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FILED

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BOARD OF PHARMACY

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STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF PHARMACY

IN THE MATTER OF THE SUSPENSION .
OR REVOCATION OF THE LICENSE OF

Administrative Action

Ruben Aguilar, R.Ph.
License No.: 28 RI01893800

CONSENT ORDER

TO PRACTICE PHARMACY IN THE
STATE OF NEW JERSEY

This matter was opened to the New Jersey State Board of Pharmacy upon receipt of information that on April 1, 2009, respondent entered into a plea agreement with the United States Attorney for the District of New Jersey and subsequently entered a guilty plea before U.S. District Judge Freda L. Wolfson, to a one-count Information charging him with conspiracy to commit health care fraud in violation of 18 U.S.C. § 371. Specifically, as early as in or about 2002, through in or about March 2007, in Dunellen, Middlesex County, New Jersey respondent did knowingly and intentionally conspire and agree with others including P.R., a pharmacist of Towne Pharmacy where

respondent was employed as a pharmacist, to fill prescriptions with generic versions of certain medications and then submit claims to health care benefit programs, including Medicaid, for reimbursement for the more expensive brand name versions of the medications. It was a further part of the conspiracy that respondent and his co-conspirators would submit false claims to health care benefit programs, including Medicaid, for prescription medications that Towne Pharmacy never dispensed thereby defrauding health care benefit programs, including Medicaid, of more than \$700,000. On or about February 19, 2010, Respondent was sentenced to 6 months of home confinement and 3 years of probation. Pursuant to his probation agreement, respondent has been ordered to pay monthly restitution of \$100 towards the total restitution amount of \$730,258.44 for the duration of his probation.¹

The above guilty plea provides grounds for discipline, including the revocation or suspension of respondent's license to practice pharmacy in the State of New Jersey pursuant to N.J.S.A. 45:1-21(b) in that he has engaged in the use or employment of dishonesty, fraud, deception, misrepresentation, false promise or false pretense; N.J.S.A. 45:1-21 (e) in that he has engaged in professional or occupational misconduct; and N.J.S.A. 45:1-21 (f) in that the crime of which respondent was convicted is a crime of moral turpitude and relate adversely to the practice of pharmacy.

Based on the foregoing findings and conclusions, a Provisional Order of Discipline was filed on March 10, 2010, provisionally suspending respondent's license to practice as a

¹As one of the defendants in this case, Towne Pharmacy entered into a Plea Agreement on January 14, 2009, pleading guilty to "knowingly and willfully executing and attempting to execute a scheme or artifice to defraud a health care benefit program in violation of 18 U.S.C. § 1347." While the pharmacy will not be sentenced until July 9, 2010, it is anticipated that it will be ordered to pay the majority of the restitution amount of \$730,258.44.

pharmacist.

In May 2010, Respondent replied requesting that the Board withdraw the Provisional Order. To substantiate his request, the Respondent furnished the Board with a number of mitigating factors including letters of recommendations from his friends and family all singularly attesting to his solid character. Respondent noted that he stopped practicing pharmacy immediately upon being contacted by the Board of Pharmacy in November 2009 out of respect to the Board and remorse for his actions. Respondent also emphasized in the request how remorseful he is for his actions and his desire to take full responsibility for them. The Board has also reviewed court transcripts from Respondent's plea and sentencing and is aware that the court specifically found his involvement in his community (volunteer work, coaching and Eagle Scout activities) and the fact that he has no criminal record, to be mitigating factors in this matter. Further, the Board is aware that the court imposed only 6 months of home confinement and 3 years of probation.

Respondent, being desirous of resolving this matter without the necessity of further formal proceedings, and agreeing to waive any right to same and the Board having determined that this Order is sufficiently protective of the public health, safety and welfare, and all parties agreeing to the terms of this Order;

IT IS THEREFORE on this 13th day of OCTOBER, 2010,

ORDERED AND AGREED that:

1. Respondent's license to practice pharmacy in the State of New Jersey be and hereby is suspended for a minimum of four years retroactive to and effective November 1, 2009, the date Respondent voluntarily ceased practicing pharmacy.

2. After successful completion of two years of active suspension, Respondent may petition the Board to convert the remaining two (2) year period of suspension to be stayed and served as a term of probation, which shall not be unreasonably withheld. Prior to Board consideration of any application for reinstatement of his license, respondent shall:

- a. Appear before the Board or a committee thereof to discuss his readiness to reenter the practice of pharmacy. At that time respondent shall be prepared to propose his plans for future practice in New Jersey and demonstrate he is fit and competent to practice and been rehabilitated to the Board's satisfaction.
- b. Provide documentation of successful completion of all continuing education credits required by N.J.A.C. 13:39-3A.1- 13:39-3A.7.
- c. Provide documentation of successful completion of all criminal sentencing and probation terms including but not limited to payment of criminal fines.
- c. Provide documentation of successful completion of all application requirements including a Criminal History Background Check and payment of all reinstatement fees.

3. Upon reinstatement of respondent's license to practice pharmacy, the Board, in its discretion, may impose any conditions or restrictions on licensure it deems necessary to protect the public health, safety and welfare.

4. Respondent shall continue to cease and desist from engaging in the practice of pharmacy including the following: respondent shall not handle, order, inventory, compound, count, fill, refill or dispense any drug; he shall not handle anything requiring a prescription including devices and medications; he shall not handle prescriptions; he shall not advise or consult with patients, and he is prohibited from being present within a prescription filling area of a pharmacy.

5. Within five days following the entry of this Order, respondent shall surrender his

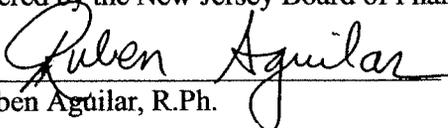
original wall certificate, his wallet certificate, and the most recent renewal card of his license to an authorized representative of the Board or mail these items to: Executive Director Joanne Boyer, New Jersey Board of Pharmacy, P.O. Box 45013, Newark, New Jersey 07101.

6. This Consent Order resolves the allegations contained in Provisional Order of Discipline, filed on March 10, 2010 in full.

NEW JERSEY STATE BOARD OF PHARMACY

By: 
Edward G. McGinley, R.Ph.
President

I have read the within Order and understand it. I agree to be bound by its terms and hereby consent to it being entered by the New Jersey Board of Pharmacy.


Ruben Aguilar, R.Ph.

Consent as to form and entry:


Irene Stavrellis, Esq.
Attorney for Ruben Aguilar, R.Ph.