

BEFORE THE STATE BOARD OF PHARMACY

STATE OF COLORADO

Case No. 2022-1030

STIPULATION AND FINAL AGENCY ORDER

IN THE MATTER OF DISCIPLINARY PROCEEDINGS REGARDING THE IN-STATE PRESCRIPTION DRUG OUTLET REGISTRATION IN THE STATE OF COLORADO OF WALGREEN PHARMACY #10175, REGISTRATION NO. PDO 7-45,

Respondent Pharmacy.

IT IS HEREBY STIPULATED AND AGREED by and between the Colorado State Board of Pharmacy (“Board”) and Walgreen Pharmacy #10175 (“Respondent Pharmacy”) to resolve all matters pertaining to Board Case Number 2022-1030, as follows:

FINDINGS AND CONCLUSIONS

1. The Board has jurisdiction over Respondent Pharmacy, its registration as an in-state prescription drug outlet, and the subject matter of this Stipulation and Final Agency Order (“Final Agency Order”) pursuant to the Pharmacists, Pharmacy Businesses, and Pharmaceuticals Act at Title 12, Article 280, C.R.S. (2021).
2. Respondent Pharmacy was originally registered in the State of Colorado on or about April 13, 1994, being issued registration #PDO 7-45, and has been so registered at all times relevant to this disciplinary action.
3. Respondent Pharmacy’s address of record with the Board and current location is 12011 E. Iliff Ave., Aurora, Colorado.
4. Respondent Pharmacy admits these findings and hereby waives any further proof in this proceeding before the Board regarding the following facts.
5. Respondent Pharmacy failed to timely submit to the Board an application detailing a change in pharmacist manager and fee. In this case, 71 days transpired between October 20, 2021, the date the previous pharmacist manager ceased the position, and December 30, 2021, the date the application and fee were received.
6. On or about February 14, 2022, the Board initiated a complaint against Respondent Pharmacy because of the delay of 71 days in submitting an application detailing a change in pharmacist manager and fee.

7. Respondent Pharmacy's conduct, as set forth above, constitutes violations of the following sections of the Colorado Revised Statutes and Board Regulations:

Colorado Revised Statutes

12-280-126. Unprofessional conduct - grounds for discipline.

(1) The board may take disciplinary or other action as authorized in section 12-20-404, after a hearing held in accordance with the provisions of sections 12-20-403 and 12-280-127, upon proof that the licensee or registrant:

(c) Has violated:

(II) The lawful rules of the board.

12-280-127. Disciplinary actions. (1) The board may take disciplinary or other action as authorized in section 12-20-404 when the board determines that the applicant, licensee, or registrant has engaged in activities that are grounds for discipline under section 12-280-126.

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Pharmacy Board Rules and Regulations

5.00.70. Change in Pharmacist Manager.

b. The registration of any in-state and non-resident prescription drug outlet shall become void if the pharmacist manager in whose name the registration was issued ceases to be engaged as the manager, and the owner shall close the outlet unless such owner has employed a pharmacist manager and, within thirty days after termination of the former manager's employment, has made application to transfer the registration to the new pharmacist manager and has paid the transfer fee therefor.

TERMS OF DISCIPLINE

8. **Fine with Surcharge.** Pursuant to section 12-280-127(5)(a), C.R.S., Respondent Pharmacy shall pay a fine of One Thousand Dollars and No Cents (\$1,000.00). Respondent Pharmacy understands and acknowledges that, pursuant to section 24-34-108, C.R.S., the Executive Director of the Department of Regulatory Agencies may impose an additional surcharge of 15% of this fine. Respondent Pharmacy shall therefore pay a total amount of One Thousand One Hundred Fifty Dollars and No Cents (\$1,150.00). The total amount shall be payable to the State of Colorado and shall be remitted in one lump sum to be included when Respondent Pharmacy submits this signed Final Agency Order to the Board.

9. **Compliance.** Respondent Pharmacy shall submit all future applications and appropriate fees to the Board detailing changes in pharmacist manager within the required time frame specified by Board rule or statute in effect at the time of such pharmacist manager change.
10. **Other Requirements.** Respondent Pharmacy acknowledges and agrees that, as a condition of this Final Agency Order, Respondent Pharmacy shall:
- a. promptly pay all Respondent Pharmacy's own fees and costs associated with this Final Agency Order;
 - b. comply fully with this Final Agency Order; and
 - c. comply fully with the Pharmacists, Pharmacy Businesses and Pharmaceuticals Act, all Board rules and regulations, and any other state and federal laws and regulations related to pharmacists and pharmaceuticals in the State of Colorado.
11. **Advisements and Waivers.** Through its undersigned Authorized Representative, Respondent Pharmacy enters into this Final Agency Order freely and voluntarily, after having the opportunity to consult with legal counsel and/or choosing not to do so. Respondent Pharmacy acknowledges its understanding that it has the following rights:
- a. to have formal notice of hearing and charges served upon it;
 - b. to respond to said formal notice of charges;
 - c. to have a formal disciplinary hearing pursuant to sections 12-20-403, 12-280-126, and 12-280-127, C.R.S.; and
 - d. to appeal this Final Agency Order.

Respondent Pharmacy freely waives these rights, and acknowledges that such waiver is made voluntarily in consideration for the Board's limiting the action taken against Respondent Pharmacy to the sanctions imposed herein.

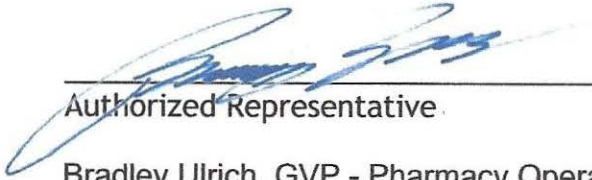
12. **Acknowledgments.** The undersigned Authorized Representative of Respondent Pharmacy has read this Final Agency Order in its entirety and acknowledges, after having the opportunity to consult with legal counsel and/or choosing not to do so, that Respondent Pharmacy understands the legal consequences and agrees that none of the terms or conditions herein is unconscionable. Respondent Pharmacy is not relying on any statements, promises or representations from the Board other than as may be contained in this Final Agency Order. Respondent Pharmacy further acknowledges that it is not entering into this Final Agency Order under any duress.

13. **Violations.** Time is of the essence in this Final Agency Order. It is the responsibility of Respondent Pharmacy to take all appropriate steps to comply fully with this Final Agency Order. Respondent Pharmacy acknowledges and agrees that any violation of this Final Agency Order shall constitute a willful violation of a lawful Board order, may be sanctioned as provided under section 12-280-127(4), C.R.S., and may be sufficient grounds for additional discipline, including but not limited to revocation of Respondent Pharmacy's registration. The pendency of any suspension or disciplinary action arising out of an alleged violation of this Final Agency Order shall not affect the obligation of Respondent Pharmacy to comply with all terms and conditions of this Final Agency Order.
14. **Integration and Severability.** Upon execution by all parties, this Final Agency Order shall represent the entire and final agreement of and between the parties. In the event any provision of this Final Agency Order is deemed invalid or unenforceable by a court of law, it shall be severed and the remaining provisions of this Final Agency Order shall be given full force and effect.
15. **Public Record.** Upon execution by all parties, this Stipulation and Final Agency Order shall be a public record, maintained in the custody of the Board.
16. **Effective Date.** This Final Agency Order shall become effective upon (a) mailing by first-class mail to Respondent Pharmacy at Respondent Pharmacy's address of record with the Board, or (b) service by electronic means on Respondent Pharmacy at Respondent Pharmacy's electronic address of record. Respondent Pharmacy hereby consents to service by electronic means if Respondent Pharmacy has an electronic address on file with the Board.

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ACCEPTED AND AGREED BY

Respondent Pharmacy



Dated: 6/13/2022

Authorized Representative

Bradley Ulrich, GVP - Pharmacy Operations
Name/ Title

APPROVED AS TO FORM
FOR RESPONDENT



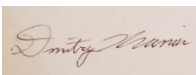
Michael Simko

FINAL AGENCY ORDER

WHEREFORE, the within Stipulation and Final Agency Order is approved, accepted, and hereby made an Order of the Board.

Done and effective this 23 day of June, 2022.

State Board of Pharmacy

BY: 

Dmitry Kunin
Program Director