

BEFORE THE STATE BOARD OF PHARMACY

STATE OF COLORADO

Case No. 2010-002077

STIPULATION AND FINAL AGENCY ORDER

IN THE MATTER OF THE DISCIPLINARY PROCEEDING REGARDING THE IN-STATE PRESCRIPTION DRUG OUTLET REGISTRATION OF KAISER PERMANENTE SOUTHWEST PHARMACY, REGISTRATION NO. PDO-790000030, RESPONDENT.

IT IS HEREBY STIPULATED by and between the Colorado State Board of Pharmacy ("Board") and Kaiser Permanente Southwest Pharmacy ("Respondent") to resolve all matters pertaining to Colorado State Board of Pharmacy Case Number 2010-002077 as follows:

1. The Board has jurisdiction over Respondent, its registration as an In-State Prescription Drug Outlet, and the subject matter of this Stipulation and Final Agency Order pursuant to the provisions of title 12, article 22, C.R.S., otherwise known as the Pharmaceuticals and Pharmacists Act.
2. Respondent has been registered as a prescription drug outlet in the State of Colorado at all times relevant to this disciplinary action.
3. Respondent admits to these findings and hereby waives any further proof in this proceeding before the Board regarding the following facts.
4. Respondent's address of record with the Board and current location is 5257 S. Wadsworth Blvd., Littleton, CO 80123.
5. Respondent failed to timely submit to the Board an application detailing a change in pharmacist manager and fee. In this instance, twenty-five (25) days transpired between the date the previous pharmacist manager ceased the position on November 16, 2009, and the date the application and fee were received on December 11, 2009.
6. Respondent entered into a Stipulation and Final Agency Order with the Board, effective June 17, 2005, in Case No. 2005-002965, for a prior instance of failing to timely submit to the Board an application detailing a change in pharmacist manager and fee.

7. On December 15, 2009, the Board initiated a complaint against Respondent because of the delay of twenty-five (25) days in submitting an application detailing a change in pharmacist manager and fee.
8. Respondent admits that the conduct described above constitutes a violation of sections 12-22-119(1)(a) and (b) and 12-22-125(1)(c)(I),(II) and (III), C.R.S., and Regulation 5.00.70(b) and that such conduct provides grounds for disciplinary action against Respondent:

12-22-119. Prescription drug outlet under charge of pharmacist.

(1) (a) A prescription drug outlet shall be under the direct charge of a pharmacist manager. A proprietor who is not a pharmacist shall comply with this requirement and shall provide a manager who is a pharmacist; and

(b) The registration of any prescription drug outlet shall become void if the pharmacist manager in whose name the prescription drug outlet registration was issued ceases to be engaged as the manager, and the owner shall close the prescription drug outlet unless such owner has employed a pharmacist manager and, within fourteen 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.

12-22-125. Unprofessional conduct – grounds for discipline.

(1) The board may suspend, revoke, refuse to renew, or otherwise discipline any license or registration issued by it, after a hearing held in accordance with the provisions of this section, upon proof that the licensee or registrant:

(c) Has violated:

(I) Any of the provisions of this part 1, including but not limited to any acts in section 12-22-126;

(II) The lawful rules of the board; or

(III) Any state or federal law pertaining to drugs.

Regulation 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

fourteen 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.

DISPOSITION

\$1,000.00 Fine with Surcharge and Terms

9. **Fine with Surcharge.** Pursuant to section 12-22-125.2(5), C.R.S., Respondent shall pay a fine of One Thousand Dollars and No Cents (\$1,000.00). Respondent understands and acknowledges that, pursuant to section 24-34-108, C.R.S., the Executive Director of the Department of Regulatory Agencies shall impose an additional surcharge of 10% of this fine. Respondent shall therefore pay a total amount of One Thousand, One Hundred Dollars and No Cents (\$1,100.00). The total amount shall be payable to the State of Colorado and shall be remitted in one lump sum to be included when Respondent submits this signed Final Agency Order to the Board.
 10. **Compliance.** Respondent shall submit all future applications to the Board detailing changes in pharmacist manager and fees within fourteen (14) days of the previous pharmacist manager ceasing the position.
 11. **Acknowledgments.** The undersigned authorized agent for Respondent has read this Stipulation and Final Agency Order in its entirety and acknowledges, whether or not Respondent has consulted with legal counsel, that Respondent understands its legal consequences and agrees that none of its terms or conditions are unconscionable.
 12. **Advisements and Waivers.** Respondent enters into this Stipulation and Final Agency Order freely and voluntarily, whether or not it has consulted with legal counsel. The undersigned authorized agent for Respondent acknowledges Respondent's 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 section 12-22-125, C.R.S.; and
 - d. To appeal this Board order.
- Respondent 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.
13. **Violations.** Time is of the essence to this Stipulation and Final Agency Order. It is the responsibility of Respondent to take all appropriate steps to comply fully with this Stipulation and Final Agency Order. Respondent acknowledges and agrees that any

violation of this Stipulation and Final Agency Order may be sanctioned as provided under section 12-22-125.2(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 Stipulation and Final Agency Order shall not affect the obligation of Respondent to comply with all terms and conditions of this Stipulation and Final Agency Order.

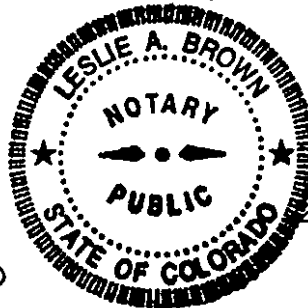
14. **Integration and Severability.** Upon execution by all parties, this Stipulation and Final Agency Order shall represent the entire and final agreement of and between the parties. In the event any provision of this Stipulation and Final Agency Order is deemed invalid or unenforceable by a court of law, it shall be severed and the remaining provisions of this Stipulation and 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 Stipulation and Final Agency Order shall become effective upon signature of a Board member or representative.

ACCEPTED AND AGREED BY

John P. Corrigan
Authorized Agent of Respondent Pharmacy

Dated: 3-16-10

Subscribed and sworn to before me in the County of Denver, State of Colorado, this 16 day of March, 2010 by John P. Corrigan, in his/her capacity as an authorized agent of Kaiser Permanente Southwest Pharmacy.



Leslie A. Brown
Notary Public

My commission expires: 9/14/2010

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 19th DAY OF March, 2010.

State Board of Pharmacy

BY: Wendy Anderson
Wendy Anderson
Program Director