

BOBBI W.Y. LUM-MEW
Regulated Industries Complaints Office
Department of Commerce and Consumer Affairs
State of Hawaii
Leiopapa A Kamehameha Building
235 South Beretania Street, Suite 900
Honolulu, Hawaii 96813
Telephone: 586-2660

6299 DEPT. OF COMMERCE
AND CONSUMER AFFAIRS

2013 MAR 21 P 2:35

HEARINGS OFFICE

RECEIVED
DEPT. OF COMMERCE
AND CONSUMER AFFAIRS
STATE OF HAWAII
2013 FEB 11 A 9:53

Attorney for Department of Commerce
and Consumer Affairs

BOARD OF PHARMACY
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
STATE OF HAWAII

In the Matter of the Pharmacist's License of) PHA 2012-17-L
)
THOMAS J. BRITTON,) SETTLEMENT AGREEMENT PRIOR TO
) FILING OF PETITION FOR DISCIPLINARY
Respondent.) ACTION AND BOARD'S FINAL ORDER;
) EXHIBITS "1"- "2"
)

241042211

SETTLEMENT AGREEMENT PRIOR TO FILING OF PETITION
FOR DISCIPLINARY ACTION AND BOARD'S FINAL ORDER

Petitioner, DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS'
REGULATED INDUSTRIES COMPLAINTS OFFICE (hereinafter "RICO" or "Petitioner"),
through its undersigned attorney(s), and Respondent THOMAS J. BRITTON (hereinafter
"Respondent"), enter into this Settlement Agreement on the terms and conditions set forth below.

A. UNCONTESTED FACTS

1. At all relevant times herein, Respondent was licensed by the Board of Pharmacy
(hereinafter the "Board") as a pharmacist under license number PH 796. The license was issued
on or about May 28, 1982. The license will expire or forfeit on or about December 31, 2013.

2. Respondent's mailing address for purposes of this action is 3018 Brett Loop,
Eugene, Oregon 97404.

3. RICO received information that Respondent entered into a Consent Order with the Oregon Board of Pharmacy in In the Matter of the Pharmacist License of Thomas Joseph Britton, R.Ph. in Case No. 2008-0396 dated January 8, 2009. Respondent also entered into an Amended Consent Order in the same case dated June 21, 2010. The Consent Order and Amended Consent Order indicate Respondent diverted and consumed hydrocodone/homatropine syrup 1 to 3 times a day from a pharmacy for an approximate two year period. A true and correct copy of the Consent Order and Amended Consent Order is attached as Exhibit “1.” Respondent was placed on probation until January 8, 2014. Among other terms of his probation, Respondent was to enter into the state run program (Health Professionals’ Services Program).

4. RICO received additional information that Respondent entered into a Consent Order with the Oregon Board of Pharmacy in In the Matter of the Pharmacist License of Thomas Joseph Britton, R.Ph. in Case No. 2011-0226 dated March 30, 2012. The Consent Order indicated that while working in a pharmacy, Respondent unlawfully prescribed Kayexalate for a patient. A true and correct copy of the Consent Order is attached as Exhibit “2”. Respondent’s license was suspended for a period of 30 days with 25 days suspended, and the Respondent was to pay a civil penalty in the amount of \$5,000 with \$2,500 stayed. Respondent was also to be placed on probation for a period of two years after his current probation terminated.

5. RICO alleges that Respondent twice had disciplinary action taken against him by another state for reasons provided by the Hawaii licensing laws (unprofessional conduct), failed to disclose both disciplinary actions within thirty days, and made false statements on the renewal form he submitted on December 26, 2011 by answering “no” to the questions of whether in the

past 3 years his license in any other jurisdiction had been formally disciplined and whether there were any disciplinary actions pending against him in any other jurisdiction.

6. The foregoing allegations, if proven at an administrative hearing before the Board, would constitute violations of the following statute(s) and/or rule(s): Hawaii Revised Statutes ("HRS") § 436B-19(13) (disciplinary action by another state for any reason provided by the licensing laws); § 436B-19(15) (failure to report in writing to the licensing authority any disciplinary decision in another jurisdiction within 30 days); § 461-21(a)(9) (making a false statement on any document submitted or required to be filed); and Hawaii Administrative Rules ("HAR") § 16-95-110 (14) (making a false statement on any document submitted or required to be filed).

7. The Board has jurisdiction over the subject matter herein and over the parties hereto.

B. REPRESENTATIONS BY RESPONDENT:

1. Respondent is fully aware that Respondent has the right to be represented by an attorney and voluntarily waives that right.

2. Respondent enters into this Settlement Agreement freely, knowingly, voluntarily, and under no coercion or duress.

3. Respondent is aware of the right to have a hearing to adjudicate the issues in the case. Pursuant to HRS § 91-9(d), Respondent freely, knowingly, and voluntarily waives the right to a hearing and agrees to dispose of this case in accordance with the terms and conditions of this Settlement Agreement.

4. Respondent being at all times relevant herein licensed as a pharmacist by the Board acknowledges that Respondent is subject to penalties including but not limited to, revocation, suspension or limitation of the license and administrative fines, if the foregoing allegations are proven at hearing.

5. Respondent admits to the veracity of the allegations and that Respondent's acts violate the following statute(s) and/or rule(s): HRS § 436B-19(13) (disciplinary action by another state for any reason provided by the licensing laws); § 436B-19(15) (failure to report in writing to the licensing authority any disciplinary decision in another jurisdiction within 30 days); § 461-21(a)(9) (making a false statement on any document submitted or required to be filed); and Hawaii Administrative Rules ("HAR") § 16-95-110 (14) (making a false statement on any document submitted or required to be filed).

6. Respondent enters into this Settlement Agreement as a compromise of the claims and to conserve on the expenses of proceeding with an administrative hearing on this matter.

7. Respondent agrees that this Settlement Agreement is intended to resolve the issues raised in RICO's investigation in RICO No. PHA 2012-17-L.

8. Respondent understands this Settlement Agreement is public record pursuant to Hawaii Revised Statutes chapter 92F.

C. TERMS OF SETTLEMENT:

1. Probation. Respondent agrees to a probationary period of three (3) years.

The probation shall become effective immediately upon the approval of this Settlement Agreement by the Board. Respondent shall comply with all the probationary conditions and terms imposed by the Oregon Board of Pharmacy during this period.

Upon completion of the probationary period, Respondent must submit to the Board satisfactory proof of compliance with the probationary conditions and terms imposed by the Oregon Board of Pharmacy.

2. Administrative fine. Respondent agrees to pay a fine in the amount of FIVE HUNDRED AND NO/100 DOLLARS (\$500.00). Payment shall be made by **cashier's check or money order made payable to "DCCA - Compliance Resolution Fund"** and mailed to the Regulated Industries Complaints Office, Attn: Bobbi W.Y. Lum-Mew, Esq., 235 S. Beretania Street, 9th Floor, Honolulu, Hawaii 96813. Payment of the fine shall be due within thirty (30) days of the date that this Settlement Agreement is approved by the Board.

3. Failure to Comply with Settlement Agreement. If Respondent fails to fully and timely comply with the terms of this Settlement Agreement as set forth in paragraph(s) C.1 and C.2 above, Respondent's license shall be automatically revoked upon RICO's filing of an affidavit with the Board attesting to such failure. In case of such revocation, Respondent shall turn in all indicia of the license to the Executive Officer of the Board within ten (10) days after receipt of notice of the revocation. In case of such revocation, Respondent understands Respondent cannot apply for a new license until the expiration of at least five (5) years after the effective date of the revocation. Respondent understands that if Respondent desires to become licensed again, Respondent must apply to the Board for a new license pursuant to and subject to HRS §§ 92-17, 436B-21, and all other applicable laws and rules in effect at the time.

4. Possible further sanction. The Board, at its discretion, may pursue additional disciplinary action as provided by law to include further fines and other sanctions as the Board may deem appropriate if Respondent violates any provision of the statutes or rules governing the

conduct of pharmacists in the State of Hawaii, or if Respondent fails to abide by the terms of this Settlement Agreement.

5. Approval of the Board. Respondent agrees that, except for the representations, agreements and covenants contained in Paragraphs C.6, C.7, C.8 and C.9 below, this Settlement Agreement shall not be binding on any of the parties unless and until it is approved by the Board.

6. No Objection if Board Fails to Approve. If the Board does not approve this Settlement Agreement, does not issue an order pursuant thereto, or does not approve a lesser remedy, but instead an administrative hearing is conducted against Respondent in the Board's usual and customary fashion pursuant to the Administrative Procedure Act, Respondent agrees that neither Respondent nor any attorney that Respondent may retain, will raise as an objection in any administrative proceeding or in any judicial action, to the Board's proceeding against Respondent on the basis that the Board has become disqualified to consider the case because of its review and consideration of this Settlement Agreement.

7. Any Ambiguities Shall be Construed to Protect the Consuming Public. It is agreed that any ambiguity in this Settlement Agreement is to be read in the manner that most completely protects the interests of the consuming public.

8. No Reliance on Representations by RICO. Other than the matters specifically stated in this Settlement Agreement, neither RICO nor anyone acting on its behalf has made any representation of fact, opinion or promise to Respondent to induce entry into this Settlement Agreement, and Respondent is not relying upon any statement, representation or opinion or promise made by RICO or any of its agents, employees, representatives or attorneys concerning

the nature, extent or duration of exposure to legal liability arising from the subject matter of this Settlement Agreement or concerning any other matter.

9. Complete Agreement. This Settlement Agreement is a complete settlement of the rights, responsibilities and liabilities of the parties hereto with respect to the subject matter hereof; contains the entire agreement of the parties; and may only be modified, changed or amended by written instrument duly executed by all parties hereto.

IN WITNESS WHEREOF, the parties have signed this Settlement Agreement on the date(s) set forth below.

DATED: Eugene, Oregon. 31 January 2013.

Thomas J. Britton
THOMAS J. BRITTON
Respondent

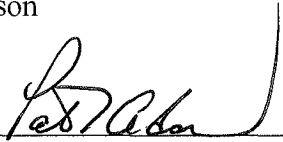
DATED: Honolulu, Hawaii, FEB - 8 2013.

Bobbi W.Y. Lum-Mew
BOBBI W.Y. LUM-MEW
Attorney for Department of Commerce and
Consumer Affairs

IN THE MATTER OF THE PHARMACIST'S LICENSE OF THOMAS J. BRITTON;
SETTLEMENT AGREEMENT PRIOR TO FILING OF PETITION FOR DISCIPLINARY
ACTION AND BOARD'S FINAL ORDER; CASE NO. PHA 2012-17-L.

APPROVED AND SO ORDERED:
BOARD OF PHARMACY
STATE OF HAWAII

MARK E. BROWN
Chairperson



PATRICK ADAMS
Vice Chairperson

GARRETT A. LAU



JILL OLIVEIRA GRAY

3/21/13
DATE



TODD INAFUKU



CAROLYN S.J. MA



LYDIA KUMASAKA

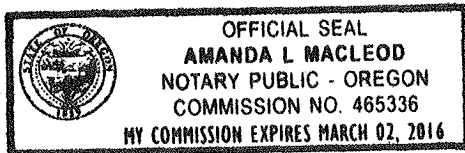
PVL 07/15/11

STATE OF OREGON)
) SS.
COUNTY OF LANE)

On this 31 day of January, 2013, before me personally appeared Thomas J. Britton, to me known to be the person described, and who executed the foregoing instrument and acknowledged that he executed the same as his free act and deed.

This 9-page SETTLEMENT AGREEMENT PRIOR TO FILING OF PETITION FOR DISCIPLINARY ACTION AND BOARD'S FINAL ORDER document dated

January 25, 2013 was acknowledged before me by
Amanda L MacLeod this 31st day of January, 2013, in the
City of EUGENE, in the County of LANE, in the State of
Oregon.



Amanda L MacLeod
Name: Amanda L MacLeod
Notary Public, State of Oregon

My Commission expires: March 2, 2016

CERTIFIED TRUE COPY

OREGON BOARD OF PHARMACY

RECEIVED

JUN 21 2010

BEFORE THE BOARD OF PHARMACY
OF THE STATE OF OREGON

OREGON BOARD OF PHARMACY

In the Matter of the) Case No. 2008-0396
Pharmacist License of)
THOMAS JOSEPH BRITTON) AMENDED CONSENT ORDER
Licensee)

WHEREAS, the Board of Pharmacy of the State of Oregon has filed a Notice of Proposed Disciplinary Action; Answer Required ("Notice"), hereby incorporated by reference, regarding the licensee in the above-captioned matter; and

WHEREAS, the above-noted Notice was duly served on the licensee as required by law; and

WHEREAS, the parties are desirous of resolving and settling those matters contained in the above-noted Notice without further proceedings thereon; and

WHEREAS, the licensee is aware of the right to a hearing with the assistance of counsel and the right to judicial review of the Board's decision, and hereby freely and voluntarily waives those rights; and

WHEREAS, the licensee admitted that the facts alleged in the above-noted Notice are true, that the licensee's conduct, as admitted, violated the statutes and rules cited in the Notice, and that legal cause exists pursuant to ORS 689.405 for disciplinary action by the Board and entered into a Consent Order with the Board on 1/8/2009; and

WHEREAS, the licensee consents to the disciplinary action as set forth herein;

The Board finds that the allegations in the Notice are true and hereby imposes the following sanctions:

1. The terms of licensee's Consent Order 2008-0396 shall remain in force until 7/1/2010, at which time licensee shall transition to the terms of this Amended Consent Order as detailed below. (Per 2009 legislative action, the Oregon Pharmacy Recovery Network (PRN) shall transition to the Health Professionals' Services Program (HPSP).)

2. The licensee is placed on probation until 1/8/2014, and the licensee shall comply with the following conditions of probation:

- a. Licensee shall enter into the state run program (HPSP) within 21 days of being notified that the program has begun, and participate in HPSP. Licensee must comply, abide by, and complete all conditions of the program. Licensee may petition the Board for early release from HPSP after one (1) year.
- b. If HPSP is not active on 7/1/2010, licensee shall sign up with FirstLab and complete UA testing through the Board of Pharmacy until HPSP is available. Licensee must contact the Oregon Board of Pharmacy to initiate registration for drug and alcohol tests within 10 days from the effective date of this Order and

EXHIBIT 1

- complete registration process within 21 days from the effective date of this Order.
- c. Licensee consents to the release of information from HPSP to the Board. Withdrawal of this consent will be considered grounds for discipline.
 - d. Licensee consents to the release of information from PRN to HPSP and to the Board. Withdrawal of this consent will be considered grounds for discipline.
 - e. Licensee shall submit up to 30 observed random body fluid samples annually as directed by the Board or their designee through a Board approved collection agency. Licensee may petition for a reduction of the frequency after 24 months and completion of state run program.
 - f. Licensee agrees to submit to the collection of body fluids (blood or urine) or hair samples as requested by the Board or their designee for analysis. Licensee agrees to cooperate with licensee's employers, the Board or any other Board designated person responsible in the collection of said analysis samples.
 - g. Licensee agrees that missed or diluted samples are unacceptable and may be classified as a positive test result, thereby requiring additional tests.
 - h. Licensee agrees Board may remove licensee from all pharmacy practice work sites in response to a positive test result and during the investigation in response to a positive test result and the Board may require the licensee to remain off the job until the positive test result has been resolved with the Board of Pharmacy.
 - i. Licensee will assume all associated costs of laboratory or toxicology tests, treatment, consultation group meetings and evaluations.
 - j. Licensee is to abstain from the use of alcohol, psychoactive drugs, over-the-counter drugs and herbal remedies that may cause a positive result in a drug test. If any are prescribed by a medical practitioner, licensee is to send copies of original and refill receipts to the Board containing all pertinent information immediately. Licensee is to submit prescription printout annually from single pharmacy where all prescriptions are filled.
 - k. Licensee shall not work double shifts, work in a pharmacy alone, float between two or more pharmacies or work more than 40 hours per week without written authorization from the Board.
 - l. Licensee may not register with the Board to be a preceptor.
 - m. Licensee may not be employed as a pharmacist-in-charge (PIC) or pharmacy manager.
 - n. During the probationary period, the licensee shall, as soon as reasonably practical, provide all present and prospective pharmacy related employers and any pharmacists-in-charge of the licensee with a copy of the Notice and the final order in this matter and have the PIC and management acknowledge to the Board in writing, on a form supplied by the Board, that the PIC and management have received a copy of both the Notice and the Order. Submission of said form is due upon the following conditions:
 - A. beginning of probation;
 - B. change of employment;
 - C. change in Pharmacist-in-Charge or management; and
 - D. annually from the date consent order is signed as periodic review.Licensee shall submit said written acknowledgement to the Board office by certified mail (or other method approved by the Board in writing) within 15 calendar days and retain receipt of verification of delivery to the Board office.
 - o. Licensee may not be employed by or through a pharmacy service without written

authorization from the Board. If licensee works for, or is employed by or through a pharmacy service, licensee must notify the direct supervisor, Pharmacist-In-Charge and owner at every pharmacy of the terms and conditions of licensee's probation in advance of the licensee commencing work at each pharmacy. "Employment" within the meaning of this provision shall include any full-time, part time, temporary or relief work, whether or not the licensee is considered an employee or independent contractor. Verification of compliance with this sanction is the same as the proceeding sanction.

- p. If licensee is granted an early release from the state run program for dependency, the licensee shall submit a quarterly report, on a form supplied by the Board, to the Board office by certified mail (or other method approved by the Board in writing) and retain receipt of verification of delivery to the Board office. First quarterly report shall be due on the first day of the third month after release from the state run program, and every three months thereafter.
- q. The licensee must report all citations, arrests or convictions to the Board Office in writing within 3 business days from the date of occurrence with a copy of citation, police report, and court documents. Licensee shall submit said information to the Board office by certified mail (or other method approved by the Board in writing) and retain receipt of verification of delivery to the Board office.
- r. Licensee must comply with all laws and rules regarding pharmacy practice.

3. Failure of the licensee to comply with any requirement of the order in this matter is unprofessional conduct and grounds for revocation or any other form of discipline or sanction authorized by law.

CONSENT

I hereby acknowledge that I have read and understand the above-noted Notice with Notice of Rights and the terms of the Amended Consent Order. I agree to the Board entering the Amended Consent Order.

Thomas Joseph Britton
Licensee (License No. RPH-0007067)

16 June 2010
Date

IT IS SO ORDERED.

BOARD OF PHARMACY
FOR THE STATE OF OREGON

Gary Miner, R.Ph.,
Compliance Director

6/21/10
Date

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DEPT OF COMMERCE
& ECONOMIC AFFAIRS
SPECIAL SERVICES DIVISION

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OREGON BOARD OF PHARMACY

BEFORE THE BOARD OF PHARMACY
OF THE STATE OF OREGON

In the Matter of the
Pharmacist License of

THOMAS JOSEPH BRITTON, R.PH.,

Licensee

Case No. 2008-0396

CONSENT ORDER

WHEREAS, the Board of Pharmacy of the State of Oregon has filed a Notice of Proposed Disciplinary Action; Answer Required ("Notice"), hereby incorporated by reference, regarding the licensee in the above-captioned matter; and

WHEREAS, the above-noted Notice was duly served on the licensee as required by law; and

WHEREAS, the parties are desirous of resolving and settling those matters contained in the above-noted Notice without further proceedings thereon; and

WHEREAS, the licensee is aware of the right to a hearing with the assistance of counsel and the right to judicial review of the Board's decision, and hereby freely and voluntarily waives those rights; and

WHEREAS, the licensee admits that the facts alleged in the above-noted Notice are true, that the licensee's conduct, as admitted, violated the statutes and rules cited in the Notice, and that legal cause exists pursuant to ORS 689.405 for disciplinary action by the Board; and

WHEREAS, the licensee consents to the disciplinary action as set forth herein;

The Board finds that the allegations in the Notice are true and hereby imposes the following sanctions:

1. The license issued to licensee is placed on suspension for 90 days, with 60 days credited as time served. The remaining 30 day suspension is to be served consecutively effective the date this order is signed by the Board.

2. The licensee is placed on probation for a period of five (5) years from the date this order is signed by the Board and the licensee shall comply with the following conditions of probation:

- a. The licensee must join PRN (Pharmacy Recovery Network) and participate in the PRN program in good faith. If licensee has not already joined PRN, the licensee must join PRN within ten (10) calendar days of the effective date of this order. Licensee shall submit a true and correct copy of PRN contract to the Board office

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DEPT OF COMMERCE
& CONSUMER AFFAIRS
STATE OF OREGON

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by certified mail (or other method approved by the Board in writing) within 15 calendar days of this order and retain receipt of verification of delivery to the Board office.

- b. The licensee must comply with all conditions of, and complete, the PRN contract at the licensee's own expense.
- c. The licensee must comply with all laws and rules regarding pharmacy practice.
- d. The licensee may not register with the Board to be a preceptor. Licensee shall deliver his preceptor registration, if any, to the Board within ten (10) calendar days of the effective date of this order.
- e. The licensee may not be employed as a pharmacist-in-charge (PIC) or pharmacy manager.
- f. During the probationary period, the licensee shall, as soon as reasonably practical, provide all present and prospective pharmacy related employers and any pharmacists-in-charge of the licensee with a copy of the Notice and the final order in this matter and have the PIC and management acknowledge to the Board in writing, on a form supplied by the Board, that the PIC and management have received a copy of both the Notice and the Order. Licensee shall submit said written acknowledgement to the Board office by certified mail (or other method approved by the Board in writing) within 15 calendar days and retain receipt of verification of delivery to the Board office.
- g. If licensee works for, or is employed by or through a pharmacy service, licensee must notify the direct supervisor, Pharmacist-In-Charge and owner at every pharmacy of the terms and conditions of licensee's probation in advance of the licensee commencing work at each pharmacy. "Employment" within the meaning of this provision shall include any full-time, part time, temporary, relief or pharmacy management service as a pharmacist, whether or not the licensee is considered an employee or independent contractor. Verification of compliance with this sanction is the same as the proceeding sanction.
- h. The licensee must report all citations, arrests or convictions to the Board Office in writing within 15 days from the date of occurrence with a copy of citation, police report, and court documents. Licensee shall submit said information to the Board office by certified mail (or other method approved by the Board in writing) and retain receipt of verification of delivery to the Board office.

3. Failure to complete the PRN contract or failure to participate in the PRN program in good faith will be reported to the Board, as required in ORS 689.348.

4. Failure of the licensee to comply with all the requirements of the final order in this matter constitutes unprofessional conduct and is grounds for imposing a civil penalty up to \$1,000 per violation, and any other form of discipline or sanction authorized by law.

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DEPT OF COMMERCE
& CONSUMER AFFAIRS
STATE OF OREGON

90 CONSENT

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92 I hereby acknowledge that I have read and understand the above-noted Notice with Notice of
93 Rights and the terms of the Consent Order, I agree to the Board entering the Consent Order.
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97 Thomas Joseph Britton, R.Ph.
98 Licensee (License No. RPH-0007067)
99

6 January 2009
Date

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101 IT IS SO ORDERED.
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104 BOARD OF PHARMACY
105 FOR THE STATE OF OREGON
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109 Gary Miner, R.Ph.,
110 Compliance Director
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1-8-09
Date

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DEPT OF COMMERCE
& CONSUMER AFFAIRS
STATE OF OREGON

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**BOARD OF PHARMACY
OF THE STATE OF OREGON**

In the Matter of the
Pharmacist License of

THOMAS JOSEPH BRITTON, R.PH.
Licensee

) Case No. 2008-0396
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**NOTICE OF PROPOSED
DISCIPLINARY ACTION;
ANSWER REQUIRED**

DEPT OF COMMERCE
& CONSUMER AFFAIRS

2012 JUL 23 P 3:41

RECEIVED
PROF & VOCATIONAL
LICENSING DIVISION

The Oregon Board of Pharmacy proposes to revoke your license and impose a civil penalty pursuant to ORS 689.445, 689.405, 689.135, and 689.145, because you violated the Oregon Pharmacy Act and the Board of Pharmacy rules as alleged below:

For an approximate two year period ending on or about 9/20/2008, you diverted hydrocodone/homatropine syrup 1 to 3 times a day from Fred Meyer Pharmacy #417 by pouring the syrup into your coffee mug and consuming it while on the job. hydrocodone/homatropine syrup is a controlled substance. Your diversion and consumption of a controlled substance while you were performing the duties of a pharmacist is contrary to accepted standards of practice and unprofessional conduct as defined by OAR 855-006-0005(25)(b), (c) and (i) and in violation of and grounds for discipline pursuant to ORS 689.765(6), ORS 475.840(3), OAR 855-019-0310(1), (4) and (5), and ORS 689.405(1)(a), (d), (e)(B), and (i).

Based on these alleged violations, the Board proposes to revoke your pharmacist license and impose a \$1,000 civil penalty per violation.

HEARING RIGHTS

You are entitled to a hearing as provided by the Administrative Procedures Act (ORS chapter 183). If you wish to have a hearing, you must file a written request for hearing with the Board within 21 days from the date this notice was mailed. You may send or deliver a request for hearing to:

Oregon Board of Pharmacy
800 NE Oregon Street, Suite 150
Portland, OR 97232
Fax (971) 673-0002

If a request for hearing is not received within this 21-day period, your right to a hearing shall be considered waived.

If you request a hearing, you will be notified of the time and place of the hearing. Before the commencement of the hearing, you will be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing. You may be represented by legal counsel.

48 If you do not request a hearing within 21 days, or if you withdraw a hearing
49 request, notify the Board or Administrative Law Judge that you will not appear, or fail to
50 appear at a scheduled hearing, the Board may issue a final order by default imposing
51 discipline. If the Board issues a final order by default, it designates its file on this matter
52 as the record.

53
54 **ANSWER REQUIRED**

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56 Pursuant to OAR 855-001-0010 and OAR 855-001-0015, if you request a hearing
57 you must also provide, within 21 days from the date this document was served, a written
58 answer to the allegations set forth in this document. Your written answer must include an
59 admission or denial of each factual matter alleged in the notice. Except for good cause,
60 factual matters alleged in this document and not denied in your answer will be presumed
61 admitted.

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63 **Hearing Request and Answers:**
64 **Consequences of Failure to Answer**
65 **855-001-0015**

- 66
67 (1) A hearing request, and answer when required, shall be made in writing to
68 the Board by the party or his attorney and an answer shall include the following:
69 (a) An admission or denial of each factual matter alleged in the notice;
70 (b) A short and plain statement of each relevant affirmative defense
71 the party may have.
72
73 (2) Except for good cause;
74 (a) Factual matters alleged in the notice and not denied in the answer
75 shall be presumed admitted;
76 (b) Failure to raise a particular defense in the answer will be
77 considered a waiver of such defense;
78 (c) New matters alleged in the answer (affirmative defenses) shall be
79 presumed to be denied by the agency; and
80 (d) Evidence shall not be taken on any issue not raised in the notice
81 and the answer.

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84 BOARD OF PHARMACY
85 FOR THE STATE OF OREGON

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89 Gary Miner, R.Ph.,
90 Compliance Director

1/2/09
Date

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94 DATE OF MAILING 1/5/2009

CERTIFIED TRUE COPY

OREGON BOARD OF PHARMACY

BEFORE THE BOARD OF PHARMACY
OF THE STATE OF OREGON

In the Matter of the
Pharmacist License of

THOMAS JOSEPH BRITTON, R.PH.,

Licensee

Case No. 2011-0226

CONSENT ORDER

DEPT OF REVENUE
& CONSUMER AFFAIRS
CLERK OF BOARD

2012 JUL 23 P 3:40

RECEIVED
PROF & VOCATIONAL
LICENSING DIVISION

WHEREAS, the Board of Pharmacy of the State of Oregon has filed a Notice of Proposed Disciplinary Action; Answer Required ("Notice") regarding the licensee in the above-captioned matter; and

WHEREAS, the above-noted Notice was duly served on the licensee as required by law; and

WHEREAS, the parties are desirous of resolving and settling those matters contained in the above-noted Notice without further proceedings thereon; and

WHEREAS, the licensee is aware of the right to a hearing with the assistance of counsel and the right to judicial review of the Board's decision, and hereby freely and voluntarily waives those rights; and

WHEREAS, the licensee admits that the facts alleged in the above-noted Notice are true, that the licensee's conduct, as admitted, violated the statutes and rules cited in the Notice, and that legal cause exists pursuant to ORS 689.405 for disciplinary action by the Board; and

WHEREAS, the licensee consents to the disciplinary action as set forth herein;

The Board finds that the allegations in the Notice are true and hereby:

1. The license to practice pharmacy issued to Thomas Joseph Britton is suspended for a period of thirty days, with twenty-five days stayed pending no further violations as noted in the above referenced Notice. Remaining five day suspension period shall be determined by the Board.

2. The licensee shall pay the Board a civil penalty in the amount of \$5,000, with \$2,500 stayed pending no further violations as noted in the above referenced Notice. \$2,500 payment to be made within ten days from the date this Consent Order becomes final.

3. Licensee's current probation in Case No. 2008-0396 shall remain in effect through its 1/8/2014 termination date. Effective 1/9/2014, licensee shall be placed on probation in Case No. 2011-0226 for a period of two (2) years. Licensee shall comply with the following conditions of probation in Case No. 2011-0226:

EXHIBIT

- 49 a. Licensee may not register with the Board to be a preceptor. Licensee shall deliver
50 their preceptor registration, if any, to the Board within ten (10) calendar days of
51 the effective date of this order.
52 b. Licensee may not be employed as a pharmacist-in-charge (PIC) or pharmacy
53 manager.
54 c. During the probationary period, the licensee shall, as soon as reasonably practical,
55 provide all present and prospective pharmacy related employers and any
56 pharmacists-in-charge of the licensee with a copy of the Notice and the final order
57 in this matter and have the PIC and management acknowledge to the Board in
58 writing, on a form supplied by the Board, that the PIC and management have
59 received a copy of both the Notice and the Order. Submission of said form is due
60 upon the following conditions:
61 A. beginning of probation;
62 B. change of employment;
63 C. change in Pharmacist-in-Charge or management; and
64 D. annually on January 1.
65 Licensee shall submit said written acknowledgement to the Board office by
66 certified mail (or other method approved by the Board in writing) within 15
67 calendar days and retain receipt of verification of delivery to the Board office.
68 d. Licensee may not be employed by or through a pharmacy service without written
69 authorization from the Board. If licensee works for, or is employed by or through
70 a pharmacy service, licensee must notify the direct supervisor, Pharmacist-In-
71 Charge and owner at every pharmacy of the terms and conditions of licensee's
72 probation in advance of the licensee commencing work at each pharmacy.
73 "Employment" within the meaning of this provision shall include any full-time,
74 part time, temporary or relief work, whether or not the licensee is considered an
75 employee or independent contractor. Verification of compliance with this sanction
76 is the same as the proceeding sanction.
77 e. The licensee must report all citations, arrests or convictions to the Board Office in
78 writing within 10 days from the date of occurrence with a copy of citation, police
79 report, and court documents. Licensee shall submit said information to the Board
80 office by certified mail (or other method approved by the Board in writing) and
81 retain receipt of verification of delivery to the Board office.
82 f. Licensee must comply with all laws and rules regarding pharmacy practice.

83
84 4. Failure of the licensee to comply with any requirement of the order in this matter
85 is unprofessional conduct and grounds for revocation or any other form of discipline or sanction
86 authorized by law.

87
88 5. This consent order is final when signed by the Board.
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LICENSING DIVISION
2012 JUL 23 P 3:41
DEPT OF COMMERCE
& CONSUMER AFFAIRS
STATE OF MISSISSIPPI

96 CONSENT

97
98
99 I hereby acknowledge that I have read and understand the above-noted Notice and the
100 terms of the Consent Order. I agree to the Board entering the Consent Order.
101

102
103
104 Thomas Joseph Britton, R.Ph.
105 Licensee (License No. RPH-0007067)
106

27 March 2012
Date

107
108
109 IT IS SO ORDERED.
110

111
112 BOARD OF PHARMACY
113 FOR THE STATE OF OREGON
114

115
116
117 Gary Miner, R.Ph.,
118 Compliance Director
119

7/30/12
Date

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STAFF COUNCIL

BOARD OF PHARMACY
OF THE STATE OF OREGON

DEPT. OF COMMUNITY
& ECONOMIC AFFAIRS
LICENSING DIVISION

2012 JUL 23 P 3:41

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LICENSING DIVISION

In the Matter of the) Case No. 2011-0226
Pharmacist License of)
)
THOMAS JOSEPH BRITTON, R.PH.) NOTICE OF PROPOSED
) DISCIPLINARY ACTION;
) ANSWER REQUIRED
)
Licensee)

The Oregon Board of Pharmacy proposes to revoke your license pursuant to ORS 689.445, 689.405, 689.135, and 689.145, because you violated the Oregon Pharmacy Act and the Board of Pharmacy rules as alleged below:

You violated your probation. On 6/21/2010, you entered into Case No. 2008-0396 Amended Consent Order (Consent Order 2008) with the Board. Consent Order 2008 imposed sanctions that included placing your license on probation until 1/8/2014 with conditions that included complying with all laws and rules regarding pharmacy practice.

On or about 4/1/2011, while working at PayLess LTC Pharmacy in Eugene, Oregon, you unlawfully prescribed Kayexalate for a patient. You forged a Kayexalate prescription and wrote on the prescription that you were signing for the prescriber when the prescriber did not authorize the prescription.

The above conduct is unprofessional conduct and in violation of and grounds for discipline pursuant to OAR 855-019-0310(1), ORS 689.405(1)(a) and (e)(B).

Based on these alleged violations, the Board proposes to revoke your pharmacist license and impose a \$1,000 civil penalty per violation.

HEARING RIGHTS

You are entitled to a hearing as provided by the Administrative Procedures Act (ORS chapter 183). If you wish to have a hearing, you must file a written request for hearing with the Board within 21 days from the date this notice was mailed. You may send or deliver a request for hearing to:

Oregon Board of Pharmacy
800 NE Oregon Street, Suite 150
Portland, OR 97232
Fax (971) 673-0002

If a request for hearing is not received within this 21-day period, your right to a hearing shall be considered waived.

If you request a hearing, you will be notified of the time and place of the hearing. Before the commencement of the hearing, you will be given information on the procedures, right of

representation and other rights of parties relating to the conduct of the hearing. You may be represented by legal counsel.

If you do not request a hearing within 21 days, or if you withdraw a hearing request, notify the Board or Administrative Law Judge that you will not appear, or fail to appear at a scheduled hearing, the Board may issue a final order by default imposing discipline. If the Board issues a final order by default, it designates its file on this matter as the record.

ANSWER REQUIRED

Pursuant to OAR 855-001-0010 and OAR 855-001-0015, if you request a hearing you must also provide, within 21 days from the date this document was served, a written answer to the allegations set forth in this document. Your written answer must include an admission or denial of each factual matter alleged in the notice. Except for good cause, factual matters alleged in this document and not denied in your answer will be presumed admitted.

Hearing Request and Answers: Consequences of Failure to Answer 855-001-0015

(1) A hearing request, and answer when required, shall be made in writing to the Board by the party or his attorney and an answer shall include the following:

- (a) An admission or denial of each factual matter alleged in the notice;
- (b) A short and plain statement of each relevant affirmative defense the party may have.

(2) Except for good cause;

- (a) Factual matters alleged in the notice and not denied in the answer shall be presumed admitted;
- (b) Failure to raise a particular defense in the answer will be considered a waiver of such defense;
- (c) New matters alleged in the answer (affirmative defenses) shall be presumed to be denied by the agency; and
- (d) Evidence shall not be taken on any issue not raised in the notice and the answer.

BOARD OF PHARMACY
FOR THE STATE OF OREGON

Gary Miner, R.Ph.,
Compliance Director

Date

DATE OF MAILING

6/23/11
6/23/2011

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& FINANCE
DIVISION OF AFFAIRS
& COMMUNITY DEVELOPMENT