#95457

JOHN J. HOFFMAN
ACTING ATTORNEY GENERAL OF NEW JERSEY
Division of Law
124 Halsey Street- 5th Floor
P.O. Box 45029
Newark, New Jersey 07101

By: Megan Cordoma
Deputy Attorney General
Tel. No. (973) 648-3453

FILED
JUL 31 2013
BOARD OF PHARMACY

STATE BOARD 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 **Antoinette Wallace, R.P.** License No. 28RI03484900 TO PRACTICE PHARMACY IN THE STATE OF NEW JERSEY	Administrative Action **CONSENT ORDER**

This matter was opened to the New Jersey State Board of Pharmacy upon receipt of information that Antoinette Wallace, R.P. ("Respondent") made a voluntary statement to her employer, CVS Pharmacy on or about October 12, 2012, admitting to stealing controlled substances including Alprazolam, Ambien (zolpidem), and Zaleplon from multiple CVS Pharmacy locations at which she worked. Respondent estimated that she stole approximately sixteen (16) 100-count bottles of Alprazolam, ten (10) 500-count

bottles of Zolpidem, and twenty (2) 100-count bottles of Zaleplon.

Respondent denied taking the controlled drugs for personal use but admitted she stole them for resale outside of CVS. She agreed to reimburse her employer for losses in the amount of $12,450.74.

A Provisional Order of Discipline was filed on March 25, 2013 alleging that Respondent diverted the aforementioned drugs from various CVS Pharmacy locations, according to a voluntary signed and witnessed statement. The Provisional Order of Discipline sought a five year suspension of Respondent's license to practice as a pharmacist in New Jersey.

Thereafter, the Professional Assistance Program of New Jersey ("PAP") submitted a letter on behalf of Respondent, indicating that Respondent was diagnosed with Sedative Hypnotic Dependence, PTSD, Anxiety, Depression, and ADHD by history. Respondent reported to the PAP that she was intimidated by the investigator and was told that if she admitted to diversion of other medications as well (BZD and Opiates), that things would go better for her. Fearing that she would lose her license, she reported that she agreed, but stated that she only diverted the Ambien. Respondent also explained that she began using medication (Ambien) as prescribed by VA physicians who began to treat her for PTSD, Anxiety, and Depression that began as a

result of her Army service and experiences in the Iraqi War. Respondent reported that over time, she developed tolerance and was requiring more and more medication.

Respondent's admitted theft of controlled substances from her employer pharmacy for resale and for personal use provides grounds to take disciplinary action against Respondent's license to practice pharmacy in New Jersey pursuant to N.J.S.A. 45:1-21(b), (e), and (f), in that Respondent has engaged in the use or employment of dishonesty, deception, and misrepresentation; in professional misconduct; and in acts constituting a crime or offense of moral turpitude or relating adversely to the activity regulated by the Board.

The parties, having agreed to resolution of this matter without formal proceedings, and Respondent, having agreed and given her voluntary consent to the within order and waiving any right to a hearing, and the Board finding the within disposition adequately protective of the public health, safety, and welfare, and other good cause having been shown;

IT IS THEREFORE on this 31 **day of** July**, 2013, ORDERED AND AGREED that:**

1. Respondent's license to practice pharmacy in the State of New Jersey shall be and hereby is suspended for a minimum of two (2) years and until further Order of the Board.

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

3. Respondent shall enroll in and comply fully with the monitoring program established for her by the PAP. Such monitoring program shall include but not be limited to:

a. Absolute abstinence from all psychoactive substances including alcohol unless prescribed by a treating health care professional for a documented medical condition and with notification from the treating health care professional to the executive medical director of the PAP of the diagnosis and treatment regime within five days of issuing the prescription. Respondent shall advise all of her treating health care practitioners, who prescribe medications, of her addiction history and shall be responsible to ensure that the treating health care professional notifies the PAP of any prescription for a psychoactive substance within five days of issuance of the prescription. Respondent shall also personally notify the

PAP of any prescription for a psychoactive substance within five days of issuance of the prescription.

b. Successful completion of an approved treatment program under the supervision of the PAP, including enrollment in an inpatient treatment facility for four months, such as a halfway house. This is to include reports to the PAP upon completion of the program.

c. Respondent shall attend 12-step recovery meetings of Alcoholics Anonymous at least three times per week. Respondent shall provide evidence of attendance at such groups directly to the PAP on a form or in a manner as required by the PAP.

d. Respondent shall undergo random urine monitoring under the supervision of the PAP on an unannounced basis, twice weekly for the first year, with decreasing frequency thereafter commensurate with Respondent's duration in recovery. All test results shall be provided in the first instance directly to the PAP and any positive result shall be reported immediately by the PAP to the Executive Director of the Board. Any failure by Respondent to submit or provide a urine sample within twenty-four (24) hours of a request will be deemed to be an act of non-compliance with the terms of this Order absent an excuse satisfactory to the PAP.

e. The Board reserves the right to require a modification of the manner of the random witnessed urine testing by the PAP in the event technical developments or individual requirements indicate that a different methodology or approach is required to guarantee the accuracy and reliability of the testing.

f. Respondent's failure to submit to or provide a urine sample within twenty-four hours of a request shall be deemed to be the equivalent of a confirmed positive urine test and shall be deemed a violation of this Order unless Respondent is unable to appear for a scheduled urine test due to illness or other impossibility. Respondent must advise the Board in writing within two (2) days, and cause the PAP to so advise the Board in writing within (2) days,

of a claimed illness or impossibility. If Respondent fails to appear for a scheduled urine test due to illness, Respondent shall provide to the Board, written substantiation of the illness in the form of a physician's report, within two (2) days. "Impossibility" means an obstacle beyond the control of Respondent that is insurmountable or that makes her appearance for the urine test so infeasible that a reasonable person would waive Respondent's requirement to give the urine sample that day.

g. All random witnessed alcohol and drug screens shall be negative for the presence of alcohol or drugs, unless the drugs detected by screening were taken for a documented illness or medical condition pursuant to a valid prescription from a health care practitioner aware of Respondent's substance abuse history. All positive results shall be confirmed by the Gas Chromatography Mass Spectrometry (GC/MS) testing method. Chain of custody documentation must accompany all laboratory reports and/or the laboratory reports must indicate that chain of custody procedures have been followed.

h. Any urine test result showing creatinine levels below 20 mg/dl and a specific gravity below 1.003 shall create a rebuttable presumption of a confirmed positive urine test, and shall be followed by a confirming test. The method of the confirming test shall be determined by the PAP.

i. Respondent shall become familiar with all foods, food additives or other products (such as poppy seeds) which may affect the validity of urine screens, be presumed to possess that knowledge, and shall refrain from the use of such substances. Respondent specifically agrees that ingestion of such substances shall not be an acceptable reason for a positive urine screen and/or failure to comply with the urine monitoring program.

j. Respondent shall submit to continued monitoring by the PAP and shall meet with the PAP on a face-to-face basis at least once a month. Respondent agrees that the PAP shall advise the Board immediately in the event it receives information or evidence of noncompliant behavior and/or further relapse.

k. Respondent shall be responsible to ensure that the PAP shall supply reports every ninety (90) days beginning on the "filed" date of this Order to the Board regarding her progress with the monitoring program. Additionally, Respondent must receive a psychiatric follow-up with the VA while in Florida, and a continued follow-up upon return to New Jersey.

l. Respondent shall obtain the agreement of the PAP via a signature of its representative on this Order to notify the Board within 24 hours of its receipt of information of any noncompliant behavior, slip or relapse of impairment, including but not limited to any positive urine screen or failure to appear for urine monitoring or any scheduled appointment or any discontinuance of the PAP rehabilitation program whether initiated by Respondent or by the PAP.

m. Respondent expressly waives any claim to privilege or confidentiality that she may have concerning reports and disclosures to the Board, and use by the Board of that information in any license proceedings, including reports and disclosures by the urine monitoring program, or the PAP, or any other person or entity involved in her rehabilitation program.

n. All costs associated with the monitoring outlined above shall be the responsibility of, and paid directly by, Respondent.

4. Prior to Board consideration of any petition for reinstatement of her New Jersey license, Respondent shall:

a. Appear before the Board or a committee thereof to demonstrate her competency to reenter the practice of pharmacy.

b. Provide the Board with evidence that she is capable of discharging the functions of a licensee in a manner consistent with the public's health, safety and welfare and that she is not then suffering from any impairment or limitation resulting from the use of any addictive substance which could affect her practice.

c. Provide the Board with documentation of no less than one year of sobriety to include but not be limited to complete treatment records of all diagnostic and rehabilitative therapy and an in-depth, current evaluation from a psychiatrist or psychologist knowledgeable in addiction therapy. In addition, Respondent shall provide reports from each and every mental health professional (including, but not limited to: psychologists, psychiatrists, counselors, and therapists) who have participated in Respondent's care and/or treatment during the period of time from the date the within Order is filed to her appearance before the Board or a committee thereof to discuss her readiness to reenter practice as a pharmacist.

d. Provide the Board with a report from the PAP detailing the nature and extent of her involvement with that entity.

e. Affirmatively establish her fitness, competence and capacity to re-enter the active practice of pharmacy within New Jersey.

f. Provide the Board with a full account of her conduct during the intervening period of time from the entry of this Order to her appearance pursuant to this Order.

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

6. Failure to comply with any of the terms of this Consent Order may result in further disciplinary action.

7. This Consent Order resolves all allegations contained in the Provisional Order of Discipline dated March 25, 2013.

NEW JERSEY STATE BOARD OF PHARMACY

By: Thomas F.X. Bender, Jr., R.P.
Thomas F.X. Bender, R.P.
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.

_____ Dated: _____
Antoinette Wallace, R.P.

I agree to the monitoring and reporting requirements specified above on behalf of the Professional Assistance Program of New Jersey:

_____ Dated: _____
Louis E. Baxter, Sr., M.D., FASAM
Medical Director
Physicians Assistance Program

7. This Consent Order resolves all allegations contained in the Provisional Order of Discipline dated March 25, 2013.

NEW JERSEY STATE BOARD OF PHARMACY

By: _____
Thomas F.X. Bender, R.P.
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.

Antoinette D. Wallace
Antoinette Wallace, R.P.

Dated: 7/29/13

I agree to the monitoring and reporting requirements specified above on behalf of the Professional Assistance Program of New Jersey:

L E Baxter
Louis E. Baxter, Sr., M.D., FASAM
Medical Director
Physicians Assistance Program

Dated: 7/29/13