

**BEFORE THE STATE BOARD OF PHARMACY**

**STATE OF COLORADO**

**Case No. 2015-239**

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**STIPULATION AND FINAL AGENCY ORDER**

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IN THE MATTER OF DISCIPLINARY PROCEEDINGS REGARDING THE IN-STATE PRESCRIPTION DRUG PHARMACY REGISTRATION IN THE STATE OF COLORADO OF KAISER PERMANENTE ROCK CREEK PHARMACY, REGISTRATION NO. PDO 12-7,

Respondent Pharmacy.

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IT IS HEREBY STIPULATED AND AGREED by and between the Colorado State Board of Pharmacy ("Board") and Kaiser Permanente Rock Creek Pharmacy ("Respondent Pharmacy") to resolve all matters pertaining to Board Case Number 2015-239, 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 provisions of the Pharmacists, Pharmacy Businesses, and Pharmaceuticals Act at Title 12, Article 42.5, C.R.S. (2014).
2. Respondent Pharmacy was originally registered in the State of Colorado on or about November 21, 1988, being issued registration number PDO 12-7, 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 280 Exempla Circle, Lafayette, CO 80026.
4. Respondent Pharmacy admits these findings and hereby waives any further proof in this or any other proceeding before the Board regarding the following facts.
5. On five (5) separate occasions from September 4 to November 18, 2014, Respondent compounded and dispensed a prescription with an expired ingredient. On four other occasions from May 14 to October 8, 2014, there was incomplete compounding record documentation.
6. Respondent Pharmacy admits that its conduct, as set forth above, constitutes a violation of §12-42.5-123(1)(c)(I)-(III) and (k), C.R.S., and Rule 21.00.10(b) and

provides grounds for disciplinary action against Respondent Pharmacy's Colorado registration as a prescription drug outlet.

### DISPOSITION

7. **Letter of Admonition.** This Final Agency Order shall constitute a Letter of Admonition as set forth in §12-42.5-124(6)(b) and (c), C.R.S. The Board hereby admonishes Respondent Pharmacy for the acts and omissions described in paragraphs 5-6 above.
8. **Waiver of Right to Contest.** By entering into this Final Agency Order, Respondent Pharmacy agrees to waive the right provided by §12-42.5-124(6)(b) and (c), C.R.S., to contest this Letter of Admonition.
9. **Other Requirements.** Through its undersigned Authorized Representative, Respondent Pharmacy acknowledges and agrees that, as a condition of this Final Agency Order, Respondent Pharmacy shall:
  - a. promptly pay all its 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 pharmaceuticals and pharmacists in the State of Colorado.
10. **Violations.** Time is of the essence to 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 §12-42.5-124(4), C.R.S., and may be sufficient grounds for additional discipline, including but not limited to revocation of its 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.
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 a 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 §§12-42.5-123 and 12-42.5-124, C.R.S.; and
- d. To appeal this Board 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 it 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. **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 this case. 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.
- 14. **Public Record.** Upon execution by all parties, this Final Agency Order shall be a public record, maintained in the custody of the Board.
- 15. **Board Order.** This Final Agency Order shall become an order of the Board when it is accepted and signed by the Program Director or authorized Board representative.
- 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.

ACCEPTED AND AGREED BY

Respondent Pharmacy

JOSEPH FRANCISCO, ONCOLOGY PHARMACY <sup>RPh,</sup> Dated: MARCH 24, 2015  
Authorized Representative / Title SUPERVISOR

Subscribed and sworn to before me in the County of Boulder,  
State of Colorado, this 24 day of MARCH, 2015, by  
[Signature], in his/her capacity as  
an authorized agent of Kaiser Permanente Rock Creek Pharmacy.

[Signature]  
Notary Public

My commission expires:  
09/02/2016

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 31<sup>st</sup> day of March, 2015.

State Board of Pharmacy

BY: [Signature]  
Chris Gassen  
Program Director