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STATE OF NEW HAMPSHIRE  
BOARD OF PHARMACY  
CONCORD, NH 03301

In the Matter of:  
~~Benjamin Gray~~  
License #Phcv-3565

Docket# 23-PHAR-0XX<sup>009</sup>

SETTLEMENT AGREEMENT

In order to avoid the delay and expense of further proceedings and to promote the best interests of the public and the practice of pharmacy, the New Hampshire Board of Pharmacy ("Board") and Benjamin Gray ("Respondent"), a pharmacist licensed by the Board, do hereby stipulate and agree to resolve certain allegations of violations of rules and laws regulating the profession now pending before the Board in accordance with the following terms and conditions:

1. Pursuant to RSA 318:30; RSA 318:31 RSA 541-A and Board of Pharmacy Administrative Rule ("Ph") 2203, 2205, 2207, the Board has jurisdiction to investigate and adjudicate allegations of professional misconduct committed by the Board's licensees.
2. Pursuant to RSA 318:31, IV; RSA 310:10, VIII, the Board may, at any time, dispose of such allegations by settlement and without commencing a disciplinary hearing.
3. The Board first granted Respondent a license to practice as a pharmacist in the state of New Hampshire on July 1, 2008. Respondent holds license number 3565, which expires on December 31, 2024.

4. In response to a complaint received on March 30, 2023, OPLC Enforcement conducted an investigation and obtained information from various sources pertaining to the Respondent's criminal history and disclosures made to OPLC and the Board.
5. Respondent stipulates to the following facts:
  - A. On August 28, 2015, Respondent began employment as a Staff Pharmacist at CVS Pharmacy #07391, located at 861 Central St., Franklin, NH 03235.
  - B. On July 22, 2020, Respondent was found guilty of Driving Under the Influence 2<sup>nd</sup> offense, and Impairment misdemeanor after an arrest in December 2019.
  - C. On December 13, 2020, Respondent applied for license renewal and answered "Yes" to the question "'have you been charged or convicted of a felony or misdemeanor (other than minor traffic offenses)'" and disclosed a 2019 arrest that was not previously disclosed.
  - D. On September 17, 2022, Respondent was arrested by Concord Police Department for several felony and misdemeanor charges related to driving as a habitual offender, suspension of vehicle registration, and unregistered vehicle.
  - E. On December 25, 2022, Respondent applied for license renewal and answered "No" to the question "'have you been charged or convicted of a felony or misdemeanor (other than minor traffic offenses)'" despite the pending charges from September.
  - F. On January 18, 2023, Respondent was found guilty of an Unofficial Inspection/Registration Decal misdemeanor related to the September 2022 arrest.

- G. On January 29, 2023, Respondent transferred to CVS Pharmacy #00841, located at 4 Hall St., Concord, NH 03301, and failed to notify the Board in writing within the required 15 days.
  - H. Respondent has other arrests and convictions which were properly disclosed to the Board.
  - I. Respondent has been a voluntary and active participant in the NHPHP since December 2020 and remains compliant with all recommended treatment.
6. The Board finds that Respondent committed the acts described above and concludes that, by engaging in such conduct, Respondent violated NH RSA 318:29, II(a).
7. Respondent acknowledges that the allegations and facts set forth in paragraph 5 constitutes grounds for the Board to impose disciplinary sanctions against Respondent's License to practice as a pharmacist in the State of New Hampshire.
8. WHEREFORE, Respondent consents to the Board imposing the following discipline, pursuant to RSA 318:29, IV:
- A. Respondent is **REPRIMANDED**.
  - B. Respondent is assessed an **ADMINISTRATIVE FINE** in the amount of one thousand five hundred dollars (\$1,500.00). Respondent shall pay this fine in full within forty-five (45) days of the effective date of this Settlement Agreement, as defined further below, by delivering a money order or bank check, made payable to "Treasurer, State of New Hampshire," to the Board's office at 7 Eagle Square, Concord, New Hampshire, 03301. No separate invoice shall issue. Payment shall include a copy of this Settlement Agreement or a note including the docket

number and indicating the payment is made in compliance with a settlement agreement with the Board.

- C. The Respondent is **ORDERED**, pursuant to RSA 318-B:29, IV(f), to submit to the care, observation, or treatment of NHPHP. Respondent must comply with all treatment and employment recommendations, requirements, conditions, and terms of that program until such time as his monitoring agreement terminates.
9. Respondent shall bear all costs required by this *Settlement Agreement* and shall be responsible for ensuring all payments are made, but Respondent shall be permitted to share such costs with third parties.
  10. Respondent's breach of any terms or conditions of this *Settlement Agreement* shall constitute unprofessional conduct pursuant to RSA 318:29, II, and a separate and sufficient basis for further disciplinary action by the Board.
  11. The Board may consider Respondent's compliance with the terms and conditions herein in any subsequent proceeding before the Board regarding Respondents' licenses.
  12. The Board agrees that in return for Respondent executing this *Settlement Agreement*, the Board will not proceed with the formal adjudicatory process based upon the facts described herein. However, the Board may consider this misconduct as evidence of a pattern of conduct in the event that similar misconduct is proven against Respondent in the future. Additionally, the Board may consider the fact that discipline was imposed by this Settlement Agreement as a factor in determining appropriate discipline should any future misconduct be proven against Respondent in the future.
  13. This *Settlement Agreement* shall become a permanent part of the Respondent's file, which is maintained by the Board as a public document.

14. Respondent voluntarily enters into and signs this *Settlement Agreement* and states that no promises or representations have been made other than those terms and conditions expressly stated herein.
15. Respondent understands that entering into this *Settlement Agreement* is a final act and not subject to reconsideration, judicial review, or appeal.
16. Respondent agrees to support the adoption of this agreement by the Board.
17. Respondent understands that this agreement is an adverse action against Respondent's license and will be reported to all relevant jurisdictions.
18. Respondent has had the opportunity to seek and obtain the advice of an attorney of his choosing in connection with his decision to enter into this *Settlement Agreement*.
19. Respondent is not under the influence of any drugs or alcohol at the time s/he signs this *Settlement Agreement*.
20. Respondent understands that the Board must review and accept the terms of this *Settlement Agreement*. If the Board rejects any portion, the entire *Settlement Agreement* shall be null and void. Respondent specifically waives any claims that any disclosures made to the Board during its review of this *Settlement Agreement* has prejudiced Respondent's right to a fair and impartial hearing in the future if this *Settlement Agreement* is not accepted by the Board.
21. Respondent certifies that he has read this document titled *Settlement Agreement*. Respondent understands that s/he has the right to a formal adjudicatory hearing concerning this matter and that at said hearing he would possess the right to confront and cross-examine witnesses, to call witnesses, to present evidence, to testify on his own behalf, to contest the allegations, to present oral argument, and to appeal to the courts.

Further, Respondent fully understands the nature, quality and dimensions of these rights.

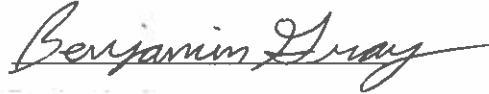
Respondent understands that by signing this *Settlement Agreement*, s/he waives these rights as they pertain to the misconduct described herein.

22. This Settlement Agreement shall take effect as an Order of the Board on the date it is signed by an authorized representative of the Board and shall become final after 30 days pursuant to Plc 205.04.

[Signatures on next page.]

**FOR RESPONDENT**

Dated: Oct. 4, 2023



Benjamin Gray,  
Respondent

**FOR THE BOARD**

Accepted by the Board of Pharmacy on this 18th day of October, 2023 ("Effective Date").

Date: 11/13/2023



(Signature)

Michael R. Gianunzio

Authorized Representative of the  
NH Board of Pharmacy