performing cleaning and disinfecting procedures during initial personnel training on cleaning procedures, changes in cleaning staff and at the completion of any Media-Fill Test Procedure.
- † Visual observation shall be documented on a Sample Form for Assessing Cleaning and Disinfection Procedures and maintained to provide a permanent record of, and long-term assessment of, personnel competency.

Surface Collection Methods

- † Immediately after sampling a surface with the contact plate, the sampled area shall be thoroughly wiped with a non-shedding wipe soaked in sterile 70% IPA.
- ‡ Results should be reported as cfu per unit of surface area.

Action Levels, Documentation, and Data Evaluation

- † Environmental sampling data shall be collected and reviewed on a routine basis as a means of evaluating the overall control of the compounding environment.
- † If an activity consistently shows elevated levels of microbial growth, competent microbiology personnel shall be consulted.
- † An investigation into the source of the contamination shall be conducted.
- † When gloved fingertip sample results exceeds action levels after proper incubation, a review of hand hygiene and garbing procedures as well as glove and surface disinfection procedures and work practices shall be performed and documented.
- ‡ Any cfu count that exceeds its respective action level should prompt a re-evaluation of the adequacy of personnel work practices, cleaning procedures, operational procedures, and air filtration efficiency within the aseptic compounding location.

SUGGESTED STANDARD OPERATING PROCEDURES

- † All facilities are required to have these, and they must include at least the items enumerated in this section.

FINISHED PREPARATION RELEASE CHECKS AND TESTS**Inspection of Solution Dosage Forms and Review of Compounding Procedures**

- † Review procedures and documents to ensure sterility, purity, correct identities and amounts of ingredients, and stability.
- † Visually inspect for abnormal particulate matter and color, and intact containers and seals.

Sterility Testing

- † High-risk level CSPs prepared in batches of more than 25 identical containers, or exposed longer than 12 hours at 2° to 8° , and 6 hours at warmer than 8° before being sterilized.

APPENDICES**Appendix I. Principal Competencies, Conditions, Practices, and Quality Assurances That Are Required († “shall”) and Recommended (‡ “should”) in USP Chapter <797> (Continued)**

Bacterial Endotoxin (Pyrogen) Testing

† High-risk level CSPs, excluding those for inhalation and ophthalmic administration, prepared in batches of more than 25 identical containers, or exposed longer than 12 hours at 2° to 8°, and 6 hours at warmer than 8°, before being sterilized.

Identity and Strength Verification of Ingredients

† Written procedures to verify correct identity, quality, amounts, and purities of ingredients used in CSPs.

† Written procedures to ensure labels of CSPs contain correct names and amounts or concentrations of ingredients, total volumes, beyond-use dates, storage conditions, and route(s) of administration.

STORAGE AND BEYOND-USE DATING

Determining Beyond-Use Dates

† Use the general criteria in USP <795> in the absence of direct stability-indicating assays or authoritative literature that supports longer durations.

MAINTAINING STERILITY, PURITY, AND STABILITY OF DISPENSED AND DISTRIBUTED CSPs

† Written procedures for proper packaging, storage, and transportation conditions to maintain sterility, quality, purity, and strength of CSPs.

Redispensed CSPs

† When sterility, and acceptable purity, strength, and quality can be ensured.

† Assignment of sterility storage times and stability beyond-use dates that occur later than those of originally dispensed CSPs must be based on results of sterility testing and quantitative assay of ingredients.

Packaging and Transporting CSPs

† Packaging maintains physical integrity, sterility, stability, and purity of CSPs.

† Modes of transport that maintain appropriate temperatures and prevent damage to CSPs.

PATIENT OR CAREGIVER TRAINING

† Multiple component formal training program to ensure patients and caregivers understand the proper storage, handling, use, and disposal of CSPs.

PATIENT MONITORING AND ADVERSE EVENTS REPORTING

† Written standard procedures describe means for patients to ask questions and report concerns and adverse events with CSPs, and for compounding supervisors to correct and prevent future problems.

‡ Adverse events and defects with CSPs reported to FDA’s MedWatch and USP’s MEDMARX programs.

Appendix II. Common Disinfectants Used in Health Care for Inanimate Surfaces and Noncritical Devices, and Their Microbial Activity and Properties¹

| Chemical Category of Disinfectant | | | | | | | |
|---|----------------------------------|--------------------------|--------------------------------------|---|--------------------|---|--|
| | | Isopropyl alcohol | Accelerated hydrogen peroxide | Quaternary Ammonium (e.g., dodecyl dimethyl ammonium chloride) | Phenolics | Chlorine (e.g., sodium hypochlorite) | Iodophors (e.g., povidone-iodine) |
| Concentration Used | | 60-95% | 0.5%³ | 0.4-1.6% aq | 0.4-1.6% aq | 100-5000 ppm | 30-50 ppm |
| Microbial Inactivation² | Bacteria | + | + | + | + | + | + |
| | Lipophilic viruses | + | + | + | + | + | + |
| | Hydrophilic viruses | ± | + | ± | ± | + | ± |
| | M.tuberculosis | + | + | ± | + | + | ± |
| | Mycotic agents (fungi) | + | + | + | + | + | ± |
| | Bacterial Spores | - | - | - | - | + | - |
| Important Chemical & Physical Properties | Shelf life >1 week | + | + | + | + | + | + |
| | Corrosive or deleterious effects | ± | - | - | - | ± | ± |
| | Non-evaporable residue | - | - | + | + | - | + |
| | Inactivated by organic matter | + | ± | + | ± | + | + |
| | Skin irritant | ± | - | + | + | + | ± |
| | Eye irritant | + | - | + | + | + | + |
| | Respiratory irritant | - | - | - | - | + | - |
| | Systemic toxicity | + | - | + | + | + | + |

Key to abbreviation and symbols: aq = diluted with water; ppm = parts per million; + = yes; - = no; ± = variable results.

¹ Modified from World Health Organization, Laboratory Bio Safety Manual 1983 and Rutala WA, "Antisepsis, disinfection and sterilization in the hospital and related institutions," *Manual of Clinical Microbiology*, American Society for Microbiology, Washington, DC, 1995, pages 227-245.

² Inactivation of the most common microorganisms (i.e., bacteria) occurs with a contact time of ≤1 minute; inactivation of spores requires longer contact times (e.g., 5-10 minutes for 5,000 ppm chlorine solution against *C. difficile* spores). Reference: Perez J, Springthorpe VS, Sattar SA, "Activity of selected oxidizing microbicides against the spores of *Clostridium difficile*: Relevance to environmental control," *American Journal of Infection Control*, August 2005, pages 320-325.

³ Accelerated hydrogen peroxide is a new generation of hydrogen peroxide-based germicides in which the potency and performance of the active ingredient have been enhanced and accelerated through the use of appropriate acids and detergents.

Appendix III. Sample Form for Assessing Hand Hygiene and Garbing Related Practices of Compounding Personnel

Printed name and position/title of person assessed: _____

Name of facility or location: _____

Hand Hygiene and Garbing Practices: The qualified evaluator will check each space for which the person being assessed has acceptably completed the described activity, prints N/A if the activity is not applicable to the assessment session or N/O if the activity was not observed.*

- _____ Presents in a clean appropriate attire and manner.
- _____ Wears no cosmetics or jewelry (watches, rings, earrings, etc. piercing jewelry included) upon entry into ante-areas.
- _____ Brings no food or drinks into or stored in the ante-areas or buffer areas.
- _____ Is aware of the line of demarcation separating clean and dirty sides and observes required activities.
- _____ Dons shoe covers or designated clean-area shoes one at a time, placing the covered or designated shoe on clean side of the line of demarcation, as appropriate.
- _____ Dons beard cover if necessary.
- _____ Dons head cover assuring that all hair is covered.
- _____ Dons face mask to cover bridge of nose down to include chin.
- _____ Performs hand hygiene procedure by wetting hands and forearms and washing using soap and warm water for at least 30 seconds.
- _____ Dries hands and forearms using lint-free towel or hand dryer.
- _____ Selects the appropriate sized gown examining for any holes, tears, or other defects.
- _____ Dons gown and ensures full closure.
- _____ Disinfects hands again using a waterless alcohol-based surgical hand scrub with persistent activity and allows hands to dry thoroughly before donning sterile gloves.
- _____ Dons appropriate sized sterile gloves ensuring that there is a tight fit with no excess glove material at the fingertips.
- _____ Examines gloves ensuring that there are no defects, holes, or tears.
- _____ While engaging in sterile compounding activities, routinely disinfects gloves with sterile 70% IPA prior to work in the direct compounding area (DCA) and after touching items or surfaces that may contaminate gloves.
- _____ Removes PPE on the clean side of the ante-area.
- _____ Removes gloves and performs hand hygiene.
- _____ Removes gown and discards it, or hangs it on hook if it is to be reused within the same work day.
- _____ Removes and discards mask, head cover, and beard cover (if used).
- _____ Removes shoe covers or shoes one at a time, ensuring that uncovered foot is placed on the dirty side of the line of demarcation and performs hand hygiene again. (Removes and discards shoe covers every time the compounding area is exited).

***The person assessed is immediately informed of all unacceptable activities (i.e., spaces lacking check marks, N/A, or N/O) and shown and informed of specific corrections.**

| | | |
|------------------------------|--------------|------|
| Signature of Person Assessed | Printed Name | Date |
|------------------------------|--------------|------|

| | | |
|----------------------------------|--------------|------|
| Signature of Qualified Evaluator | Printed Name | Date |
|----------------------------------|--------------|------|

Appendix IV. Sample Form for Assessing Aseptic Technique and Related Practices of Compounding Personnel

Printed name and position/title of person assessed: _____
 Name of facility or location: _____

Aseptic Technique, Safety, and Quality Assurance Practices: The qualified evaluator checks each space for which the person being assessed has acceptably completed the described activity, prints N/A if the activity is not applicable to the assessment session or N/O if the activity was not observed.*

- _____ Completes the Hand Hygiene and Garbing Competency Assessment Form.
- _____ Performs proper hand hygiene, garbing, and gloving procedures according to SOPs.
- _____ Disinfects ISO Class 5 device surfaces with an appropriate agent.
- _____ Disinfects components/vials with an appropriate agent prior to placing into ISO Class 5 work area.
- _____ Introduces only essential materials in a proper arrangement in the ISO Class 5 work area.
- _____ Does not interrupt, impede, or divert flow of first-air to critical sites.
- _____ Ensures syringes, needles, and tubing remain in their individual packaging and are only opened in ISO Class 5 work area.
- _____ Performs manipulations only in the appropriate DCA of the ISO Class 5 device.
- _____ Does not expose critical sites to contact contamination or worse than ISO Class 5 air.
- _____ Disinfects stoppers, injection ports, and ampul necks by wiping with sterile 70% IPA and allows sufficient time to dry.
- _____ Affixes needles to syringes without contact contamination.
- _____ Punctures vial stoppers and spikes infusion ports without contact contamination.
- _____ Labels preparation(s) correctly.
- _____ Disinfects sterile gloves routinely by wiping with sterile 70% IPA during prolonged compounding manipulations.
- _____ Cleans, sets up, and calibrates automated compounding device (e.g., "TPN compounder") according to manufacturer's instructions.
- _____ Disposes of sharps and waste according to institutional policy or recognized guidelines.

***The person assessed is immediately informed of all unacceptable activities (i.e., spaces lacking check marks, N/A, or N/O) and shown and informed of specific corrections.**

| | | |
|----------------------------------|--------------|------|
| Signature of Person Assessed | Printed Name | Date |
| Signature of Qualified Evaluator | Printed Name | Date |

Appendix V. Sample Form for Assessing Cleaning and Disinfection Procedures

Printed name and position/title of person assessed: _____
 Name of facility or location: _____

Cleaning and Disinfection Practices: The qualified evaluator will check each space for which the person being assessed has acceptably completed the described activity, prints N/A if the activity is not applicable to the assessment session or N/O if the activity was not observed.*

Daily Tasks:

- _____ Prepares correct concentration of disinfectant solution according to manufacturer's instructions.
- _____ Uses appropriately labeled container for the type of surface to be cleaned (floor, wall, production bins, etc.).
- _____ Documents disinfectant solution preparation.
- _____ Follows garbing procedures when performing any cleaning activities.
- _____ At the beginning of each shift, cleans all ISO Class 5 devices prior to compounding in the following order: walls, IV bar, automated compounders, and work surface.
- _____ Uses a lint free wipe soaked with sterile 70% IPA or other approved disinfectant solution and allows to dry completely.
- _____ Removes all compounder components and cleans all ISO Class 5 areas as stated above at the end of each shift.
- _____ Cleans all counters and easily cleanable work surfaces.
- _____ Mops floors, using the mop labeled "floors," starting at the wall opposite the room entry door; mops floor surface in even strokes toward the operator. Moves carts as needed to clean entire floor surface. Use of a microfiber cleaning system is an acceptable alternative to mops.
- _____ In the ante-area, cleans sink and all contact surfaces; cleans floor with a disinfectant solution or uses microfiber cleaning system.

Monthly Tasks:

- _____ Performs monthly cleaning on a designated day. Prepares a disinfectant solution as stated in daily tasks that is appropriate for the surfaces to be cleaned.
- _____ Cleans buffer area and ante-area ceiling, walls, and storage shelving with a disinfectant solution and a mop or uses a microfiber cleaning system.
- _____ Once ISO Class 5 area is clean, cleans compounding room ceiling, followed by walls and ending with the floor. Uses appropriate labeled mops or microfiber cleaning system.
- _____ Cleans all buffer area totes and storage shelves by removing contents and using a germicidal detergent soaked lint free wipe, cleans the inside surfaces of the tote and then the entire exterior surfaces of the tote. Allows totes to dry. Prior to replacing contents into tote, wipes tote with sterile 70% IPA to remove disinfectant residue. Uses new wipe as needed.
- _____ Cleans all buffer area carts by removing contents and using germicidal detergent soaked lint free wipe, cleans all carts starting with the top shelf and top of post, working down to wheels. Cleans the under side of shelves in a similar manner. Uses a new wipe for each cart. Allows to dry. Wipes carts with sterile 70% IPA wetted lint-free wipe to remove any disinfectant residue. Uses new wipe as needed.
- _____ Cleans buffer area chairs, the interior and exterior of trash bins, and storage bins using disinfectant solution soaked lint free wipe.
- _____ Documents all cleaning activities as to who performed such activities with date and time noted.

***The person assessed is immediately informed of all unacceptable activities (i.e., spaces lacking check marks, N/A, or N/O) and shown and informed of specific corrections.**

| | | |
|----------------------------------|--------------|------|
| Signature of Person Assessed | Printed Name | Date |
| Signature of Qualified Evaluator | Printed Name | Date |

of frauds against American manufacturers and has provided the cover for the importation of foreign counterfeit drugs.

“(6) The existing system of providing drug samples to physicians through manufacturer’s representatives has been abused for decades and has resulted in the sale to consumers of misbranded, expired, and adulterated pharmaceuticals.

“(7) The bulk resale of below wholesale priced prescription drugs by health care entities, for ultimate sale at retail, helps fuel the diversion market and is an unfair form of competition to wholesalers and retailers that must pay otherwise prevailing market prices.

“(8) The effect of these several practices and conditions is to create an unacceptable risk that counterfeit, adulterated, misbranded, subpotent, or expired drugs will be sold to American consumers.”

§ 353a. Pharmacy compounding

(a) In general

Sections 351(a)(2)(B), 352(f)(1), and 355 of this title shall not apply to a drug product if the drug product is compounded for an identified individual patient based on the unsolicited receipt of a valid prescription order or a notation, approved by the prescribing practitioner, on the prescription order that a compounded product is necessary for the identified patient, if the drug product meets the requirements of this section, and if the compounding—

(1) is by—

- (A) a licensed pharmacist in a State licensed pharmacy or a Federal facility, or
- (B) a licensed physician,

on the prescription order for such individual patient made by a licensed physician or other licensed practitioner authorized by State law to prescribe drugs; or

(2)(A) is by a licensed pharmacist or licensed physician in limited quantities before the receipt of a valid prescription order for such individual patient; and

(B) is based on a history of the licensed pharmacist or licensed physician receiving valid prescription orders for the compounding of the drug product, which orders have been generated solely within an established relationship between—

- (i) the licensed pharmacist or licensed physician; and
- (ii)(I) such individual patient for whom the prescription order will be provided; or

(II) the physician or other licensed practitioner who will write such prescription order.

(b) Compounded drug

(1) Licensed pharmacist and licensed physician

A drug product may be compounded under subsection (a) of this section if the licensed pharmacist or licensed physician—

(A) compounds the drug product using bulk drug substances, as defined in regulations of the Secretary published at section 207.3(a)(4) of title 21 of the Code of Federal Regulations—

(i) that—

(I) comply with the standards of an applicable United States Pharmacopoeia or National Formulary monograph, if a monograph exists, and the United States

Pharmacopoeia chapter on pharmacy compounding;

(II) if such a monograph does not exist, are drug substances that are components of drugs approved by the Secretary; or

(III) if such a monograph does not exist and the drug substance is not a component of a drug approved by the Secretary, that appear on a list developed by the Secretary through regulations issued by the Secretary under subsection (d) of this section;

(ii) that are manufactured by an establishment that is registered under section 360 of this title (including a foreign establishment that is registered under section 360(i) of this title); and

(iii) that are accompanied by valid certificates of analysis for each bulk drug substance;

(B) compounds the drug product using ingredients (other than bulk drug substances) that comply with the standards of an applicable United States Pharmacopoeia or National Formulary monograph, if a monograph exists, and the United States Pharmacopoeia chapter on pharmacy compounding;

(C) does not compound a drug product that appears on a list published by the Secretary in the Federal Register of drug products that have been withdrawn or removed from the market because such drug products or components of such drug products have been found to be unsafe or not effective; and

(D) does not compound regularly or in inordinate amounts (as defined by the Secretary) any drug products that are essentially copies of a commercially available drug product.

(2) Definition

For purposes of paragraph (1)(D), the term “essentially a copy of a commercially available drug product” does not include a drug product in which there is a change, made for an identified individual patient, which produces for that patient a significant difference, as determined by the prescribing practitioner, between the compounded drug and the comparable commercially available drug product.

(3) Drug product

A drug product may be compounded under subsection (a) only if—

(A) such drug product is not a drug product identified by the Secretary by regulation as a drug product that presents demonstrable difficulties for compounding that reasonably demonstrate an adverse effect on the safety or effectiveness of that drug product; and

(B) such drug product is compounded in a State—

(i) that has entered into a memorandum of understanding with the Secretary which addresses the distribution of inordinate amounts of compounded drug products interstate and provides for appropriate investigation by a State agency of complaints relating to compounded drug products distributed outside such State; or

(ii) that has not entered into the memorandum of understanding described in clause (i) and the licensed pharmacist, licensed pharmacy, or licensed physician distributes (or causes to be distributed) compounded drug products out of the State in which they are compounded in quantities that do not exceed 5 percent of the total prescription orders dispensed or distributed by such pharmacy or physician.

The Secretary shall, in consultation with the National Association of Boards of Pharmacy, develop a standard memorandum of understanding for use by the States in complying with subparagraph (B)(i).

(c) Advertising and promotion

A drug may be compounded under subsection (a) of this section only if the pharmacy, licensed pharmacist, or licensed physician does not advertise or promote the compounding of any particular drug, class of drug, or type of drug. The pharmacy, licensed pharmacist, or licensed physician may advertise and promote the compounding service provided by the licensed pharmacist or licensed physician.

(d) Regulations

(1) In general

The Secretary shall issue regulations to implement this section. Before issuing regulations to implement subsections (b)(1)(A)(i)(III), (b)(1)(C), or (b)(3)(A) of this section, the Secretary shall convene and consult an advisory committee on compounding unless the Secretary determines that the issuance of such regulations before consultation is necessary to protect the public health. The advisory committee shall include representatives from the National Association of Boards of Pharmacy, the United States Pharmacopoeia, pharmacy, physician, and consumer organizations, and other experts selected by the Secretary.

(2) Limiting compounding

The Secretary, in consultation with the United States Pharmacopoeia Convention, Incorporated, shall promulgate regulations identifying drug substances that may be used in compounding under subsection (b)(1)(A)(i)(III) of this section for which a monograph does not exist or which are not components of drug products approved by the Secretary. The Secretary shall include in the regulation the criteria for such substances, which shall include historical use, reports in peer reviewed medical literature, or other criteria the Secretary may identify.

(e) Application

This section shall not apply to—

- (1) compounded positron emission tomography drugs as defined in section 321(ii) of this title; or
- (2) radiopharmaceuticals.

(f) “Compounding” defined

As used in this section, the term “compounding” does not include mixing, reconstituting, or other such acts that are performed in accord-

ance with directions contained in approved labeling provided by the product’s manufacturer and other manufacturer directions consistent with that labeling.

(June 25, 1938, ch. 675, §503A, as added Pub. L. 105–115, title I, §127(a), Nov. 21, 1997, 111 Stat. 2328.)

EFFECTIVE DATE

Section 127(b) of Pub. L. 105–115 provided that: “Section 503A of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 353a], added by subsection (a), shall take effect upon the expiration of the 1-year period beginning on the date of the enactment of this Act [Nov. 21, 1997].”

§ 353b. Prereview of television advertisements

(a) In general

The Secretary may require the submission of any television advertisement for a drug (including any script, story board, rough, or a completed video production of the television advertisement) to the Secretary for review under this section not later than 45 days before dissemination of the television advertisement.

(b) Review

In conducting a review of a television advertisement under this section, the Secretary may make recommendations with respect to information included in the label of the drug—

(1) on changes that are—

- (A) necessary to protect the consumer good and well-being; or
- (B) consistent with prescribing information for the product under review; and

(2) if appropriate and if information exists, on statements for inclusion in the advertisement to address the specific efficacy of the drug as it relates to specific population groups, including elderly populations, children, and racial and ethnic minorities.

(c) No authority to require changes

Except as provided by subsection (e), this section does not authorize the Secretary to make or direct changes in any material submitted pursuant to subsection (a).

(d) Elderly populations, children, racially and ethnically diverse communities

In formulating recommendations under subsection (b), the Secretary shall take into consideration the impact of the advertised drug on elderly populations, children, and racially and ethnically diverse communities.

(e) Specific disclosures

(1) Serious risk; safety protocol

In conducting a review of a television advertisement under this section, if the Secretary determines that the advertisement would be false or misleading without a specific disclosure about a serious risk listed in the labeling of the drug involved, the Secretary may require inclusion of such disclosure in the advertisement.

(2) Date of approval

In conducting a review of a television advertisement under this section, the Secretary



THE COMMITTEE ON ENERGY AND COMMERCE

November 12, 2012

MAJORITY MEMORANDUM

TO: Members, Subcommittee on Oversight and Investigations

FROM: Subcommittee on Oversight and Investigations Staff

RE: Hearing on “The Fungal Meningitis Outbreak: Could It Have Been Prevented?”

On Wednesday, November 14, 2012, at 10:00 a.m. in room 2123 of the Rayburn House Office Building, the Subcommittee on Oversight and Investigations will hold a hearing entitled “The Fungal Meningitis Outbreak: Could It Have Been Prevented?”

This hearing will examine the facts surrounding the recent outbreak of fungal meningitis and other infections linked to contaminated injectable products made and distributed by the New England Compounding Center (NECC) in Framingham, Massachusetts. This hearing will also examine the history of complaints associated with NECC and its affiliated entities as well as related inspections and actions taken by the U.S. Food and Drug Administration (FDA) and the Massachusetts Department of Public Health (MDPH).

I. WITNESSES

Panel One

Ms. Joyce Lovelace

Panel Two

Mr. Barry J. Cadden
President, Co-Owner and Director of Pharmacy
New England Compounding Center

Panel Three

The Honorable Margaret A. Hamburg, MD
Commissioner
U.S. Food and Drug Administration (FDA)

Dr. Lauren Smith, MD, MPH
Interim Commissioner
Massachusetts Department of Public Health (MDPH)

II. BACKGROUND – THE CURRENT OUTBREAK

This section of the memorandum details the facts surrounding the current outbreak and the investigation of the outbreak by State and Federal regulators. In Part III, the memorandum describes the history of Federal and State inspections of NECC and resulting regulatory actions since the Massachusetts Board of Registration in Pharmacy (MBP or Massachusetts Board of Pharmacy) approved the company's pharmacy license in 1998.

A. The Fungal Meningitis Outbreak

As of November 9, 2012, the Centers for Disease Control and Prevention (CDC) has confirmed that 32 people have died and 438 people have been sickened across 19 states after receiving contaminated injectable products made and distributed by NECC .

The first case of meningitis connected to this outbreak was confirmed on September 18, 2012, in Tennessee. On September 21, 2012, CDC was notified by the Tennessee Department of Health (TDH) of a patient with the onset of meningitis approximately 19 days after receiving an epidural steroid injection at an ambulatory surgical center in Nashville. By September 24, 2012, TDH officials contacted MDPH informing them that it was investigating an outbreak of fungal meningitis in six patients at the same Nashville facility, with onsets between July 30 and September 18, 2012. All six patients had received the same injectable steroid, preservative-free methylprednisolone acetate (80 mg/ml), compounded and distributed by NECC.

On September 25, 2012, CDC informed FDA of the situation and that three lots of methylprednisolone acetate were suspected. Methylprednisolone acetate is a type of injectable steroid suspension often used to treat pain and swelling. MDPH convened a multi-agency teleconference with CDC, FDA, and Tennessee officials. Mr. Barry Cadden and Mr. Gregory Conigliaro, principal owners of NECC, joined the call as well. Mr. Cadden and Mr. Conigliaro immediately provided documentation of all facilities that had received shipments from the three suspect lots of methylprednisolone acetate. On September 26, 2012, NECC instituted a voluntary recall of the suspect lots. In total, 17,676 doses had been shipped to customers in 23 states. More than 14,000 patients had already received a potentially contaminated injection. Based on surveillance efforts, CDC soon identified a patient in North Carolina displaying symptoms of meningitis after receiving an injection from one of the suspect lots.

From September 26, 2012, through October 5, 2012, investigators from FDA's New England District Office (FDA NWE-DO) and MDPH inspected the NECC facility. During their inspection, State and Federal investigators observed visible black particulate matter in sealed vials of purportedly sterile methylprednisolone acetate that had been returned to NECC. MDPH noted that NECC's records showed inconsistencies in sterilization processes. The Massachusetts Board of Pharmacy voted to obtain a voluntary surrender of NECC's license, which NECC

agreed to on October 3. NECC also agreed to a voluntary recall of all products intended for injection into the area around the spinal cord or brain. On October 4, FDA and MDPH confirmed that fungal contamination had been identified in a vial from one of the suspect lots. FDA and CDC recommended that all health care professionals cease use and remove any material produced by NECC from their facilities.¹ On October 6, NECC announced a voluntary recall of all NECC products currently in circulation. On October 8, Mr. Cadden and Mr. Glenn Chin² voluntarily ceased practice as pharmacists pending completion of the investigation.³ In addition to the evidence of contamination, investigators also found evidence that the NECC had not been compounding drugs for patient-specific prescriptions. Instead, the NECC accepted patient lists generated by a clinical facility and provided to NECC for the purpose of obtaining its products. On October 16, agents from FDA's Office of Criminal Investigations, along with local authorities, raided the NECC Framingham, Massachusetts facility.

The MDPH and FDA also inspected two other companies owned by Barry Cadden, Ameridose, LLC (Ameridose) and Alaunus Pharmaceutical, LLC (Alaunus) on October 10, 2012, and October 14, 2012, respectively. NECC, Ameridose, and Alaunus share common ownership and corporate structures. Cadden is a co-owner of Ameridose, a pharmacy and wholesaler based in Westborough, Massachusetts, and Alaunus, a wholesaler located next to NECC in Framingham. Cadden, his wife, Lisa Conigliaro-Cadden, her brother, Gregory Conigliaro, and his wife, Carla Conigliaro, serve as directors of all three companies. Based on their shared ownership, MDPH requested that Ameridose and Alaunus cease all pharmacy operations and the manufacturing and distribution of any products. According to MDPH, Mr. Cadden agreed to immediately resign as manager, director and from any other management position at NECC, Ameridose, and Alaunus.

The FDA's investigation of the fungal meningitis outbreak has expanded beyond NECC's methylprednisolone acetate product. For example, FDA confirmed the report of a patient with meningitis-like symptoms potentially caused by epidural injection of a different NECC product, triamcinolone acetonide. In addition, one transplant patient developed a fungal infection after having been administered NECC-produced cardioplegic solution during surgery. Based on these reports, FDA announced that the sterility of any injectable drugs, including ophthalmic drugs that are injectable or used in conjunction with eye surgery, and cardioplegic solutions produced by NECC are of significant concern. FDA recommended that patients who received these products on or after May 21, 2012, be alerted to the potential risk of infection.

¹ FDA subsequently released definitive laboratory confirmation of the presence of fungal contaminants in sealed vials of methylprednisolone acetate in two of the three suspected lots from NECC. As of November 3, 2012, testing of the third lot, as well as other NECC products, was ongoing.

² MDPH referred to Mr. Chin as a "leader[] at NECC" in its preliminary investigative report. MASS. DEP'T OF PUB. HEALTH, NEW ENGLAND COMPOUNDING CENTER (NECC) PRELIMINARY INVESTIGATION FINDINGS: BD. OF REGISTRATION IN PHARMACY REPORT, at 7 (Oct. 23, 2012) [hereinafter, "MDPH OCT. 23, 2012 REPORT"]. In a discussion with Committee staff, Mr. Chin's counsel stated that he started with the company on April 21, 2004 and was the compounding pharmacist in one of NECC's clean rooms until the company ceased operations.

³ On October 22, 2012, MBP authorized MDPH staff to request voluntary permanent surrender of the licenses of Barry Cadden, Glenn Chin, and Lisa Conigliaro-Cadden, as well as NECC. According to MDPH, in response to an inquiry from Committee staff on November 4, this process is ongoing.

FDA reported on October 31, 2012, that Ameridose was voluntarily recalling all of its unexpired products in circulation. While the investigation remained open at the time of the announcement, FDA stated that its preliminary findings raised sterility concerns. The agency further clarified that the recall was not based on reports of patients with infections associated with any Ameridose product.

On November 1, 2012, FDA and CDC released laboratory results that confirmed contaminants in two other NECC products: preservative-free betamethasone repository injection and cardioplegia solution. Bacteria were present in three separate lots of betamethasone and in a single lot of cardioplegia solution. CDC continues to investigate reports of potential infections in patients receiving NECC products. As of November 1, CDC had not received reports of laboratory-confirmed cases of infection due to bacteria present in betamethasone or cardioplegia solution from NECC.

B. Preliminary Findings Released by State and Federal Regulators Regarding the Outbreak

On October 23, 2012, MDPH issued a Board of Registration in Pharmacy Report setting forth its preliminary findings relating to the ongoing investigation into the outbreak.⁴ In addition, on October 26, 2012, FDA released its inspectional observations as well as a corresponding Form FDA 483 (483) to NECC.⁵

As previously discussed, investigators from FDA NWE-DO and MDPH first visited the NECC facility in connection with this outbreak on September 26, 2012. According to MDPH, upon arriving at NECC, investigators found NECC employees cleaning sterile compounding areas. They also detected signs of bleach decontamination.⁶ Despite NECC's apparent attempt to present the facility as compliant, State investigators still identified "serious deficiencies and significant violations of pharmacy law and regulations that clearly placed the public's health and safety at risk."⁷

During the facility inspections, MDPH documented numerous deficiencies and violations, including the following:

⁴ See MDPH OCT. 23, 2012 REPORT, *supra* note 2. MDPH noted that this report constitutes early findings that may be subject to revision as the investigation unfolds. *Id.* at 2.

⁵ See U.S. FOOD & DRUG ADMIN., NEW ENGLAND COMPOUNDING CENTER FORM FDA 483 (Oct. 26, 2012), available at <http://www.fda.gov/downloads/AboutFDA/CentersOffices/OfficeofGlobalRegulatoryOperationsandPolicy/OR/ORAElectronicReadingRoom/UCM325980.pdf> [hereinafter, "FDA OCT. 26, 2012 FORM 483"]. FDA issues a Form 483 at the end of an inspection when the investigators believe that the observed conditions or practices, in their judgment, may indicate violations of the Food, Drug, and Cosmetic Act or any related regulations. FDA has stated that its goal in issuing a 483 is to have the company act quickly to correct potential violations. The FDA considers the 483 along with an Establishment Inspection Report (EIR), prepared by FDA investigators, and any other information, including any responses received from the company. The agency then considers whether further action is appropriate.

⁶ MDPH OCT. 23, 2012 REPORT, *supra* note 2, at 6.

⁷ *Id.* at 2.

- NECC distributed large batches of compounded sterile products directly to facilities for apparent general use rather than requiring a prescription for an individual patient.⁸
- NECC distributed two of the recalled lots of methylprednisolone acetate prior to receiving results of sterility testing.⁹
- Final sterilization of product did not follow proper standards pursuant to United States Pharmacopeia Standard 797 (USP 797) and NECC's own Standard Operating Procedures.¹⁰
- NECC failed to test its autoclaves to ensure proper function.¹¹
- Visible black particulate matter was seen in several recalled sealed vials of methylprednisolone acetate.¹²
- "Tacky" mats located outside the clean room were visibly soiled with assorted debris, violating USP 797.¹³
- A leaking boiler adjacent to the clean room had created a pool of water, an environment susceptible to contaminant growth.¹⁴

FDA investigators documented similar observations in the 483, as well as additional problems with NECC's ability to maintain its clean room and ensure the sterility of its products, as further supported by sample testing results. FDA's observations included the following:

- Eighty-three vials out of a bin containing 321 vials of methylprednisolone acetate from one of the suspect lots contained what appeared to be greenish black foreign matter. Seventeen vials from the same bin were observed to contain what appeared to be white filamentous material. Fifty of these vials were sent to an FDA laboratory for testing and all 50 tested positive for microbial contamination.¹⁵

⁸ *Id.* at 3.

⁹ *Id.* at 4. MDPH noted that while NECC's records showed that the sterility tests found no contamination, the adequacy of NECC's sterility testing methods remained under examination.

¹⁰ *Id.*

¹¹ *Id.* An autoclave is a device used to sterilize equipment by subjecting it to high pressure steam. If done properly, all bacteria and fungi would be inactivated.

¹² *Id.*

¹³ *Id.* A clean room is an enclosed space that is designed and maintained to have a controlled environment with low levels of airborne particles and surface contamination. Production of sterile drug products in a properly functioning and maintained clean room reduces the risk of the introduction of microbial contamination into the drug during processing, including filling into its final container.

¹⁴ *Id.* at 5.

¹⁵ FDA OCT. 26, 2012 FORM 483, *supra* note 5, at 1.

- NECC provided no documentation or evidence to support that the autoclave used to sterilize suspensions formulated using non-sterile active pharmaceutical ingredients and raw materials was effective.¹⁶
- NECC is abutted to the rear by a recycling facility producing airborne particulates. NECC rooftop HVAC units were estimated to be located approximately 100 feet from the recycling facility.¹⁷
- NECC's air conditioning was turned off at night, including in the clean rooms, despite the importance of maintaining a consistent temperature and level of humidity.¹⁸
- NECC's own environmental monitoring program yielded violative levels of bacteria and mold in clean rooms used for the production of sterile drug products, between January 2012 and September 2012. Despite the company's action limits having been exceeded, there was no investigation conducted by the company, no identification of the isolates, no product impact assessments conducted, and no documented corrective actions taken to remove the microbial contamination from the facility.¹⁹

Further, according to Steven Lynn, Director of FDA's Office of Manufacturing and Product Quality, on an October 26, 2012, media call describing FDA's observations and test results, there was overgrowth of bacteria or fungi in at least one sample testing dish. When asked to clarify what he meant, Mr. Lynn stated, "Think of a plant just growing out of control."²⁰

III. HISTORY OF STATE AND FEDERAL INVESTIGATIONS OF NECC

While investigating the meningitis outbreak over the last six weeks, FDA and MDPH investigators have observed many serious deficiencies and significant violations of law and good compounding practices. These violations, however, were not a first for NECC. Documents produced to the Committee by the FDA and the Massachusetts Board show that NECC has a long history of very similar, if not identical, underlying misconduct. Some of the violations observed by regulators as early as 2002 include the company's failure to maintain adequate safeguards for sterile injectable products – the very issue at the center of the current meningitis outbreak. In fact, since the company's formation, FDA conducted three prior series of inspections of NECC, each based on a separate set of allegations or events, issuing two Form 483s in 2002 and 2003 and one Warning Letter in 2006. The Massachusetts Board of Pharmacy has an even more extensive history with NECC. Prior to this outbreak, the Board had investigated at least twelve separate complaints concerning NECC or Mr. Cadden, issued at least

¹⁶ *Id.*

¹⁷ *Id.* at 7.

¹⁸ *Id.* at 1.

¹⁹ *Id.*

²⁰ Media Call, U.S. Food & Drug Admin., FDA Media Call: Fungal Meningitis Outbreak – FDA Inspection Observations (Form 483) at NECC (Oct. 26, 2012) (statement of Steven Lynn, Dir., Office of Mfg. & Product Quality, Office of Compliance, Ctr. for Drug Evaluation & Research, FDA).

four advisory letters and/or informal reprimands, and entered into a consent agreement with the company in 2006.

Set forth below is the chronology of FDA's and the Massachusetts Board's inspections and involvement with the NECC, including any resulting administrative actions.

A. Formation of NECC

On May 12, 1998, MBP approved NECC's pharmacy license. Mr. Barry Cadden was listed as the managing pharmacist. Less than a year later, in April 1999, MBP filed a complaint against Mr. Cadden for providing a practitioner with blank prescription pads referring to NECC, in clear violation of MBP regulations.²¹ The MBP Complaint Committee reviewed the complaint on October 19, 1999, and voted to issue an informal reprimand to Mr. Cadden and NECC and dismiss the case.

NECC's efforts to market its products were the subject of additional complaints starting in 2001. On June 27, 2001, MBP staff completed an investigation into a report submitted by the Idaho Board of Pharmacy that NECC was soliciting business for drug products which should have been discontinued by the manufacturer. In addition, on April 18, 2002, MBP received a letter from the Nevada Board of Pharmacy describing allegations of NECC selling non FDA-approved products to physicians in Nevada. Committee staff is unaware of any additional administrative or disciplinary actions taken as a result of these reports.

Further, based on various complaints of unprofessional conduct and failure to adhere to standards of practice between 2002 and 2004, MBP issued three advisory letters to Mr. Cadden and NECC on September 30, 2004. Each of the advisory letters addressed complaints made by out-of-state pharmacists or practitioners in Texas, South Dakota, Iowa, and Wisconsin. Each of these complaints related to NECC's solicitation of out-of-state prescriptions for office use. The three advisory letters issued by the Massachusetts Board stated that the letters did not constitute disciplinary action but communicated the Board's concern regarding the conduct that was the basis for the complaint. The letters requested that NECC adopt "quality assurance measures . . . to reduce the risk of recurrence."²²

B. 2002 Inspections Related to Betamethasone Repository Injection

In March 2002, two adverse events were reported to FDA through its MedWatch system.²³ Both adverse events involved epidural betamethasone repository injections

²¹ 247 CMR § 9.01(1),(13).

²² Advisory Letter from James T. Devita, President, Mass. Bd. of Registration in Pharmacy, to Barry Cadden, Manager of Record, New England Compounding Ctr. (Sept. 30, 2004) (Docket Nos. DS-03-060, PH-03-070 – Texas). *See also* Advisory Letter from James T. Devita, President, Mass. Bd. of Registration in Pharmacy, to Barry Cadden, Manager of Record, New England Compounding Ctr. (Sept. 30, 2004) (Docket Nos. DS-04-062, PH-04-161 – Iowa and Wisconsin) *and* Advisory Letter from James T. Devita, President, Mass. Bd. of Registration in Pharmacy, to Barry Cadden, Manager of Record, New England Compounding Ctr. (Sept. 30, 2004) (Docket Nos. DS-03-036, PH-03-042 – South Dakota).

²³ The investigative report corresponding to an April 16, 2002 FDA Form 483 states that FDA investigators contacted the MedWatch reporter who informed them that "a total of probably 5 incidents occurred after using

(betamethasone acetate and betamethasone sodium phosphate suspension 6 mg/ml), from the same lot compounded and distributed by NECC. Like methylprednisolone acetate, betamethasone repository injections are steroid solutions often used to treat pain and swelling. FDA alerted the MBP and invited them to participate in an inspection commencing April 9, 2002. FDA noted in its investigative report that the agency had no previous investigation or inspection history with the firm, though MBP had inspected NECC in the past.

While the investigation was underway, FDA investigators were informed of the fact that this was the same formulation compounded by a pharmacy in California that was associated with numerous hospitalizations (including five cases of meningitis, three of which were fatal) in Walnut Creek, California the previous year. Before detailing areas of concern and related discussions with NECC management, FDA's investigative report states, "Very similar operational problems existed with the California Compounding Pharmacy that were encountered with NEC[C]."²⁴

On the day the inspection began, Barry Cadden was identified as the Owner and Director of Pharmacy at NECC. He identified his wife, Lisa Cadden, as Vice President and introduced her to investigators on the second day of the inspection. According to the report, Mr. Cadden stated that NECC had eight employees, three of whom were involved in compounding, though he was the only individual who compounded sterile product. He informed investigators that "they fill patient specific prescriptions only, and that they have no wholesale functions."²⁵

According to FDA's inspection report, on the first day of the inspection, "Mr. Cadden was cooperative [and] supplied some documents. The second day of the inspection, Mr. Cadden had a complete change in attitude [and] basically would not provide any additional information either by responding to questions or providing records. Mr. Cadden challenged FDA jurisdiction/authority to be at his pharmacy."²⁶ FDA investigators were initially "allowed to review and were furnished with copies of records related to the compounding of Betamethasone Repository Injection," though by the second day, "Mr. Cadden stated that he was no longer willing to provide us with any additional records, unless we would identify the specific lot . . .

subject Betamethasone on patients." U.S. FOOD & DRUG ADMIN., FDA INSPECTION REPORT OF NEW ENGLAND COMPOUNDING PHARMACY, INC., at 4 (Apr. 16, 2002) [hereinafter, "FDA APR. 16, 2002 INSPECTION REPORT"]. In a February 2003 presentation to MBP, FDA identified the adverse events as "dizziness, shortness of breath, diaphoresis, drop in blood pressure to 55/44." U.S. Food & Drug Admin., *Inspectional History of New England Compounding Center (NECC)*, Presentation to Bd. of Registration in Pharmacy, Div. of Health Professions Licensure, Dep't of Pub. Health, Commonwealth of Mass. (Feb. 5, 2003) [hereinafter, "Feb. 5, 2003 FDA Presentation"].

²⁴ FDA APR. 16, 2002 INSPECTION REPORT, *supra* note 23, at 3.

²⁵ *Id.* at 6.

²⁶ *Id.* at 2. Questions and discussion regarding issues related to FDA's jurisdiction and authority are addressed in detail later in this memorandum. With respect to the April 2002 inspection, the FDA investigative report cites § 704(a) of the FDCA, which describes the nature of FDA inspectional authority with regard to drug manufacturers, pharmacies, and other entities, and specifically excludes traditional retail pharmacies, operating in accordance with local pharmacy laws, from being obligated to furnish certain records. The report summarizes, that the investigators' inspectional authority at pharmacies operating in a retail capacity consists of being able to "enter, at reasonable times (Section 704(a)(1)(A), and inspect, at reasonable times, and within reasonable limits and in a reasonable manner (Section 704(a)(1)(b), the establishment and its equipment and operations. However, the owner of the pharmacy is not obligated to furnish records, as is normally the case when a facility that processes drug products is being inspected." *Id.*

that was the focus of this investigation. Since we had been specifically directed by [FDA's Office of Compliance in the Center for Drug Evaluation and Research (CDER)] not to divulge this lot number, we were not in a position to comply with Mr. Cadden's request. From this point on, no additional records were provided or collected."²⁷

Nonetheless, FDA investigators had managed to obtain a printout of the betamethasone products compounded by NECC in 2002 and identified the suspect lot on the list, which according to the lot number was compounded on February 1, 2002. Mr. Cadden informed FDA that there were no compounding records associated with the suspect lot number. According to FDA's report, Mr. Cadden stated that he did not believe betamethasone was ever compounded for that lot number, although FDA noted that Mr. Cadden "could not provide any documents to support his belief, such as a cancelled lot etc."²⁸ Further, FDA investigators contacted the healthcare professional who reported the adverse events to confirm that the suspect lot existed. That individual informed FDA that he had returned the betamethasone product to NECC and, in fact, had spoken by telephone to Mr. Cadden about the incident.²⁹

While FDA's investigative report did not mention any test results of the suspect lot in question, the MBP report stated, "The FDA was concerned regarding a specific date the Batch of Betamethasone Repository 6mg/ml was compounded. The error was first reported in March 2002. The unnamed facility conducted sterility and Endotoxin tests on the product prepared by NECC, the results indicated a positive test for Endotoxin."³⁰ While FDA did not include this specific test result in its investigative report, FDA did discuss other positive endotoxin test results of betamethasone samples from NECC lots.

According to the FDA report, on April 9, 2002, "Mr. Cadden stated on/about 3/19/02 through 4/6/02 he received ARL [(Analytical Research Laboratories)] results positive for endotoxin (greater than 100 ppb). . . . He stated these lots (about 4 lots total) were awaiting disposal at his facility."³¹ After changing the suspending agent based on research he conducted, Mr. Cadden informed investigators that he made an additional lot on April 6, 2002. He stated that he "sent his samples to ARL, then left the product beaker covered with aluminum foil on the magnetic stirrer in the hood awaiting lab results" and that it "could take anywhere from seven to ten days to obtain lab results."³² When questioned about this practice, "Mr. Cadden stated he didn't want to waste the money on vials or the effort in transfilling the vials if the 4/6/02 lot failed testing. He stated he would transfill the vials upon receiving satisfactory lab results."³³ FDA investigators "discussed with Mr. Cadden that this was not an acceptable process for maintaining product sterility."³⁴ When FDA investigators returned to NECC on April 10, "the

²⁷ *Id.* at 3.

²⁸ *Id.* at 4.

²⁹ *Id.*

³⁰ MASS. DEP'T OF PUB. HEALTH, INVESTIGATION REPORT OF NEW ENGLAND COMPOUNDING CENTER & BARRY CADDEN, at 5 (Mar. 4, 2004) [hereinafter, "MDPH MAR. 4, 2004 INVESTIGATION REPORT"].

³¹ FDA APR. 16, 2002 INSPECTION REPORT, *supra* note 23, at 7. Analytical Research Laboratories (ARL) is a third-party analytical testing lab located in Oklahoma City, Oklahoma that NECC has sent samples to for sterility and endotoxin testing since at least 2002.

³² *Id.*

³³ *Id.*

³⁴ *Id.*

hood was clean and Mr. Cadden was asked the whereabouts of the 4/06/02 lot. He stated he received negative lab results the night before, and had transfilled the lot into vials that morning. He accredited the positive endotoxins to the previous suspending agent.”³⁵ FDA did not comment on this assertion, nor is it known how long Mr. Cadden had been using the previous suspending agent. According to the report, “The FDA investigator suggested to Mr. Cadden that he retest the 4/6/02 lot again after transfilling the vials since the product sat in a beaker for 5 days,” which he agreed to do.³⁶

After completing the inspection, FDA investigators concluded that “[d]ue to jurisdiction/confidentiality restrictions, this FDA investigation could not proceed to any definitive resolution of issues raised in the [FDA] Headquarters assignment” and that individuals in CDER’s Office of Compliance “were fully informed of problems/barriers that were encountered throughout the inspection.”³⁷ FDA’s investigative report was finalized on April 16, 2002. Prior to concluding the investigation, FDA investigators spoke with officials in CDER’s Office of Compliance and FDA NWE-DO about NECC’s “poor practices and areas of concern” and “impressed upon [them] that due to limitations on information gathering and access to records, the FD-483 observations could not/would not be supported with documentation.”³⁸ Nonetheless, “FDA Investigators were directed to issue the 483 (even in light of the lack of documentation).”³⁹ The observations in the 483 focused primarily on two violations: the sterility of the betamethasone product and NECC’s failure to account for records related to the suspect lot of betamethasone, which subsequently tested positive for endotoxin.⁴⁰

After issuing the 483, Mr. Cadden was given an opportunity to respond to FDA investigators’ observations during an exit interview. With regard to the sterility of the beaker, and keeping the solution in the beaker for seven to ten days while waiting for test results, Mr. Cadden claimed that this was not his usual practice.⁴¹ FDA’s report also indicated that Mr. Cadden provided contradictory information to the agency. During the exit interview, Mr. Cadden claimed that the beaker capped with foil “didn’t contain the betamethasone repository.”⁴²

The report completed by the Massachusetts Board substantiated FDA’s observations about NECC’s practices. Specifically, it noted that the beaker remained in the hood capped with foil while tests were conducted, a process which could take up to seven days.⁴³

In February 2003, following the April 2002 inspections with FDA, the MBP filed formal complaints against NECC and Mr. Cadden “based on the failure to adhere to standards of practice for compounding prescriptions. Specifically, the pharmacy and pharmacist engaged in unprofessional conduct as exhibited by[:] failing to follow guidelines, sterility procedures, record

³⁵ *Id.*

³⁶ *Id.*

³⁷ *Id.* at 5.

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ See U.S. FOOD & DRUG ADMIN., NEW ENGLAND COMPOUNDING PHARMACY, INC. FORM FDA 483 (Apr. 16, 2002) [hereinafter, “FDA APR. 16, 2002 FORM 483”].

⁴¹ See FDA APR. 16, 2002 INSPECTION REPORT, *supra* note 23, at 10.

⁴² *Id.*

⁴³ See MDPH MAR. 4, 2004 INVESTIGATION REPORT, *supra* note 30, at 6.

keeping requirements, [and] batch records [requirements], [and] failing to provide certificates of analysis, proof of sterility testing, Endotoxin test results, batch numbers and prescriptions upon request.”⁴⁴

On February 7, 2003, the MBP investigator requested that NECC provide responses to certain questions raised during the investigation. Documents produced to the Committee show that the Massachusetts Board found that NECC took certain corrective measures in February 2003, including hiring a consultant to develop policy and procedures.⁴⁵ The MBP subsequently conducted follow-up inspections on February 20, 2003, and one year later on February 20, 2004. According to the MBP report, the investigator found the facility was in compliance.⁴⁶ Even so, the MBP investigator recommended that the Board issue a formal reprimand to NECC. According to the report, which was signed by the investigator and her supervisor on March 4, 2004, the investigator based her decision on NECC’s “history as it relate[d] to prior concerns of the Board agents since 1999[.]”⁴⁷

One particular concern, which was raised between the investigator’s April 2002 inspections with FDA and her recommendation for formal reprimand, may have informed her decision. In October 2002, FDA investigators informed the MBP that a second incident with NECC had occurred, this one involving methylprednisolone acetate.⁴⁸

C. 2002 Inspections Related to Methylprednisolone Acetate

On October 2, 2002, CDER’s Office of Compliance requested an FDA NWE-DO investigation to obtain information regarding three MedWatch reports associated with the use of methylprednisolone acetate that was compounded by NECC in May 2002. According to FDA’s investigative report, the three MedWatch reports were reported by a physician and the chief pharmacist at a hospital in Rochester, New York and detailed adverse events that occurred in two patients on July 17, 2002, after they had received intrathecal injections. After speaking with hospital staff, FDA documented that both patients were hospitalized with meningitis-like symptoms, received antibiotics, and fully recovered. Hospital staff reported that the vials from the same lot distributed by NECC were tested at the hospital and confirmed positive for bacteria. When asked about actions taken by the hospital, the hospital’s chief pharmacist stated that he “instructed his staff to remove all the methylprednisolone acetate injectable with the affected lot number from the hospital floors.”⁴⁹ The hospital’s quality assurance supervisor stated that she first contacted Mr. Cadden on or about July 23, 2002, “to make him aware of the adverse events.”⁵⁰ She informed the FDA investigator that “she does not believe [the hospital] returned any of the vials to NECC” and that “[s]he believes they were all retained for FDA sampling and hospital investigative purpose.”⁵¹

⁴⁴ *Id.* at 4.

⁴⁵ *Id.* at 6.

⁴⁶ *See id.* at Attachment 1.

⁴⁷ *Id.* at 9.

⁴⁸ *Id.* at 7.

⁴⁹ U.S. FOOD & DRUG ADMIN., FDA INSPECTION REPORT OF NEW ENGLAND COMPOUNDING CENTER, at 4 (Feb. 10, 2003) [hereinafter, “FDA FEB. 10, 2003 INSPECTION REPORT”].

⁵⁰ *Id.* at 5.

⁵¹ *Id.*

On September 9, 2002, FDA's New York District Office collected a sample from the hospital, purportedly from the suspect lot. The sample was then sent to FDA's Northeast Regional Lab (NRL) for sterility and endotoxin testing. However, according to FDA's report, NRL "was unable to perform the sample analysis until 4 days after the compounded product's expiration date" and the sample collected from the hospital was from "a different lot than the MedWatch reports."⁵²

FDA and MBP investigators first visited NECC in relation to the adverse events associated with methylprednisolone acetate on October 24, 2002. FDA's investigation report noted that FDA last inspected NECC in April 2002 and a 483 was issued to Mr. Cadden citing "sterility issues pertaining to the transfilling practices for betamethasone repository injection."⁵³ The report further stated that "[t]he practices that were cited on the previous FDA 483 were not in place and therefore the correction of these items was not an issue" during the current inspection.⁵⁴ The report also highlighted the fact that since April 2002, NECC's operating space approximately doubled in size and it was now "planning on marketing and selling compounded products in all 50 U.S. states per Mr. Cadden."⁵⁵

Mr. Cadden informed the FDA inspector that he had been "telephoned by an employee from [the Rochester hospital] to notify him of the adverse reactions" and that the employee "told him the adverse reactions were due to 'administration errors' since the injections were administered intrathecally."⁵⁶ According to FDA's investigator, Mr. Cadden stated that the hospital had in fact "returned vials of the affected product to the firm and that NECC sent a sample of the returned product to its contract laboratory [ARL] for testing."⁵⁷ The test results, which were reported to the FDA investigator on August 22, 2002, came back negative for endotoxin content and microbial contamination.

On December 11, 2002, FDA NRL informed FDA NWE-DO that four out of fourteen of the vials it sampled from the lot provided by the New York District Office tested positive for bacteria. On December 12, FDA and MBP investigations returned to NECC with the test results to "determine what his intentions would be regarding the compounded product."⁵⁸ Mr. Cadden informed them that "NECC had conducted a recall of the product in August 2002,"⁵⁹ a fact that he failed to share with the investigators during the October 24 inspection. When asked about details of the recall, Mr. Cadden stated that he had "received 500-600 vials back from customers as a result of the recall. He retested one (1) of these vials for sterility and endotoxin and the results were negative."⁶⁰ The inspectors were understandably concerned that this was not a

⁵² *Id.*

⁵³ *Id.* at 3.

⁵⁴ *Id.* at 1.

⁵⁵ *Id.* at 3.

⁵⁶ *Id.* at 7.

⁵⁷ *Id.*

⁵⁸ *Id.* at 8.

⁵⁹ *Id.*

⁶⁰ *Id.*

representative sample and explained to Mr. Cadden that “the USP contains guidance on sample sizes in relation to lot quantities.”⁶¹

While at the firm on December 12 and again on December 18, 2002, inspectors collected samples of methylprednisolone acetate as well as betamethasone repository injection. According to FDA’s report, “[t]hese compounds were chosen because they were associated with the current and April 2002 MedWatch reports” and are “compounded by similar methods according to Mr. Cadden.”⁶² One FDA investigator returned to NECC on January 14 and 15, 2003. Mr. Cadden notified him that “if [he] had any other requests or questions pertaining to any of their procedures and compounding activities, [he] was to put [his] requests or questions in writing.”⁶³ According to the investigator, Mr. Cadden brought this up when the investigator “requested the address and name of customers who received [the suspect lot of] methylprednisolone . . . [acetate] injection. . . .”⁶⁴ The investigator followed up after the inspection with a written request for the names and customers. Neither Mr. Cadden nor his lawyer chose to respond to the written request and still had not done so when, weeks later on February 10, 2003, the FDA issued NECC a 483 that detailed concerns observed during the inspections.⁶⁵

On February 5, 2003, prior to FDA’s issuance of the Form 483 to NECC, a meeting was convened with officials from FDA NWE-DO, CDER’s Office of Compliance, and MBP in order to “review the inspectional history of the New England Compounding Center and develop a joint strategy for achieving safe compounding practices at the firm.”⁶⁶ The immediate concern was determining how to ensure the outstanding violative betamethasone was removed from commerce. Asserting its authority under section 501(b) of the FDCA, FDA discussed its ability to seize the adulterated lot that “is still within expiry.”⁶⁷ While NECC did ultimately agree to a voluntary recall, officials also discussed alternative courses of action they should consider. CDER officials “reminded everyone that in a similar situation with a South Carolina compounding pharmacy, FDA issued a press release when the firm failed to take recall action in a timely manner.”⁶⁸ Based on a PowerPoint slide deck attached to an FDA memorandum describing the February 5, 2003, meeting, it is clear that FDA was discussing a fungal meningitis outbreak that had occurred a few months prior in South Carolina associated with methylprednisolone acetate compounded by a facility in Spartanburg, South Carolina, which ultimately resulted in two deaths.⁶⁹

⁶¹ *Id.* Mr. Cadden informed investigators on December 18, 2002, in a related discussion about sample sizes, that he “used the recommendations of his contract laboratory (ARL).” *Id.* at 9.

⁶² *Id.* at 8.

⁶³ *Id.* at 11.

⁶⁴ *Id.*

⁶⁵ *See id.*

⁶⁶ Memorandum from Kristina Joyce, Consumer Safety Officer, New England Dist. Office, FDA & Mark Lookabaugh, Compliance Officer, New England Dist. Office, FDA, to Central File, *February 5, 2003 Meeting with Massachusetts Board of Pharmacy/Division of Professional Licensure (239 Causeway Street, Boston, MA 02114)*, at 1 (Feb. 24, 2003) [hereinafter, “Feb. 24, 2003 FDA Memorandum”].

⁶⁷ *Id.* at 2.

⁶⁸ *Id.*

⁶⁹ *See* Feb. 5, 2003 FDA Presentation, *supra* note 23, at 7-8. *See also* David Brown, *Previous Fungal Meningitis Outbreak a Decade Ago Resulted in No Oversight Changes*, WASH. POST (Nov. 5, 2012), http://www.washingtonpost.com/national/health-science/previous-fungal-meningitis-outbreak-a-decade-ago-resulted-in-no-oversight-changes/2012/11/05/8417d84e-1fa8-11e2-9cd5-b55c38388962_story.html.

At this point, “[a] discussion was held to decide if NECC should be considered a manufacturer or a compounding,” which would govern how to handle the betamethasone recall, but also inform ways to address “NECC’s poor compounding practices [that] would not necessarily be ultimately resolved by such an action.”⁷⁰ It was decided that “current findings supported a compounding role” and that “the state would be in a better position to gain compliance or take regulatory action against NECC as necessary.”⁷¹ It is noteworthy that after closing out the inspection report by issuing the 483 and convening this meeting with State officials, FDA’s primary NECC investigator and her supervisor recommended that the “firm be prohibited from manufacturing until they can demonstrate ability to make product reproducibly and dependably.”⁷² They further noted that if the State was “unwilling to take action, [they] recommend[ed the] firm be enjoined for GMP deficiencies.”⁷³

With respect to next steps, it was agreed that the State would ask Mr. Cadden “to appear before the Board of Pharmacy to answer to the current complaints.”⁷⁴ MBP counsel Susan Manning discussed the fact that “Massachusetts pharmacy law states that pharmacists must act in accordance with USP recommendations” and that “this alone would imply he could be held to those standards by the state.”⁷⁵ In addition, she stated that “although the state’s authority does not include the ability to fine pharmacists, the state is able to take actions against a pharmacy’s license, including revocation and suspension.”⁷⁶ It was agreed that CDER’s Office of Compliance “would work on documenting the deviations from USP standards for the state.”⁷⁷ Furthermore, among other things, the State requested from FDA examples of previous consent agreements and MedWatch reports regarding adverse events from products compounded by NECC.⁷⁸

The February 5, 2003, meeting concluded by FDA “emphasizing the potential for serious public health consequences if NECC’s compounding practices, in particular those relating to sterile products, are not improved.”⁷⁹ FDA acknowledged that “so long as a pharmacy’s operations fall within the scope of the practice of pharmacy (as outlined in FDA’s Compliance Policy Guide 460.200), FDA will generally continue to defer to state authorities for regulatory oversight. In such cases FDA will seek to engage cooperative efforts aimed at achieving regulatory compliance and ensuring the safety and quality of compounded products.”⁸⁰

On February 10, 2003, FDA issued a Form 483 to NECC and met with Mr. Cadden to review the documented observations, which included inadequate documentation to verify whether sterile drug products met set standards, a failure to maintain complaint files, and a lack

⁷⁰ Feb. 24, 2003 FDA Memorandum, *supra* note 66, at 2.

⁷¹ *Id.*

⁷² U.S. FOOD & DRUG ADMIN., FDA ESTABLISHMENT INSPECTION REPORT OF NEW ENGLAND COMPOUNDING CENTER, at 1 (Feb. 10, 2003) [hereinafter, “FDA FEB. 10, 2003 ESTABLISHMENT INSPECTION REPORT”].

⁷³ *Id.*

⁷⁴ Feb. 24, 2003 FDA Memorandum, *supra* note 66, at 3.

⁷⁵ *Id.*

⁷⁶ *Id.*

⁷⁷ *Id.*

⁷⁸ *See id.*

⁷⁹ *Id.*

⁸⁰ *Id.* at 3-4.

of documentation for the reported adverse events associated with the suspect lot of methylprednisolone acetate.⁸¹ In addition, FDA noted in the corresponding inspection report that results from the samples investigators collected from NECC “revealed that the firm has sterility and potency issues with injectable steroid suspensions (betamethasone repository USP and methylprednisolone acetate USP).”⁸² During the meeting, Mr. Cadden was informed that “at this point the FDA is considering NECC a pharmacy compounding and not a drug manufacturer.”⁸³

On February 26, 2003, Mr. Cadden responded in writing to the 483 detailing a variety of corrective measures. He stated, “We are committed to complying with applicable laws and regulations, to ensuring high-quality care for our patients, and to upgrading our compounding procedures.”⁸⁴ This letter was supplemented on May 16, 2003, detailing additional standard operating procedures that were being implemented at the facility related to compounding, as well as product and environmental testing protocols. Mr. Cadden noted “that while we are validating NECC sterile [injectable] preparation processes, we are not subject to (nor are we voluntarily subjecting ourselves to) current good manufacturing practices (cGMPs) as promulgated by FDA, since we are a compounding pharmacy, not a manufacturer.”⁸⁵

With respect to Massachusetts, the MBP did not commence any regulatory actions until well over a year later, on September 21, 2004, when the Board voted unanimously in favor of proposing a consent agreement to NECC and Mr. Cadden to resolve the aforementioned complaints received and violations observed. Then-Executive Director of the MBP, Charles Young, formally offered Mr. Cadden the consent agreement on October 4, 2004, noting in a letter “that if you choose not to enter into the Agreement, the Board will proceed to a formal hearing.”⁸⁶

According to the terms of the proposed consent agreement, NECC would have to agree that it was entered into “as a result of an adverse event complaint report investigated by the U.S. Food and Drug Administration” alleging that NECC “failed to comply with accepted standards in compounding a certain order for methylprednisolone acetate.”⁸⁷ In addition, NECC would agree that this conduct “constitutes professional misconduct warranting disciplinary action by the Board” and that NECC and Mr. Cadden would be “REPRIMANDED by the Board and [NECC’s] pharmacy registration and [Mr. Cadden’s] pharmacist license [would be] placed on

⁸¹ See U.S. FOOD & DRUG ADMIN., NEW ENGLAND COMPOUNDING CENTER FORM FDA 483 (Feb. 10, 2003) [hereinafter, “FDA FEB. 10, 2003 FORM 483”].

⁸² FDA FEB. 10, 2003 ESTABLISHMENT INSPECTION REPORT, *supra* note 72, at 1.

⁸³ FDA FEB. 10, 2003 INSPECTION REPORT, *supra* note 49, at 20.

⁸⁴ Letter from Barry Cadden, Manager, New England Compounding Center, Inc., to Daryl A. Dewoskin, Investigator, FDA & Kristina M. Joyce, Investigator, FDA (Feb. 26, 2003) [hereinafter, “Feb. 26, 2003 Cadden Letter”].

⁸⁵ Letter from Barry Cadden, Manager, New England Compounding Center, Inc., to Daryl A. Dewoskin, Investigator, FDA & Kristina M. Joyce, Investigator, FDA (May 16, 2003) [hereinafter, “May 16, 2003 Cadden Letter”].

⁸⁶ Letter from Charles R. Young, Executive Dir., Mass. Bd. of Registration in Pharmacy, to Barry J. Cadden, Manager of Record, New England Compounding Ctr. (Oct. 4, 2004) (attaching proposed Consent Agreement).

⁸⁷ Proposed Consent Agreement, *In the Matter of New England Compounding Center Registration No. 2848 Barry J. Cadden, R.Ph. License No. 21239*, Docket Nos. DS-03-055, PH-03-066, at 1 (Mass. Bd. of Registration in Pharmacy, Oct. 4, 2004) [hereinafter, “MPB Proposed Consent Agreement”].

probation for a minimum three (3) year period.”⁸⁸ During the probationary period, among other things, NECC and Mr. Cadden would have been required to develop and implement various policies and procedures, update the Board on a quarterly basis, and keep written reports of each adverse event reported.⁸⁹ Finally, the agreement would have required NECC and Mr. Cadden to apply in writing for termination of the probationary period, which would be granted only if all the conditions had been met.⁹⁰

On November 11, 2004, counsel for NECC and Mr. Cadden responded to MBP’s offer of the consent agreement. Similar to the company’s prior responses to FDA, the letter, addressed to MBP counsel Susan Manning detailed the various corrective measures that NECC had implemented and noted that they “address –and in some instances exceed – the proposed probationary conditions.”⁹¹ After noting subsequent inspections that had been conducted “without incident,” NECC’s counsel stated, “While I think it is fair to say that the product of NECC’s interaction with the Board . . . is a success story, such would not be the case if the resolution were to include a disciplinary sanction (including the reprimand proposed in Mr. Young’s letter). The collateral consequences to many, if not all of NECC’s 42 other [state] licenses, would be potentially fatal to the business. Such a catastrophe is clearly not the intended result of the Board’s proposed reprimand, nor is it warranted in this case. The Board’s mandate is to protect the public health safety and welfare, not to punish its licensees.”⁹² In conclusion, the attorney stated, “Mr. Cadden and NECC have demonstrated their commitment to remediation, and are prepared to continue to do so. In that regard, NECC and Mr. Cadden will agree to all of the probationary terms offered in Mr. Young’s letter, and will further agree to bear the burden and cost of monitoring and reporting their compliance. That result could be accomplished through a non-disciplinary resolution such as a continuance (pending a period of monitoring) or a ‘stayed probation.’”⁹³ On November 23, 2004, the MBP reviewed the “NECC response to [the] proposed Consent Agreement” and voted unanimously “to deny [the] request to revise terms.”⁹⁴

Despite the October 4, 2004, letter stating that if NECC and Mr. Cadden chose not to enter into the consent agreement, the Board would proceed to a formal hearing, there is no documentation of any such hearing having occurred. However, on January 6, 2006, NECC and Mr. Cadden did sign a consent agreement with MBP, though the terms were significantly different from those proposed by the Board in 2004. As set forth in the next section of this memorandum, NECC and the Massachusetts Board eventually agreed to only a stayed probationary period of one year.

D. 2004 Inspections and the 2006 Massachusetts Board Consent Agreement with NECC

As evidence that MBP was aware of NECC’s corrective measures and disciplinary action was unwarranted, NECC’s counsel pointed out in his November 11, 2004, response letter that

⁸⁸ *Id.* at 1-2.

⁸⁹ *Id.* at 2.

⁹⁰ *Id.*

⁹¹ Letter from Paul R. Cirel, Counsel to Barry Cadden & New England Compounding Ctr., to Susan Manning, Counsel to Mass. Bd. of Registration in Pharmacy, at 1 (Nov. 11, 2004) [hereinafter, “Nov. 11, 2004 Cirel Letter”].

⁹² *Id.* at 2-3 (internal citations omitted).

⁹³ *Id.* at 3 (internal citations omitted).

⁹⁴ Minutes of the Meeting of the Mass. Bd. of Registration in Pharmacy, at 2 (Nov. 23, 2004).

MBP had “inspected the facility three times since last February (twice, with a representative from the FDA).”⁹⁵ However, the two inspections with FDA were not to follow up on the underlying complaints and violations covered in the proposed consent agreement, but were to investigate new allegations. Further, these inspections revealed additional violations by NECC.

On April 27, 2004, MBP had received a complaint from a Wisconsin pharmacist that raised concerns about the safety and legality of a product NECC was soliciting. According to the complaint, an NECC representative offered “a product to our plastic surgery physician that he calls extra strength triple anesthetic cream.”⁹⁶ During the conversation, NECC “related to [the individual] that he would need a prescription for the product and that we could use the name of a staff member if we wanted to. He said ‘other institutions have used a nurse[’s name.’”⁹⁷ When questioned about the legality of this approach, “He assured her it was legal. He indicated that after we received the product it was up to us how we used it and to whom it was administered.”⁹⁸ Separate from this complaint, MBP received “an e-mail sent to the Board by a pharmacist practicing in Iowa. According to the complaint . . . [NECC] is advertising compounded prescription products which may constitute manufacturing since they purport to be used by multiple patients using the same prescription order.”⁹⁹

On September 21, 2004, MBP assigned an investigator to “conduct a joint/inspection with FDA . . . It is alleged that [NECC] is compound[ing] non-FDA product Trypan Blue Dye to be used as a capillary stain during cardiac procedures. This dye is not approved for this use.”¹⁰⁰ On September 23, 2004, investigators from MBP and FDA NWE-DO visited NECC. According to a January 26, 2005, memorandum drafted by the FDA investigator, “This investigation was mainly to obtain information about the firm’s compounding practices, as they relate to the compounding of Trypan blue products.”¹⁰¹ When investigators arrived, Mr. Cadden “acknowledged that he is the most responsible person in the firm” but also introduced them to Gregory Conigliaro who “reported that he just joined the company about eight months ago [and] that he is a Civil Engineer by profession.”¹⁰²

When FDA’s investigator asked Mr. Cadden whether he had Trypan blue in stock, “He said no, because he just compounds the drug if he receives the prescriptions for certain patients.”¹⁰³ However, when the FDA investigator was shown the clean room, he noticed a drawer that was identified as “Trypan Blue.” He requested that Mr. Cadden open the drawer and when he did, the investigator noted that there were 189 vials of the product. After being

⁹⁵ Nov. 11, 2004 Cirel Letter, *supra* note 91, at 2. The letter lists three inspection dates: February 20, 2004, September 23, 2004, and September 28, 2004. The letter further notes that the second and third inspections included a “representative from the FDA.”

⁹⁶ E-mail from Wisconsin Dir. of Pharmacy, to James D. Coffey, Dir., Mass. Bd. of Registration in Pharmacy (Apr. 27, 2004, 11:33 AM).

⁹⁷ *Id.*

⁹⁸ *Id.*

⁹⁹ Mass. Div. of Prof’l Licensure Office of Investigations, *Request for Staff Assignment* (requested May 27, 2004).

¹⁰⁰ Mass. Div. of Prof’l Licensure Office of Investigations, *Request for Staff Assignment* (assigned Sept. 21, 2004).

¹⁰¹ Memorandum from Investigator, New England Dist. Office, FDA, to Acting Team Leader, Div. of New Drugs & Labeling Compliance, FDA, *Inspection/Investigation of New England Compounding Center 697 Waverly Street Framingham, MA 01702*, at 1 (Jan. 26, 2005) [hereinafter, “Jan. 26, 2005 FDA Memorandum”].

¹⁰² *Id.*

¹⁰³ *Id.* at 2.

informed that it was not an approved product and that NECC should not be compounding it, Mr. Cadden stated that he “did not know that it is not an approved product.”¹⁰⁴ He then “told one of the employees in the laboratory to put the vials in quarantine which he told us will be eventually destroyed.”¹⁰⁵

FDA and MBP investigators returned to NECC on September 28, 2004. When asked about the Trypan blue, Mr. Cadden asserted that his lawyer informed him that he did not have to quarantine the product and that “there is no regulation which states that Compounding Pharmacies cannot compound FDA non-approved drugs.”¹⁰⁶ In addition he informed the investigators that he dispensed the product the day after the last inspection and that he intends to do so “until FDA/MABP will put in writing that they cannot compound it [and] dispense it and the reason why.”¹⁰⁷ When FDA’s investigator asked Mr. Conigliaro additional questions, “he became indignant [and] he said that he does not really have the time to sit with us [and] answer all those questions.”¹⁰⁸ Further, according to the investigator, Mr. Cadden told Mr. Conigliaro, “Don’t answer any more questions!”¹⁰⁹ Prior to leaving, FDA wrote down the questions in the assignment and left them with Mr. Conigliaro. On October 1, 2004, Mr. Conigliaro responded to the questions in writing, which were shared with FDA compliance staff.¹¹⁰

On October 27, 2004, MBP’s investigator sent Mr. Cadden a letter with requests for responses and additional information related to Trypan blue production and distribution, including a fill log and a copy of all prescriptions dispensed “containing more than two (2) doses per patient.”¹¹¹ On November 8, 2004, Mr. Cadden responded to the letter with the requested information, along with corrective actions taken, and stated, “In summary, we regret that the invalid patient names were not discovered by our pharmacy processing staff. We have taken immediate action to insure that physicians provide, and we verify, accurate patient names in the future.”¹¹² This response was shared with FDA’s investigator. On January 19, 2005, the FDA investigator notified Mr. Cadden by phone that the district office was “closing out the inspection based on his response letter to [MBP], indicating his plan of corrective actions, which will also be forwarded to headquarters.”¹¹³

While FDA closed out its inspection, MBP voted on November 23, 2004, to file a formal complaint based on the investigator’s findings.¹¹⁴ This was the same day the Board unanimously voted to deny NECC’s request to revise the terms of the consent agreement that had been proposed on October 4, 2004, covering the complaints and violations associated with

¹⁰⁴ *Id.*

¹⁰⁵ *Id.*

¹⁰⁶ *Id.* at 3.

¹⁰⁷ *Id.*

¹⁰⁸ *Id.*

¹⁰⁹ *Id.*

¹¹⁰ *See id.* at 4.

¹¹¹ Letter from Barry J. Cadden, Dir. of Pharmacy, New England Compounding Center, to Investigator, Mass. Div. of Health Professions Licensure Office of Investigations, at 2 (Nov. 8, 2004).

¹¹² *Id.*

¹¹³ Jan. 26, 2005 FDA Memorandum, *supra* note 101, at 4.

¹¹⁴ *See* MASS. DEP’T OF PUB. HEALTH, INVESTIGATION REPORT OF BARRY CADDEN, at 2 (Nov. 23, 2004) [hereinafter, “MDPH NOV. 23, 2004 INVESTIGATION REPORT”].

betamethasone repository injection and methylprednisolone acetate. It is unclear as to whether these decisions were related.

Based on the new terms of the amended consent agreement, the complaint related to distribution of Trypan blue products without valid prescriptions was subsumed into the agreement. Despite the fact that the underlying matters were now more extensive, the amended consent agreement no longer called for a formal reprimand for professional misconduct, a three year probationary period, or a number of mandatory conditions that would have been required prior to the Board terminating the probation. The amended consent agreement included a probationary period of one year that was stayed pending satisfactory documentation related to an inspection having been conducted by Pharmacy Support, Inc. (PSI), a Board-approved evaluator, within 45 days of the effective date of the agreement. Further, NECC had to provide MBP with satisfactory documentation that PSI's recommendations were implemented and that a second inspection was conducted within six months. If such conditions were met, neither NECC's registration nor Mr. Cadden's license would be placed on probation.¹¹⁵

On January 30, 2006, PSI sent its initial audit report to Mr. Cadden and the MBP, noting that the assessment was conducted on January 17 and 18. The cover letter accompanying the report concluded, "Although your facility has seen significant upgrades in facility design for sterile compounding operation, there were numerous significant gaps identified during the assessment therefore, it is the opinion of the auditors that your operation needs to be upgraded and enhanced to be in substantial compliance with United States Pharmacopeia <795> or <797>."¹¹⁶ The letter noted that major areas of concern included the fact that good documentation practices were inadequate; written procedures were admittedly not routinely followed; procedures were not in strict accordance with USP standards; end product testing was often performed on "stock solutions" and not the end product that is required; and validation of sterilization cycles and media fills were inadequate.¹¹⁷ Numerous corrective actions were recommended, including a plan to attain compliance.

On April 7, 2006, PSI issued the final report, which concluded that "[NECC] has made significant improvements over the past several months. They have demonstrated the ability to be compliant with all state and federal regulations. The[y] have appropriate equipment, procedures, basic facility design and environmental controls."¹¹⁸ However, PSI stated that, among other things, "it is the opinion of our firm that in order for NECC to be in substantial compliance . . . [a] [r]edesign of clean room 1 where sterile preparations are compounded (Floor, Ceiling, and HVAC)" must occur.¹¹⁹

¹¹⁵ See Consent Agreement, *In the Matter of New England Compounding Center Registration No. 2848 Barry J. Cadden, R.Ph. License No. 21239*, Docket Nos. DS-03-055, PH-03-066, DS-05-040 (Mass. Bd. of Registration in Pharmacy, Jan. 10, 2006) [hereinafter, "MPB-NECC Consent Agreement"].

¹¹⁶ Letter from Vice President for Quality Operations, Pharm. Systems, Inc., to Barry J. Cadden, Dir. of Pharmacy, New England Compounding Center et al., at 2 (Jan. 30, 2006) (attaching initial audit report entitled "Observations Requiring Corrective Action").

¹¹⁷ See *id.* at 1-11.

¹¹⁸ PHARM. SYSTEMS, INC., FINAL REPORT: USP <795>/<797> IMPLEMENTATION – NEW ENGLAND COMPOUNDING CENTER, FRAMINGHAM, MA, at 1 (Apr. 7, 2006) [hereinafter, "PSI Final NECC Report"].

¹¹⁹ *Id.*

On April 12, 2006, MBP “commend[ed] NECC on the progress to date” and requested that the firm “advise the Board in writing regarding NECC’s intentions” with respect to the outstanding recommendations of PSI as well as “projected timelines for completion.”¹²⁰ Mr. Cadden responded on April 19 as to how NECC would address PSI’s remaining concerns. Regarding the “[r]edesign of clean room 1,” Mr. Cadden stated, “It should first be noted that all sterile preparations are compounded within Class 10 Microenvironments, within ‘clean room 1.’ The room is not maintained as a certified clean room, nor was it ever our intent.”¹²¹ Mr. Cadden did, however, assert that the “HVAC unit in that room will be improved per PSI’s suggestions. The work has been scheduled . . . and is expected to be completed by May 18, 2006.”¹²² On May 10, 2006, MBP requested of NECC written confirmation of HVAC work completion, along with two other items, which Mr. Cadden confirmed on May 22.¹²³ The next day, the Board voted to advise Mr. Cadden that NECC had satisfactorily completed the terms and conditions in the consent agreement. This decision was communicated to Mr. Cadden on June 2, 2006.¹²⁴ Apparently the MBP never shared the PSI report with the FDA.

E. FDA Warning Letter Relating to September 2004 Inspections

Based on violations of the Food, Drug, and Cosmetic Act (FDCA) either observed during FDA’s joint inspections of NECC in September 2004, or otherwise brought to the agency’s attention, FDA issued a Warning Letter to the company on December 4, 2006.¹²⁵ According to FDA’s Regulatory Procedures Manual, “Warning Letters are issued to achieve voluntary compliance and to establish prior notice. . . . The agency position is that Warning Letters are issued only for violations of regulatory significance. Significant violations are those violations that may lead to enforcement action if not promptly and adequately corrected.”¹²⁶

The NECC Warning Letter set forth FDA’s position on the agency’s jurisdiction over new drugs, including compounded drugs, and its enforcement policy with respect to them. The Warning Letter referenced Compliance Policy Guide (CPG), section 460.200 [“Pharmacy Compounding”], which was issued by FDA on May 29, 2002, and several of the factors laid out in the CPG that influence FDA’s enforcement policy in specific cases. The Warning Letter then

¹²⁰ Letter from George A. Cayer, President, Mass. Bd. of Registration in Pharmacy, to Barry J. Cadden, Dir. of Pharmacy, New England Compounding Center (Apr. 12, 2006).

¹²¹ Letter from Barry J. Cadden, Dir. of Pharmacy, New England Compounding Center, to George A. Cayer, President, Mass. Bd. of Registration in Pharmacy, at 1 (Apr. 19, 2006).

¹²² *Id.*

¹²³ See Letter from George A. Cayer, President, Mass. Bd. of Registration in Pharmacy, to Barry J. Cadden, Dir. of Pharmacy, New England Compounding Center (May 10, 2006) and Letter from Barry J. Cadden, Dir. of Pharmacy, New England Compounding Center, to George A. Cayer, President, Mass. Bd. of Registration in Pharmacy (May 22, 2006).

¹²⁴ See Letter from George A. Cayer, President, Mass. Bd. of Registration in Pharmacy, to Barry J. Cadden, Dir. of Pharmacy, New England Compounding Center (June 2, 2006).

¹²⁵ See Warning Letter (NEW-06-07W) from Gail T. Costello, Dist. Dir., New England Dist. Office, FDA, to Barry J. Cadden, Dir. of Pharmacy, New England Compounding Center (Dec. 4, 2006) [hereinafter, “FDA Warning Letter”].

¹²⁶ U.S. FOOD & DRUG ADMIN., REGULATORY PROCEDURES MANUAL, at § 4-1-1 (2011), available at <http://www.fda.gov/ICECI/ComplianceManuals/RegulatoryProceduresManual/ucm176870.htm>.

discussed four primary areas of NECC activity that constituted violations of the FDCA for which the agency would not exercise its enforcement discretion.¹²⁷

First, FDA noted that NECC may be compounding copies of commercially available drug products. Specifically, FDA highlighted Trypan blue products and the fact that “on December 16, 2006, trypan blue ophthalmic solution was approved by FDA and it is commercially available.”¹²⁸ In addition, according to the Warning Letter, FDA also learned that NECC “may be compounding 20% aminolevulinic acid solution,” another commercially available, FDA-approved product.¹²⁹ FDA informed NECC that “FDA does not sanction the compounding of copies of FDA-approved, commercially available drugs and the agency will not exercise its enforcement discretion regarding the trypan blue and ALA products compounded by your firm.”¹³⁰

Second, FDA detailed how NECC had developed a standardized anesthetic drug product, promoted and sold it under the name “Extra Strength Triple Anesthetic Cream,” and generated sales by giving physicians free samples. In addition to noting the public health risks associated with high dose local anesthetic creams, FDA stated, “These actions are not consistent with the traditional practice of pharmacy compounding, in which pharmacists extemporaneously compound reasonable quantities of drugs upon receipt of valid prescriptions from licensed practitioners to meet the unique medical needs of individual patients.”¹³¹

Third, FDA informed Mr. Cadden that it was “in receipt of a complaint alleging that [NECC was] repackaging the approved injectable drug, Avastin, into syringes for subsequent promotion and sale to health professionals.”¹³² The Warning Letter explained that FDA has an established policy, articulated in the CPG, concerning the manipulation of approved sterile drug products outside the scope of FDA approval and that FDA was “especially concerned with the potential microbial contamination associated with splitting Avastin – a single-use, preservative-free, vial – into multiple doses.”¹³³

Finally, FDA stated that the agency had been informed that “although [NECC] advises physicians that a prescription for an individually identified patient is necessary to receive compounded drugs, [the] firm has reportedly also told physicians’ offices that using a staff member’s name on the prescription would suffice.”¹³⁴

FDA concluded the Warning Letter by informing Mr. Cadden that “[f]ailure to promptly correct these deviations may result in additional regulatory action without further notice, including seizure or injunction against you and your firm.”¹³⁵ The agency asked to be notified in

¹²⁷ See FDA Warning Letter, *supra* note 125, at 2-5.

¹²⁸ *Id.* at 2.

¹²⁹ *Id.*

¹³⁰ *Id.* at 2-3.

¹³¹ *Id.* at 3.

¹³² *Id.* at 4.

¹³³ *Id.*

¹³⁴ *Id.* at 5.

¹³⁵ *Id.*

writing of “any steps that you will take to correct the noted violations, including an explanation of the steps taken to prevent the recurrence of similar violations.”¹³⁶

On January 5, 2007, Mr. Cadden responded to FDA by noting at the outset that “the Warning Letter is based on an inspection of NECC that started on September 23, 2004, approximately twenty-eight months ago . . . FDA has not contacted us since concluding the inspection. Some of the letter’s assertions no longer apply to NECC’s operations.”¹³⁷ After disputing FDA’s claim to having jurisdiction over compounded drugs, Mr. Cadden stated that “NECC does not compound copies of FDA-approved commercially available drugs, introduce unapproved new drugs into interstate commerce, does not need approved [New Drug Applications] before dispensing its compounded medications, and does not process or repackage approved drugs in a manner that would subject us to FDA regulation. Nor are our compounded medications misbranded. NECC dispenses compounded medications upon the receipt of valid prescriptions.”¹³⁸

Without agreeing with the Warning Letter’s assertions, Mr. Cadden informed FDA that, for business reasons, NECC stopped filling prescriptions for Trypan blue in August 2005 (sixteen months before the Warning Letter) and for 20% aminolevulinic acid solution in May 2006 (seven months before the Warning Letter).¹³⁹

With respect to the topical anesthetic cream, Mr. Cadden asserted that NECC currently used the term “‘triple anesthetic cream’ . . . but only as a way to literally describe the compounded medication as a convenience to our prescribing physicians. The term is in no way trademarked or branded.”¹⁴⁰ Further, Mr. Cadden noted, “Although we do provide a very small quantity of medications (less than ten per month) free of charge, we do so only upon receipt of a valid prescription from a licensed practitioner to meet the unique medical needs of a particular patient. . . . A valid prescription does not become unlawful just because we do not charge the physician or patient. Should the FDA believe our position on this matter is incorrect, please advise.”¹⁴¹

Regarding the repackaging of Avastin, Mr. Cadden stated that it did not constitute manufacturing, that NECC only did so “upon receipt of a valid, patient-specific prescription,” and that “[a]ll aspects of our sterile compounding and repacking operations were recently reviewed by an independent expert, who confirmed that NECC is in compliance with [USP standards].”¹⁴²

Lastly, in response to FDA’s assertion that NECC reportedly told physicians that the company would fill prescription written in the name of a staff member, Mr. Cadden stated, “This

¹³⁶ *Id.*

¹³⁷ Letter from Barry J. Cadden, Dir. of Pharmacy, New England Compounding Center, to Compliance Officer, New England Dist. Office, FDA et al., at 1 (Jan. 5, 2007).

¹³⁸ *Id.* at 3.

¹³⁹ *See id.* at 3.

¹⁴⁰ *Id.* at 4.

¹⁴¹ *Id.* at 4-5.

¹⁴² *Id.* at 5.

allegation contradicts all of our standard operating procedures. NECC has not made such a representation to anyone, and has no idea how or why FDA arrived at this allegation.”¹⁴³

FDA did not respond to Mr. Cadden’s letter until almost two years later, on October 31, 2008. In its reply, the agency “acknowledge[d] and apologize[d] for the significant delay in this correspondence.”¹⁴⁴ Again, FDA presented an extensive summary of its authority over compounded drugs and factors the agency would consider in determining whether to exercise enforcement discretion. FDA accepted the firm’s assertions with respect to the discontinued products; however, NECC’s letter did not alleviate FDA’s concerns regarding the manner in which the company was promoting its products and the manipulation of sterile injectables.¹⁴⁵

FDA concluded by stating, “We agree that the length of intervening period was unusual. This in no way diminishes our serious concerns about your firm’s operation. Your firm must promptly correct the violations noted in the December 4, 2006, Warning Letter, and establish procedures to assure that such violations do not occur. Its failure to do so may result in enforcement action including seizure of the firm’s products and/or an injunction against the firm and its principals. In a future inspection, we will confirm the commitments that you made in your response. We also will verify that your firm’s compounding practices are consistent with the policy articulated in the CPG, and that your firm’s operation is not otherwise at odds with the conditions under which the agency exercises enforcement discretion towards pharmacy compounding.”¹⁴⁶ This letter, which was dated October 31, 2008 and sent in follow-up to an inspection that occurred in September 2004, is the last documented correspondence between FDA and NECC until the recent outbreak.

F. Recent Colorado Complaints Related to NECC and Corresponding Actions

With respect to additional correspondence between NECC and State authorities, the next interaction between the parties was a satisfactory MBP inspection conducted on May 24, 2011, in connection with the renovation and expansion of NECC’s Framingham facility. This was the last inspection of NECC’s facility prior to the meningitis outbreak.

On July 26, 2012, however, an inspector for the Colorado Board of Pharmacy notified MBP Director James Coffey that NECC had violated the terms of a Cease and Desist Order the State had issued the company on April 15, 2011, based on NECC’s distribution of “a stock compounded prescription drug . . . to a prescription drug outlet in the State of Colorado.”¹⁴⁷ Mr. Coffey was informed that, during the course of a routine hospital pharmacy inspection in Colorado on July 17, 2012, the inspector observed a number of invoices and products from NECC. After this conversation, on July 26, 2012, the Colorado inspector emailed Mr. Coffey a copy of “the Special Report submitted to the Chief Inspector for the Pharmacy Board in

¹⁴³ *Id.* at 6.

¹⁴⁴ Letter from Compliance Officer, New England Dist. Office, FDA, to Barry J. Cadden, Dir. of Pharmacy, New England Compounding Center, at 1 (Oct. 31, 2008).

¹⁴⁵ *See id.* at 2-4.

¹⁴⁶ *Id.* at 4.

¹⁴⁷ *See* Cease and Desist Order, *In the Matter of the Unauthorized and Unlawful Distribution of Prescription Drugs and/or Compounded Prescription Drugs in Colorado by New England Compounding Center, Inc.*, Case No. 2011-3973 (Colo. State Bd. of Pharmacy, Apr. 15, 2011).

Colorado concerning the receipt of non-patient specific compounded products into Colorado.”¹⁴⁸ The inspector asked Mr. Coffey for “any information that the Massachusetts Board could provide concerning if this practice is allowed under Massachusetts pharmacy law.”¹⁴⁹ Mr. Coffey responded on July 27, “The Massachusetts Board of Pharmacy will respond as soon as possible following a thorough review and analysis of the same.”¹⁵⁰ Mr. Coffey then forwarded his correspondence with the Colorado inspector, along with the report, to MBP counsel Susan Manning and others in the MDPH, including several past NECC inspectors.¹⁵¹

Included in the Colorado report is email correspondence from May 2011 between FDA’s Denver and New England District Offices relating to NECC’s “illegal distribution of compounded drugs to hospitals in the Denver metropolitan area.”¹⁵² Several FDA employees were on this email chain, including at least one NWE-DO compliance officer involved in past NECC actions. Based on the Committee’s investigation, it appears that FDA did not contact the MBP about the Colorado Board’s concerns in May 2011 or any time thereafter, as Mr. Coffey was first informed by the Colorado inspector on July 26, 2012.

MDPH officials informed Committee staff that they first became aware of this complaint from Colorado while reviewing responsive documents pursuant to the Committee’s investigation. On November 6, 2012, Dr. Lauren Smith, MDPH Interim Commissioner, issued a statement that Mr. Coffey had been terminated and Susan Manning had been placed on administrative leave. According to Dr. Smith, “The director of the Board is responsible for ordering investigations. Mr. Coffey failed to order an investigation or take any other action on the Colorado complaint. It is incomprehensible that Mr. Coffey and Ms. Manning did not act on the Colorado complaint given NECC’s past, and their responsibility to investigate complaints. Following the outbreak, staff also failed to disclose the existence of Colorado’s complaint to leadership at DPH.”¹⁵³ Dr. Smith stated that “[t]here is no evidence at this time that staff informed Board [of Pharmacy] members about the Colorado issues. We continue to interview all Board members as part of our investigation into their handling of this situation and will not hesitate to make further changes and personnel actions if we deem them to be necessary.”¹⁵⁴ However, it has come to the Committee’s attention that as of November 8, 2012, the current President of the Board has yet to be interviewed.

¹⁴⁸ E-mail from Pharmacy Inspector, Colo. State Bd. of Pharmacy, to James D. Coffey, Dir., Mass. Bd. of Registration in Pharmacy (July 26, 2012, 3:06 PM).

¹⁴⁹ *Id.*

¹⁵⁰ E-mail from James D. Coffey, Dir., Mass. Bd. of Registration in Pharmacy, to Pharmacy Inspector, Colo. State Bd. of Pharmacy (July 27, 2012, 7:33 AM).

¹⁵¹ See E-mail from James D. Coffey, Dir., Mass. Bd. of Registration in Pharmacy, to Susan Manning, Counsel to Mass. Bd. of Registration in Pharmacy et al. (July 27, 2012, 7:34 AM) (forwarding Colorado “Special Report”).

¹⁵² E-mail from Senior Case Review Expert, Denver Dist. Office, FDA, to Supervising Consumer Safety Officer, New England Dist. Office, FDA et al. (May 10, 2011, 4:19 PM).

¹⁵³ Press Release, Mass. Dep’t of Pub. Health, Statement of Interim Commissioner Dr. Lauren Smith on NECC Investigation (Nov. 7, 2012), available at <http://www.mass.gov/eohhs/docs/dph/quality/boards/pharmacy/121107-statement-from-lauren-smith.pdf>.

¹⁵⁴ *Id.*

IV. ISSUES

The following issues will be explored at the hearing:

- Both State and Federal inspectors documented a number of deficiencies and violations at NECC since as early as 2002, many of which are similar to those at issue in the ongoing meningitis investigation. Were the FDA's and the Massachusetts Board of Pharmacy's enforcement actions appropriate?
- Why didn't FDA pursue any enforcement actions against the NECC despite having emphasized in 2003 the potential for serious public health consequences if the company's compounding practices, in particular those relating to sterile products, were not improved?
- Prior to this outbreak, the Massachusetts Board of Pharmacy had investigated at least twelve separate complaints relating to NECC and its management. While many of these complaints covered NECC's sales and marketing tactics, several were associated with serious adverse events and uncovered deficiencies with NECC's compounding operations. How was NECC able to maintain its pharmacy license despite repeated violations?
- What did State and Federal authorities do to confirm that sufficient corrective measures were taken after these inspections? How did they communicate with each other to ensure such responses were adequate to protect the public health?

V. STAFF CONTACTS

If you have any questions regarding this hearing, please contact Karen Christian or John Stone with the Subcommittee on Oversight and Investigations at (202) 225-2927.

MASSACHUSETTS BOARD OF REGISTRATION IN PHARMACY

Sterile Compounding Pharmacy Information Sheet

Massachusetts pharmacies that are licensed by the Massachusetts Board of Registration in Pharmacy (Board) and engage in the compounding of sterile products that have completed and submitted a Sterile Compounding Pharmacy Attestation of Compliance are required to **complete this Information Sheet and return it with the requested documents to the Board by 12 Noon on Friday, November 9, 2012.**

FAILURE of any Massachusetts pharmacy that performs sterile compounding to complete and return this Information Sheet and other requested information to the Board by 12 Noon on Friday, NOVEMBER 9, 2012 will be a ground for discipline of the pharmacy license by the Board as a violation of 247 CMR 10.03(q).

Please direct any questions regarding this request to pharmacy.admin@massmail.state.ma.us

Name of Massachusetts Pharmacy _____

Street Address _____

City/Town _____ Zip Code _____

Tel. No. _____ Fax No. _____

Name of Manager of Record _____ Lic. No. PH _____

Signature _____ Date _____

E-mail _____

1. Hours of operation: Weekdays: _____ Weekends: _____

2. Staffing:

Total No. Pharmacy Staff: Pharmacists: _____ Technicians: _____ Interns: _____

No. staff preparing sterile products: Pharmacists: _____ Technicians: _____ Interns: _____

3. Job descriptions for individuals involved with compounding of sterile products (attach)

4. Competency training documents (attach)

5. Size of and number of clean rooms: _____

6. Number of laminar flow hoods: _____

7. List all non-sterile active pharmaceutical ingredients (API) used for sterile compounding: _____

8. Describe methods of sterilizing (e.g., filtration, autoclave): _____

9. Describe process of environmental sampling: _____

10. Describe process to determine Beyond-Use-Dating (BUD): _____

11. List of sterile products compounded (attach)

Name of Pharmacy: _____

12. List of customers (attach)

I, _____ (Print Name) ATTEST, under the pains and penalties of perjury, to the truthfulness of the information provided herein.

Signature: _____ Date: _____

Please direct any questions regarding this Pharmacy Information Sheet to pharmacy.admin@massmail.state.ma.us

Please FAX (617 973 0980) OR SCAN (pharmacy.admin@massmail.state.ma.us) a completed and signed Information Sheet and other requested information to the Massachusetts Board of Registration Pharmacy BY 12 NOON ON FRIDAY, NOVEMBER 9, 2012. Please mail an original signed form AND requested information to the Board at the address below:

Board of Registration in Pharmacy
ATTN: Sterile Compounding Pharmacy Information Sheet
239 Causeway Street, 5th floor
Boston, MA 02114

Name of Pharmacy: _____



Florida Pharmacy Association

Supporting Florida Pharmacy Since 1887

November 13, 2012

Mr. Mark Whitten
Executive Director
Florida Board of Pharmacy
4052 Bald cypress Way, C-04
Tallahassee, Florida 32399

Re: Pharmacists' Commitment to Patient Safety and Compounding Quality

Dear Mr. Whitten:

As a state organization representing pharmacy practitioners in all settings, we offer our deepest sympathy and condolences to patients and families affected by the fungal meningitis outbreak due to contaminated injectable products. The pharmacy profession is dedicated to ensuring patient safety and access to quality medications that meet patients' needs. Based on our understanding of this tragedy, the entity involved was not engaged in traditional compounding practices specific to particular patients or in-office use by a physician that is integral to all aspects of pharmacy practice, but was possibly engaged in unregulated, unlicensed drug manufacturing.

Pharmacists compound medications in response to a prescription from a physician or other legally-authorized prescriber to meet patient-specific needs. Under Florida law, patients may receive compounded medications when they have a need for a customized medication, when a drug shortage or product discontinuation occurs, when the needed strength or dosage form is not available from a manufacturer, or when an allergen-free version of a medication is needed. Pharmacists provide these compounded products to patients under a patient-specific prescription or for in-office use by a prescribing practitioner. Pharmacists also compound prescriptions for veterinary needs.

It is not uncommon for a patient who needs a particular medication yet is unable to swallow a solid oral dosage form due to the insertion of a nasogastric tube. In these cases and many others similar to this there is a need for a compounded form of the medication prescribed. Pharmacists can prepare a liquid version of that drug to allow for insertion into the tube. This is considered basic compounding.

We believe that patients must continue to have access to high quality compounded medications that are not commercially available from a manufacturer. Pharmacists working in all practice settings such as hospitals and health systems, community pharmacies, long-term care and assisted-living settings, and even our nation's uniformed services must work to meet defined quality standards and to comply with state boards of pharmacy regulations in pharmacy sterile and nonsterile compounding

practices. Importantly, all practice settings and health professionals providing sterile compounding should follow defined quality standards. Many of these standards can be found published on the Pharmacy Compounding Accreditation Board (PCAB) web site. Pharmacies may also be held to accreditation and certification requirements when compounding sterile products to further assure quality and compliance. The Florida Pharmacy Association at its August 2006 Executive Committee supports the voluntary participation of Florida providers to become accredited with PCAB.

The Florida Pharmacy Association as well as our national pharmacy organizations and our colleague state pharmacy associations throughout the country are committed to working with Congress; state legislatures; state boards of pharmacy regulating the practice of pharmacy; and the Department of Business and Professional Regulation and the United States Food and Drug Administration (FDA), which regulates pharmaceutical manufacturers and distributors, on compounding issues. In addition, we will collaborate with physicians, other prescribers, and other key stakeholders to prevent further tragedy.

Florida has one of the most comprehensive regulatory structures governing the practice of pharmacy in our country. Florida's rules on sterile compounding clearly prohibit the activities leading to the New England tragedy and the Florida Board of Pharmacy holds the legal authority to take appropriate action to suspend or revoke the non-resident pharmacy permit of NECC. The Florida Pharmacy Association believes Florida should hold nonresident pharmacies, such as NECC, to the stringent compliance standards established under current Florida compounding law for all Florida-permitted pharmacies. The Florida Pharmacy Association further urges the Board to consider recommending legislative changes that would require non-resident pharmacy permit holders to have a Florida licensed pharmacist manager acting in nonresident pharmacies as is required by a number of other states, particular if such out-of-state pharmacy is dispensing compounded medications into our State. The pedigree laws that apply to in-state permitted pharmacies must more clearly apply to non-resident pharmacy permit holders. If a non-resident pharmacy permit holder, such as NECC, is engaged in the manufacturing of drugs, the Board of Pharmacy must have the clear authority and the resources to take action against such non-resident pharmacy's permit and the Department of Business and Regulation must be clearly authorized to require a full prescription drug pedigree or any medications dispensed in this state, regardless of where the dispensing pharmacy is located.

Finally, the FPA recommends that the Department of Health invest in resources to train our state's inspection team on the complexities of compounding services. We understand that resources of the Department are strained with the state struggling to balance its budget. Practitioner licensing fees that have in recent years been diverted from Medical Quality Assurance trust funds must be restored and used to address enforcement, compliance and quality issues. The lack of enforcement in the Northeast has shown us that adequate enforcement resources are essential to patient safety.

We are prepared to be a resource for policymakers and stakeholders to work toward identification of a clear delineation between drug manufacturing and traditional pharmacy compounding, to ensure that state pharmacy boards, DBPR and the FDA have the resources necessary for effective enforcement in areas within their jurisdiction,

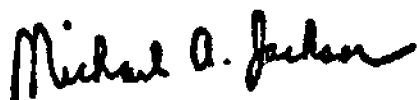
and to find an appropriate, balanced approach to assure public safety and continued access to compounded medications.

The Florida Pharmacy Association is the oldest and largest organization representing the profession of pharmacy in Florida. The members include pharmacists with expertise in community, institutional, long term care, consulting, managed care, nuclear, compounding, infusion therapy, academic and governmental service. The Association has networked with over 30 local invited and affiliated pharmacy organizations with outreach to most Florida licensed pharmacists. The FPA has advocated for and implemented a number of quality improvement and pharmacist patient care initiatives in this state and has served the profession since 1887.

Florida Pharmacy Association is the professional society representing Florida pharmacists, united to improve public health and patient care, enhance professional development and advocate for the interest of the profession. The Association is organized to preserve and advance the practice of pharmacy and to serve the professional needs of all pharmacists, pharmacy students, and pharmacy technicians.

We thank you for this opportunity to allow us to comment on this issue and on behalf of the leadership and members of the FPA, I am available for any questions that you may have.

With kindest regards,

A handwritten signature in black ink that reads "Michael A. Jackson". The signature is written in a cursive, flowing style.

Michael A. Jackson, BPharm
Executive Vice President and CEO

Cc: FPA Board of Directors

United States Senate

HEALTH, EDUCATION, LABOR, AND PENSIONS COMMITTEE

**The New England Compounding Center and
the Meningitis Outbreak of 2012: A Failure
to Address Risk to the Public Health**



Committee Staff Report

November 15, 2012

On September 26, 2012, as a result of the rapid work of the Tennessee Department of Public Health and the Centers for Disease Control and Prevention (CDCP), an outbreak of an unusual strain of fungal meningitis was identified. Preservative free methylprednisolone acetate (MPA), administered via spinal injection, was quickly identified as a likely source of the infections. The MPA was traced back to a compounding pharmacy in Framingham Massachusetts, the New England Compounding Pharmacy Inc., doing business as the New England Compounding Center (NECC). The Food and Drug Administration (FDA) subsequently determined that three separate lots of MPA, totaling over 17,000 doses produced by NECC between May 21, 2012 and August 10, 2012, were contaminated with the *exserohilum rostratum* fungus.ⁱ

To date, NECC's failure to produce a sterile and safe product has led to more than 30 deaths and over 450 serious illnesses requiring treatment with high risk anti-fungal medications. The efforts of the CDCP and the Tennessee Department of Public Health allowed public health officials in 23 states to rapidly track and begin monitoring the approximately 14,000 possible recipients of the contaminated drug. But thousands of people around the country continue to wait and see whether they will develop meningitis, joint infections, spinal abscesses, or arachnoiditis. Those treated will face the risk of kidney and liver damage from the powerful anti-fungal drugs.

While the quick work of the public health community has led to early identification and treatment of many cases of meningitis, and reduced the fatalities resulting from the administration of the contaminated MPA, the Committee's investigation demonstrates that this crisis should have, and could have, been avoided entirely.

Since its creation in 1998, inspections of NECC by state, federal, and independent investigators have identified and documented profound deficiencies in the company's production of sterile drugs. The company has also been cited on multiple occasions for improper use of prescription blanks to solicit orders and failure to comply with state regulations requiring patient-specific prescriptions for compounded drugs.

Moreover, the same drug at issue in the current outbreak, NECC-produced MPA, had previously been a suspected cause of at least two cases with bacterial meningitis-like symptoms. These reports triggered an FDA inspection of the facility ten years prior to the current outbreak, in August 2002.

While the FDA sampling of NECC-produced MPA proved sterile at the time, other MPA samples were found to contain bacteria.ⁱⁱ As an FDA employee stated in a power point presentation to the Massachusetts Board of Registration in Pharmacy (Board) at the time, "Sterilization techniques and aseptic practices continue to raise questions, despite no positive (nonsterile) results from latest samples. Absence of evidence is not evidence of absence."¹

ⁱ Testing of the third lot is ongoing.

ⁱⁱ An outbreak of fungal meningitis caused by MPA compounded by a South Carolina pharmacy also occurred in mid-2002.

Four years later in 2006, an independent evaluator reported to NECC manager and co-owner Barry Cadden that major areas of concern included “inadequate and incomplete documentation,” that “end product testing is often performed on ‘stock solutions’ and not the end product that is required,” “process controls including validation of sterilization cycles and media fills are inadequate,” and “in many cases the procedures are not in strict accordance with USP 795/797” as required by Massachusetts state law.²

In view of these repeated concerns with regard to the ability of NECC to safely produce compound drugs, it is difficult to understand why definitive action was never taken to either revoke its license or, at a minimum, closely monitor the company’s operations. Instead, the company was allowed to grow and expand operations, ultimately holding licenses to ship drugs to at least 45 states. The same owners were subsequently permitted to open the far larger Ameridose, which supplied compounded drugs to hospitals around the country. Also, that company now has been found to lack adequate procedures to ensure that the compounds produced are safe, uniform or sterile.

This report is based on information obtained in the course of the Committee’s investigation. It is intended to recount the known history of NECC, its related companies and their interactions with federal and state regulators as of November 15, 2012 to better understand the events leading to the current public health crisis.

The New England Compounding Company

NECC was created in 1998 by the Conigliaro family. Three Conigliaro siblings and their spouses own the company: Douglas and Carla Conigliaro; Barry Cadden and Lisa Conigliaro Cadden; and Gregory Conigliaro. Ownership and management of the company have remained essentially unchanged since 1998. Pharmacists Barry Cadden and Lisa Conigliaro Cadden own 25 percent of the company, Carla Conigliaro owns 65 percent, and Gregory Conigliaro owns 10 percent. Gregory Conigliaro also owns a neighboring recycling business. Barry Cadden was in charge of operations and significant amounts of the actual compounding at NECC during the entire period of operations. The three siblings and spouses also own Ameridose and Alaunus, two companies created in 2006, in similar proportions.

NECC was granted a special pharmacy license by the Board in June 1998. That license allowed the company to produce compounded pharmaceutical products without operating a full-service pharmacy, but still subject to the state requirement that the company to have an individual patient prescription for each dose compounded. Massachusetts also adopted United States Pharmacopeia Standard <797>, which sets forth standards for compounding pharmacies including requirements for clean facilities, specific training for operators, and air quality evaluations.³

The first enforcement action against NECC began just 10 months after issuance of the license. In April of 1999, the Board filed a complaint against NECC for including blank prescriptions in solicitations to practitioners, a practice that violated state law. Six months later, in November of 1999, the Board resolved the complaint by issuing a warning to NECC in a private non-disciplinary advisory letter.⁴

In June 2001, the Idaho Board of Pharmacy complained to the Massachusetts Board that NECC was, among other things, including unapproved prescription forms in its solicitations to Idaho practitioners. Documents are unclear regarding whether the Board took formal action on this complaint. In fact, as detailed below, it appears that the Board has a dysfunctional system for logging incoming complaints and evaluating whether a complaint warrants assignment to an inspector.⁵ Documents received by the Committee make clear, however, that NECC was investigated or warned for prescription-related concerns on at least 5 other occasions in the following 10 years.

Adverse Events

To the Committee's knowledge, the first time the safety of NECC's products was called into question was in early 2002. In March 2002, a prescribing doctor reported to the FDA that as many as five patients became ill following an epidural injection of NECC-produced betamethasone repositories.⁶ He reported the illnesses to the FDA, alerted NECC about the issue, and returned unused doses to NECC without taking samples.⁷ However, when the FDA arrived to inspect NECC on April 9, 2002, there were no records for the drugs in question.⁸

The FDA, joined for part of the inspection by the Board, spent three days inspecting NECC's facilities. When searching NECC's database, the FDA found a "date made" entry for the lot-number of drugs cited in the report but noted that "no associated records could be retrieved."⁹ The FDA inspection report recounts that Barry Cadden asserted that the lot had never been produced but could provide no documentation that the lot had been cancelled.¹⁰ Additionally, although the FDA contacted the physician making the report and confirmed he had returned the unused portion to NECC, FDA inspectors could find no record of the return.¹¹

In the course of the inspection, FDA inspectors were told by Barry Cadden that approximately 4 lots of product produced between March and April 2002 had tested positive for endotoxin and were awaiting disposal.¹² FDA inspectors documented that NECC had sampled betamethasone repositories immediately after sterilization in the autoclave, and then left the product for up to 7 to 10 days before placing it in individual vials.¹³ FDA inspectors reported an additional 8 areas of concern including a lack of procedures to ensure the operation of the autoclave, use of expired products, and inaccurate beyond use (i.e. expiration) dating.^{14, iii}

In August of 2002, another series of adverse events were reported to the FDA.¹⁵ These reports indicated that at least 2 patients were hospitalized for meningitis-like symptoms, and that the suspected sources of the infections were epidural injections of NECC-produced MPA, the same drug at issue in the current outbreak.¹⁶

The FDA, joined for part of the inspection by the Board, returned to NECC for a series of six days of inspections between October 2002 and February 2003. At that time Barry Cadden indicated to FDA inspectors that NECC was in the process of drastically expanding its operations. Since the FDA's prior inspection, NECC had doubled its square footage and hired

ⁱⁱⁱ Two days after the inspections, on April 18, 2002, the Nevada Board of Pharmacy submitted a complaint to the Board, alleging that NECC was selling non-FDA approved products in the state. It is unclear if the Board took any action as a result of this complaint.

additional staff. Further, NECC's manager stated his intent to expand sales to all 50 states, up from the 13 states in which it was then licensed.¹⁷

FDA tested unused vials of the MPA collected from the location of the adverse event report, and found that 5 of the 16 vials were contaminated with bacteria. The FDA also tested other vials obtained during inspections of NECC and found problems with super potent MPA and sub-potent betamethasone repositories.¹⁸ Investigators again documented the use of procedures insufficient to ensure safe compounding. Those concerns included a "lack of documentation to verify that the autoclave itself is maintained and calibrated to perform its intended function," as well as a concern regarding a lack of safe procedures to ensure that "the transfer of bulk drug product and equipment from the autoclave... to another room ... is not introducing contamination into the finished product."¹⁹ The FDA's inspectors concluded, "Sample results revealed that the firm has sterility and potency issues with injectable steroid suspensions (betamethasone repository USP and methylprednisolone acetate USP)."²⁰

In April 2002, prior to these inspections, the United States Supreme Court in *Thompson v. Western States Medical Center* ruled that section 503A of the Food Drug and Cosmetics Act included an impermissible restriction on commercial speech. The Supreme Court did not address provisions that clarified FDA's authority to regulate certain compound pharmacies, which the lower court held was not severable from the unconstitutional commercial speech restrictions. While NECC would likely have been subject to FDA regulation pursuant to section 503A of the Food Drug and Cosmetics Act, FDA's authority with regard to NECC under 503A was unclear after *Western States*, although FDA's general authority against unapproved new drugs, misbranded, or adulterated product was not in dispute. Despite the ambiguity regarding 503A, in May 2002 the FDA issued guidance which reasserted its authority to inspect compounding pharmacies and provided a non-exhaustive list of factors that the agency would consider in determining whether to take enforcement action when the scope and nature of a pharmacy's activities raise the kind of concerns ordinarily associated with drug manufacturing.

In this case, FDA took the position that the Board was better situated to take action against NECC. An FDA memo documenting a February 5, 2003, meeting between the FDA and the staff of the Board states that "a discussion was held to determine if NECC should be considered a manufacturer or a compounder" and that "current findings supported a compounding role."²¹ The memo concludes:

Mr. Elder [from FDA] concluded the meeting by summarizing the discussions and *emphasizing the potential for serious public health consequences if NECC's compounding practices, in particular those relating to specific sterile products are not improved.* The point was made that so long as a pharmacy's operations fall within the scope of the practice of pharmacy...FDA will generally defer to state authorities for regulatory oversight. In such cases FDA will seek to engage cooperative efforts aimed at achieving regulatory compliance and ensuring the safety and quality of compounded products.²²

The FDA then officially stated in the NECC Inspection Report issued February 10, 2003, "[R]eferral to Massachusetts State Board of Pharmacy. Recommend firm be prohibited from manufacturing until they can demonstrate ability to make product reproducibly and dependably.

If state is unwilling to take action, recommend firm be enjoined for [Good Manufacturing Practices] deficiencies.”²³

Despite the formal recommendation that the state take action, it is unclear whether the Board took any additional action for the next year.^{iv} It also does not appear that FDA conducted any follow-up to verify whether Massachusetts’ response was sufficient to protect public health and safety.

Finally, on February 20, 2004, the Board staff conducted a compliance inspection and noted that NECC had taken corrective actions for the safety concerns identified in 2002 and 2003.²⁴ Nonetheless, the Board’s staff recommended a public reprimand of NECC for its prior misconduct.²⁵

On September 21, 2004, more than two years after the first reported cases of meningitis and other adverse events, and apparently acting on the staff recommendation, the Board voted to seek a public censure and probation for NECC’s misconduct leading to the infections.^{26,v} As was the Board’s custom, they sent a consent decree to NECC that, if agreed to, would impose the relevant discipline and monitoring requirements for a three-year period.²⁷ The Board’s staff transmitted its proposed consent decree to NECC on October 4, 2004.²⁸

NECC did not agree to the proposed consent decree. NECC wrote to the Board asking it to instead consider non-public disciplinary action, to better protect NECC’s business interest.²⁹ Counsel for NECC wrote: “once disclosed, the reprimand will surely result in inquiries/investigations in [other] jurisdictions. Regardless of the derivative actions taken, the attendant legal and administrative costs will be devastating.”³⁰ The Board voted in November of 2004 to decline NECC’s request for modifications to the consent decree.³¹ Following that action by the Board, Committee interviews with Board staff suggest that the consent decree was referred for formal action to prosecuting attorneys within the Massachusetts Department of Public Health.³²

For over a year, the record shows no formal order was filed and no hearing was held. Instead, it appears that attorneys for the Department of Public Health negotiated a modified consent agreement approved by the Board with an effective date of January 10, 2006.³³ The revised consent decree required that NECC submit to two inspections over a six-month period by a third-party evaluator, as well as a series of written assurances that recommended improvements had been made, in exchange for a suspended period of non-public probation.³⁴ The agreement

^{iv} FDA’s investigation report also notes that Mr. Cadden, the manager of NECC, was serving on a committee for the state of Massachusetts, created to revise state regulations controlling compounding pharmacies. (FDA *Inspectional Observations*, Form FDA483, issued to Barry Cadden, R. Ph, Owner and Director of Pharmacy, New England Compounding Pharmacy, Inc., February 10, 2003.) The committee’s work, however, became moot after the release of USP 797, which then was adopted by Massachusetts. 247 CMR 9.01(3)

^v Between the Board staff report recommending censure and the Board vote to issue the consent decree, pharmacist Sophia Pasedis was appointed to the eleven-member Board. Ms. Pasedis appears to have been an employee of NECC in some capacity at the time of her appointment, and thus recused herself from the Board consideration of the consent decree. Ms. Pasedis is currently a manager of the Conigliaros’ other drug company, Ameridose.

was referred to as “non-disciplinary” and was “not reported to the National Association of State Boards of Pharmacy or other outside report agencies[.]”³⁵

Thus, almost four years after the two series of adverse events, including hospitalizations, likely caused by MPA, and three years after the FDA had stressed “the potential for serious public health consequences if NECC’s compounding practices, in particular those relating to specific sterile products are not improved,”³⁶ the Board merely required NECC to hire an outside monitor, and made no mention of suspension or revocation of NECC’s license.

PSI Monitoring

Pursuant to the revised consent decree, a third-party auditor, Pharmacy Support, Inc. (PSI) was selected to evaluate NECC’s compliance with United States Pharmacopeia Standard 797, which the Board had recently adopted as the governing standard for Massachusetts.³⁷ PSI inspected NECC in January 2006 and noted multiple concerns, including sterility concerns. Among them, PSI noted a range of fundamental problems, including:

- NECC had “no requirements for donning proper attire or hand washing” when compounding medicines;
- “Mixing instructions are not specific and do not always indicate time and temperature;”
- “No quality control procedures are defined;”
- “Non-sterile 70% IPA is used to sanitize;”
- “Beard covers not worn;”
- “Hairnets and beard covers were not worn properly;”
- “Environmental monitoring procedures are inadequate;”
- “Calibrations are not performed properly;”
- “Floors in the unclassified/hybrid buffer area have not been sanitized in 3 months of use;”
- “[Beyond use dates] assigned incorrectly;”
- “There are no written procedures for receipt, storage, and accountability of controlled substances;”
- “[Standard Operating Procedures] are inadequate or not followed;”
- “Complaint forms were not available for some complaints logged in the complaint log;”
- “Most sections of complaint forms are not complete;”
- “Lot numbers are not assigned appropriately;”
- “4 out of 8 gloves observed had holes while CSP was compounded;” and
- Dry heat “sterilization equipment has not been verified.”³⁸

NECC took significant corrective measures, including replacing deficient equipment, conducting several training sessions for staff, and adopting a wide range of new standard operating procedures.³⁹ PSI submitted a final report on April 7, 2006, stating that NECC was largely compliant with pharmaceutical standards.^{40,vi} In April and May, the Board received two

^{vi} Six days later, at the end of an 8-week jury trial and three-year indictment, both PSI’s CEO and Chief Compliance Officer were criminally convicted on 19 counts including fraud, mail fraud, and a violation of the Food and Drug Control Act. *US v. Caputo*, No. 03 CR 0126 (N.D. Ill. Oct 16, 2003). It is unclear how PSI was selected as the Massachusetts Board of Pharmacy has been unable to identify or produce documents discussing the selection of PSI in detail. Documents do show that PSI submitted a proposal to

more cursory letters from NECC assuring compliance with its remaining open issues.⁴¹ On June 2, 2006, the Board informed NECC that it had fulfilled the requirements of its consent decree and that it considered the matter closed.⁴²

Additional NECC Complaints

At the time the Board acted to send the initial consent decree to NECC, it also acted to resolve three additional complaints against NECC in September 2004.⁴³ Despite ongoing investigations relating to serious adverse events, the Board issued three *non-disciplinary* private advisory letters to NECC resolving complaints submitted during the prior two years from practitioners in South Dakota, Texas, and Wisconsin.⁴⁴ While the advisory letters fail to spell out the specifics of the complaints, and the original complaints have not been reviewed by the Committee to date, it appears that NECC may have been soliciting bulk orders rather than patient-specific prescriptions, conduct that NECC was initially reprimanded for in 1999. A Board inspection report from around that time specifically notes that NECC “continues to reduce to writing orders on bulk purchase order forms and not on the approved prescription blanks. An issue previously addressed with Mr. Cadden.”⁴⁵

Additionally, in April 2004, five months before issuance of the advisory letters, the Board received a new complaint from a practitioner regarding the safety of NECC compounded triple anesthetic cream. The complaint states “My second concern is that [redacted] related to the purchasing technician that he would need a prescription for the product and that we could use the name of a staff member if we wanted to. He said ‘other’ institutions have used a nurses name...He assured her that it was legal. He indicated that after we received the product it was up to us how we used it and whom it was administered to.”⁴⁶ It appears that this complaint triggered a Board inspection on November 2004. When questioned about the use of false names, Cadden responded “a review of the same documentation provided to you does show what would appear to be incorrect or repetitive names being provided by several of our prescribing physicians.”⁴⁷ Yet the Board staff again recommended issuance of yet another non-disciplinary advisory letter dismissing this complaint.

On November 7, 2012, Department of Public Health officials informed the Committee that a July 2012 complaint against NECC, from the Colorado Board, for producing drugs in the absence of a patient-specific prescription had been discovered in the email of the Board’s Executive Director. The complaint, which was received while the contaminated lots of MPA were still being produced by NECC, provided clear photographic evidence that NECC was shipping products in the absence of patient-specific prescriptions.⁴⁸ Further, Colorado had issued a cease and desist order to NECC in 2011 regarding this practice.⁴⁹ Board staff never acted on the July 2012 complaint, and it is unclear that the Board itself was aware of the complaint.^{vii}

While Massachusetts state law requires that a compounding pharmacy possess a patient-specific prescription before preparing a compound drug, it appears that NECC has been

the Massachusetts Board and the prosecutor negotiating the consent agreement provided contact information to NECC’s counsel.

^{vii} The Board also informed the Committee that it had terminated the Executive Director and placed the Board’s Counsel on administrative leave as a result of this discovery.

consistently preparing and shipping batch products either in the absence of a prescription or to false prescription recipients since 1998. No regulatory entity appears to have undertaken a serious investigation of this ongoing practice, and the Board instead routinely dismissed and/or failed to act upon these repeated complaints.

Additional FDA Action

Two days after the Board finally voted to issue the consent decree in September 2004, the FDA and the Board returned to NECC, this time pursuant to a complaint regarding the company's improper production of an injectable dye used in ophthalmic procedures, Trypan Blue.⁵⁰ After Barry Cadden initially denied that any Trypan Blue was in stock, FDA inspectors located 189 vials of the product. Trypan Blue is commercially available and should not be compounded.⁵¹

This inspection led to the issuance of a December 4, 2006 FDA Warning Letter to NECC. The Warning Letter details issues including: the sale of compounded drugs without a patient-specific prescription; compounding copies of commercially-available drugs; selling misbranded compounding drugs; and compounding standardized non-approved drugs, with associated public health risks, on a large scale. It specifically notes that NECC "has reportedly told physicians' offices that using a staff member name on a prescription would suffice."⁵²

While the FDA Warning Letter seeks corrective action within 15 days and threatens that failure to correct could result in further regulatory action including seizure or injunction, it does not appear that any further action was contemplated or that any efforts to ensure that corrective action were sought by the agency. Moreover, FDA chose to issue this Warning Letter without having learned from the Board what, if any, disciplinary actions had been taken in response to the inspections from October 2002-February 2003.⁵³ In January 2007 NECC responded to the Warning Letter, and in October 2008 the FDA re-asserted its authority to take "enforcement action, including seizure of the firm's products and/or an injunction against the firm and its principals" if violations noted in the Warning Letter were not corrected. The FDA also stated that "[i]n a future inspection, we will ... verify that your firm's compounding practices are consistent with the policy articulated in the [Compliance Policy Guidelines.]"⁵⁴ This response came two years from the date of FDA's initial Warning Letter and four years from the date of the relevant inspection. FDA took no further action until the recent outbreak.

Further, a May 2011 email exchange shows that FDA staff, including the signatory to the October 2008 letter re-asserting FDA inspection authority, received a copy of a Colorado Cease and Desist Order issued to NECC in 2011 as the result of distribution of non-patient specific compounded drugs to hospitals in the Denver area. FDA staff apparently did not share the Cease and Desist order with the Massachusetts Board, or suggest that the Colorado Board do so until Colorado inspectors again discovered NECC stock compound drugs in another Colorado hospital in July 2012.⁵⁵

Inspection Findings Subsequent to the Outbreak

Unfortunately the long history of concerns was borne out in inspections by FDA and the Board following the 2012 fungal meningitis outbreak. The Massachusetts Board began a series

of inspections of NECC on September 26, 2012. The Board and/or the FDA continued inspecting NECC from that date until October 26, 2012. The findings demonstrate a basic lack of compliance with USP <797> or with safe compounding as evidenced most clearly by the fact that “[v]isible black particulate matter was seen in several recalled sealed vials of Methylprednisolone Acetate.”⁵⁶ Perhaps most critically, the FDA inspection found that NECC’s environmental monitoring system documented 61 instances between January and August 2012 when either bacteria or mold was detected in concentrations exceeding action-level thresholds.⁵⁷

The inspection reports found that while sterility testing conducted on the contaminated lots did not reveal unacceptably high levels of endotoxins, the sample provided was insufficient relative to the batch size. In fact when FDA sampled 50 vials of returned MPA it determined all fifty were contaminated with microbial growth despite the fact that sterility tests on one sample from the same lot in August 2012 has proven clear.⁵⁸ The FDA and Board inspections unsurprisingly again document a basic lack of procedure to ensure sterile products were being compounded safely including:

- Inspectors observed “greenish yellow discoloration” lining one of two autoclaves used to sterilize various components and equipment;⁵⁹
- Inspectors observed “yellow residue lining the rear return of Weigh Station 2 Hood and greenish residue lining the rear return of Weigh Station 3 Hood...used to weigh active ingredients and other raw materials;”⁶⁰
- “Residual powder was visually observed within the [powder] hood during inspection;”
- “[Tacky] mats, which are used to trap dirt, dust, and other potential contaminants from shoes prior to clean room entry...were visibly soiled with assorted debris;”⁶¹ and
- “A leaking boiler adjacent to the requisite clean room created an environment susceptible to contaminant growth.”⁶²

The inspections also documented a continued disregard for the requirements of a patient-specific prescription for each compounded product. The state’s preliminary investigation report noted: “NECC distributed large batches of compounded sterile products directly to facilities apparently for general use rather than requiring a prescription for an individual patient.”

Ameridose

One month after the terms of NECC’s 2006 consent decree were deemed satisfied, the Board approved a license for a new company, Ameridose, owned by the Conigliaro family.^{63, viii} Massachusetts Board Member Sophia Pasedis has been a manager of record for the company.⁶⁴ According to media reports, Douglas Conigliaro, although not listed as an owner or manager, plays a significant role at Ameridose.⁶⁵

^{viii} The ownership distribution is essentially the same with Carla Conigliaro owning 65 percent, Barry and Lisa Cadden owning 25 percent and Gregory Conigliaro owning 10 percent. (11-9-12 HELP Committee staff interview with NECC attorneys.)

Ameridose is also a sterile compounding company, but because it produces batch drugs for hospitals rather than patient-specific prescriptions, it is registered as a manufacturer with the FDA as well as with the Massachusetts Board.⁶⁶ The company does not manufacture any FDA approved product but rather is exclusively a large-scale compounder.

Until the outbreak, Ameridose contracted with Novation, the largest group purchasing organization in the country. Thus, Ameridose products were available to Novation's 3,000 hospital members as well as 22,000 other providers and facilities. Despite the history of problems with NECC and the joint ownership of the two companies, neither the licensure of Ameridose nor the large scale of its operations appears to have raised any concerns amongst the Board or the Board staff. Documents suggest that Ameridose was subject to routine pre-announced inspections by the Board in 2008 and 2011.⁶⁷

However, the FDA had serious concerns with Ameridose. The FDA inspected the company in 2008 and found serious problems with the company's operations. Despite the large scale of Ameridose's operations even in 2008, investigators documented that products were shipped immediately without waiting for the results of sterility testing, that testing for potency and dose uniformity is not routinely performed and procedures were insufficient, and that the company was generally not in compliance with the requirements of USP 797 as required by Massachusetts law. As an example, management could not locate test results for 3 of 17 active ingredients inspected. Results of sampling tests taken at the August 2008 inspection returned a finding of superpotent Oxytocin, resulting in a recall of the product and an additional inspection in September 2008.⁶⁸ FDA staff placed Ameridose on the work plan for high risk facilities and recommended that a warning letter be issued to the company although no such letter was actually issued.⁶⁹

While Ameridose was also the subject of at least 9 reports to the FDA of adverse events, faulty products, or medication errors, it is unclear that any of these triggered an inspection or investigation.⁷⁰ Following NECC's identification as the source of the fungal meningitis, the Board secured a temporary stop of Ameridose operations, though the company continues to hold a valid license. After the FDA began inspections on October 31, 2012, Ameridose issued a voluntary recall of all products.⁷¹

On November 12, 2012, the FDA issued a preliminary inspection report for Ameridose, finding startlingly similar problems to those they found NECC. Although the FDA has not reported any findings of contaminated drugs from Ameridose, the agency's preliminary findings "raised concerns about a lack of sterility assurance for products produced at and distributed by this facility."⁷²

The FDA's inspection found that, like at NECC, there were clear problems with ensuring that drugs were sterile, or that doses were uniform. The FDA found that batches of drug product were not tested to ensure sterility, and that procedures were not established, written, or followed to prevent microbiological contamination of sterile drug products. What procedures were available did not include adequate validation of sterilization. The report also notes that the company failed to write or follow procedures detailing other aspects of their business.⁷³

Moreover, the FDA found that testing of Ameridose's product did not include appropriate laboratory determination of conformance to the identity and strength of each active ingredient. And there were no written procedures for production and process controls to assure that the drug products had the identity, strength, quality and purity they purported to possess.⁷⁴

Additionally, the FDA found that the buildings were not in good repair, that equipment and utensils were not cleaned, maintained, and sanitized at appropriate intervals to prevent contamination. The company further lacked suitable procedures to facilitate cleaning and maintenance, lacked equipment for adequate control over air pressure, and were infested with vermin.⁷⁵

Conclusion

Given the history of NECC, the fact that the company produced and shipped a contaminated product that has led to 32 deaths and 461 infections to date is not a surprise. The surprise is that they were allowed to continue to engage in drug compounding for over a decade with this record.

Both federal and state regulators were well aware that NECC and its owners posed a risk to the public health. Both had documented that the company routinely flouted requirements that it compound products only when a patient specific prescription was received, compounded unapproved and commercially available products, potentially destroyed documents and samples relevant to adverse events, and most critically, repeatedly failed to demonstrate that the company could safely compound sterile products. There were a number of authorities and mechanisms for both federal and state regulators to address this issue, but bureaucratic inertia appears to be what allowed a bad actor to repeatedly risk public health.

The Committee will continue its investigation to determine how this tragic failure of oversight occurred, and how it can best be prevented in the future.

¹ FDA Internal Memorandum, February 24, 2003, re: *February 5, 2003 Meeting with Massachusetts Board of Pharmacy / Division of Professional Licensure (239 Causeway Street, Boston, MA 02114)*, p. 10 of Attachment 1.

² Letter from Pharmacy Support, Inc., to New England Compounding Center, January 30, 2006, and enclosure: *Compounding Sterile and Non Sterile Preparations Observations and Recommendations Final Report*.

³ 247 CMR 9.01(3).

⁴ Committee staff interview with Board inspectors 11/9/12.

⁵ Senate HELP Committee staff interviews of Massachusetts Department of Public Health staff, October and November, 2012.

⁶ FDA *Investigative Report*, re: FACTS 298826, New England Compounding Pharmacy Inc. EI 4/9, 4/10, 4/16/02; FDA *Inspectional Observations*, Form FDA483, issued to Barry Cadden, R. Ph, Owner and Director of Pharmacy, New England Compounding Pharmacy, Inc., April 16, 2002.

⁷ FDA *Investigative Report*, re: FACTS 298826, New England Compounding Pharmacy Inc. EI 4/9, 4/10, 4/16/02.

⁸ Id.

⁹ FDA *Inspectional Observations*, Form FDA483, issued to Barry Cadden, R. Ph, Owner and Director of Pharmacy, New England Compounding Pharmacy, Inc., April 16, 2002, p. 4.

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- ¹⁰ Id. at 4.
- ¹¹ Id. at 4.
- ¹² Id. at 7.
- ¹³ Id. at 7.
- ¹⁴ Id. at 8.
- ¹⁵ FDA *Establishment Inspection Report and Continuation Sheet*, re: FACTS 332851, New England Compounding Pharmacy Inc., EI Start: 10/24/02, EI End: 2/10/03; FDA *Inspectional Observations*, Form FDA483, issued to Barry Cadden, R. Ph, Owner and Director of Pharmacy, New England Compounding Pharmacy, Inc., February 10, 2003, p. 5.
- ¹⁶ FDA *Establishment Inspection Report and Continuation Sheet*, re: FACTS 332851, New England Compounding Pharmacy Inc., EI Start: 10/24/02, EI End: 2/10/03, pp. 4-5.
- ¹⁷ Id.
- ¹⁸ Id.
- ¹⁹ FDA *Inspectional Observations*, Form FDA483, issued to Barry Cadden, R. Ph, Owner and Director of Pharmacy, New England Compounding Pharmacy, Inc., February 10, 2003, p. 1.
- ²⁰ Id. at 2.
- ²¹ FDA Internal Memorandum, February 24, 2003, re: *February 5, 2003 Meeting with Massachusetts Board of Pharmacy / Division of Professional Licensure (239 Causeway Street, Boston, MA 02114)*, p. 2.
- ²² Id. at 3-4.
- ²³ FDA *Establishment Inspection Report*, re: FACTS 332851, New England Compounding Pharmacy Inc., EI Start: 10/24/02, EI End: 2/10/03, p. 1.
- ²⁴ Massachusetts Department of Public Health – Division of Health Professions Licensure, *Investigation Report*, Re: New England Compounding Center, DS 03 055, and Barry Cadden, PH 03 066, March 4, 2004, p. 9.
- ²⁵ Id. at 9.
- ²⁶ Massachusetts Board of Registration in Pharmacy, *Pharmacy Board Meeting Minutes: Tuesday, September 21, 2004*, p. 9.
- ²⁷ Letter from the Massachusetts Board of Registration in Pharmacy to New England Compounding Center, re: *Docket Number DS-03-055/PH-03-066/ New England Compounding Center (Permit #2848) and Barry Cadden, R.Ph., License No. 21239*, October 4, 2004; Massachusetts Board of Registration in Pharmacy, *Consent Agreement re: Docket No. DS-03-055, PH-03-066*.
- ²⁸ Id.
- ²⁹ Letter from Paul Cirel, counsel for New England Compounding Center, to Board of Registration in Pharmacy, re: *Docket Number DS-03-055/PH-03-066/ New England Compounding Center (Permit #2848) and Barry Cadden, R.Ph., License No. 21239*, November 11, 2004.
- ³⁰ Id. at 4.
- ³¹ Massachusetts Board of Registration in Pharmacy, *Pharmacy Board Meeting Minutes: Tuesday, November 23, 2004*, p2.
- ³² Senate HELP Committee staff interviews of Massachusetts Department of Public Health staff, October and November, 2012.
- ³³ Massachusetts Board of Registration in Pharmacy, *Consent Agreement re: Docket No. DS-03-055, PH-03-066, DS-05-040*, January 10, 2006.
- ³⁴ Id.
- ³⁵ Id. at 1.
- ³⁶ FDA Internal Memorandum, February 24, 2003, re: *February 5, 2003 Meeting with Massachusetts Board of Pharmacy / Division of Professional Licensure (239 Causeway Street, Boston, MA 02114)*, p. 2.
- ³⁷ Letter from Pharmacy Support, Inc., to New England Compounding Center, January 30, 2006, and enclosure: *Compounding Sterile and Non Sterile Preparations Observations and Recommendations Final Report*.
- ³⁸ Id.

³⁹ Pharmacy Support, Inc., *Final Report USP < 795>/< 797> Implementation New England Compounding Center Framingham, Ma*, April 7, 2006.

⁴⁰ Id.

⁴¹ Letters between Board and NECC, April 12, 2006, April 19, 2006, May 10, 2006, and May 22, 2006.

⁴² Letter from MA Board to NECC, June 2, 2006.

⁴³ Massachusetts Board of Registration in Pharmacy, *Pharmacy Board Meeting Minutes: Tuesday, September 21, 2004*.

⁴⁴ Letter from the Massachusetts Board of Registration in Pharmacy to New England Compounding Center, re: *In the matter of DS-03-038 and PH-03-042 – New England Compounding Center (Permit #2848)*, September 30, 2004; Massachusetts Board of Registration in Pharmacy, *Advisory Letter re: Docket No. DS-03-036, PH-03-042*, September 30, 2004; Letter from the Massachusetts Board of Registration in Pharmacy to New England Compounding Center, re: *In the matter of DS-03-060 and PH-03-070 – New England Compounding Center (Permit #2848)*, September 30, 2004; Massachusetts Board of Registration in Pharmacy, *Advisory Letter re: Docket No. DS-03-060, PH-03-070*, September 30, 2004; Massachusetts Board of Registration in Pharmacy, *Advisory Letter re: Docket No. DS-04-062, PH-04-161*, September 30, 2004.

⁴⁵ Massachusetts Department of Public Health – Division of Health Professions Licensure, *Investigation Report*, Re: New England Compounding Center, DS 03 055, and Barry Cadden, PH 03 066, March 4, 2004 at 7.

⁴⁶ Email from [redacted] to Massachusetts Board of Registration in Pharmacy, re: *New England Compounding Center Activity in the State of Wisconsin*, April 27, 2004.

⁴⁷ Massachusetts Department of Public Health – Division of Health Professions Licensure, *Investigation Report*, Re: New England Compounding Center, DS 05 040, reviewed by Board Members on November 23, 2004.

⁴⁸ E-mail from Colorado Department of Regulatory Agencies to Massachusetts Board of Registration in Pharmacy, re: *New England Compounding Center*, July 26, 2012; Colorado State Board of Pharmacy, *Special Report*, re: *New England Compounding Pharmacy, Inc. (WHO 7832)*, July 20, 2012.

⁴⁹ Id.

⁵⁰ FDA Internal Memorandum, Re: *Inspection/Investigation of New England Compounding Center*, January 26, 2005.

⁵¹ Id. at 2.

⁵² FDA Warning Letter to NECC, Dec 4, 2006.

⁵³ FDA Internal Memorandum, Re: *Inspection/Investigation of New England Compounding Center*, January 26, 2005 at 4.

⁵⁴ Letter from FDA to NECC, Oct 31, 2008.

⁵⁵ E-mails between Colorado Board of Pharmacy and FDA, May 10, 2011 and July 16, 2012; Colorado State Board of Pharmacy, *Special Report*, re: *New England Compounding Pharmacy, Inc. (WHO 7832)*, July 20, 2012.

⁵⁶ Massachusetts Board of Registration in Pharmacy Report, *NECC Preliminary Investigation Findings*, October 23, 2012, at 4.

⁵⁷ FDA *Inspectional Observations*, Form FDA483, issued to Barry Cadden, Owner, New England Compounding Pharmacy, Inc., d/b/a/ New England Compounding Center, October 26, 2012.

⁵⁸ FDA *Inspectional Observations*, Form FDA483, issued to Barry Cadden, Owner, New England Compounding Pharmacy, Inc., d/b/a/ New England Compounding Center, October 26, 2012.

⁵⁹ Massachusetts Board of Registration in Pharmacy Report, *NECC Preliminary Investigation Findings*, October 23, 2012 at 1.

⁶⁰ Id. at 7.

⁶¹ Massachusetts Board of Registration in Pharmacy Report, *NECC Preliminary Investigation Findings*, October 23, 2012 at 4.

⁶² Id. at 5.

⁶³ Ameridose, LLC, *Application for a New Store – 50 Fountain Street*, 2006.

⁶⁴ *Id.*

⁶⁵ Abby Goodnough *et. al.*, “Spotlight Put on Founders of Drug Firm in Outbreak,” *New York Times*, October 24, 2012, <http://www.nytimes.com/2012/10/25/health/with-meningitis-outbreak-a-spotlight-on-family-behind-compounding-pharmacy.html?pagewanted=all> (accessed November 14, 2012).

⁶⁶ *See, e.g.* FDA *Establishment Inspection Report, Ameridose, LLC*, January 16, 2008, p. 1; Ameridose, LLC, *Application for a New Store – 50 Fountain Street*, 2006.

⁶⁷ The Commonwealth of Massachusetts, Division of Health Professions Licensure, *Inspection Report*, 11/19/08; The Commonwealth of Massachusetts, Division of Health Professions Licensure, *Inspection Report*, 11/7/11.

⁶⁸ FDA *Establishment Inspection Report, Ameridose, LLC*, EI Start: 09/17/2008, EI End: 09/18/2008.

⁶⁹ FDA *Establishment Inspection Report, Ameridose, LLC*, August 22, 2008, p. 1.

⁷⁰ FDA, *FAERS search results for suspect drugs labeled as Ameridose, New England Compounding Center or Alaunus, Reports initially received by FDA from 1/1/02 to 9/25/12*, provided to Committee on November 8, 2012; *See also*, Letter from Wiley Rein, LLP to Massachusetts Board of Registration in Pharmacy, re: *Complaint Against Ameridose LLC for Unlawful Manufacturing and Distribution of Pre-Mixed Nicardipine Injection Products*, June 30, 2010 (the resulting investigation was administratively closed).

⁷¹ FDA Press release: *FDA reports voluntary recall of all Ameridose drug products*, October 31, 2012, <http://www.fda.gov/NewsEvents/Newsroom/PressAnnouncements/ucm326361.htm>, (accessed November 14, 2012).

⁷² *Id.*

⁷³ FDA *Inspectional Observations*, Form FDA483, issued to Gary Conigliaro, Vice President and General Manager, Ameridose, LLC, November 9, 2012.

⁷⁴ *Id.*

⁷⁵ *Id.*