

JAN 30 2017

**State of New Hampshire  
Board of Pharmacy  
Concord, New Hampshire**

NH BOARD OF PHARMACY

In the Matter of:  
**Andrew Gyorda, Jr., RPh**  
**License No. 2767**  
(Misconduct Allegations)

**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 Andrew Gyorda, Jr., RPh (“Mr. Gyorda” or “Respondent”), a pharmacist licensed by the Board, do hereby stipulate and agree to resolve certain allegations of professional misconduct now pending before the Board according to the following terms and conditions:

1. Pursuant to RSA 318:29, I; 318:30; and 318:31, and Pharmacy Administrative Rule (“Ph”) 204, the Board has jurisdiction to investigate and adjudicate allegations of professional misconduct committed by pharmacists. Pursuant to RSA 318:30, VII, 318:31, IV and Ph 204.15, the Board may, at any time, dispose of such allegations by settlement and without commencing a disciplinary hearing.
2. The Board first granted Respondent a license to practice pharmacy in the State of New Hampshire on February 24, 1992. Respondent holds license number 2767. Respondent most recently practiced pharmacy in Hampton, New Hampshire.
3. On May 19, 2016 the Board received information that Respondent had been arrested for the theft of prescription drugs.

4. In response to this, the Board conducted an investigation and obtained information from various sources pertaining to Respondent's theft of prescription drugs.
5. Respondent stipulates that if a disciplinary hearing were to take place, Hearing Counsel would prove that Respondent engaged in professional misconduct, in violation of RSA 318:29, I, by the following facts:
  - A. Respondent most recently worked at CVS Pharmacy in Hampton, NH ("CVS") beginning sometime in 2009 and ending on May 18, 2016.
  - B. Approximately five (5) years ago, Respondent began using nicotine tablets which he bought from another store. Respondent started using nicotine to help him get through long pharmacy shifts. Respondent eventually became addicted to nicotine.
  - C. Approximately four (4) years ago, Respondent took one box of Nicotrol Nasal Spray ("Nicotrol NS") from CVS, without paying for it. Respondent was confronted by CVS personnel about the missing box of Nicotrol NS, but Respondent denied taking it. Respondent did not take any more boxes of Nicotrol NS from CVS for a couple of years.
  - D. Beginning in 2014 until May 18, 2016, Respondent ordered Nicotrol NS on CVS' behalf from a pharmacy distribution center. Respondent placed this order over the phone through an automated system. Each time the Nicotrol NS order arrived at CVS, Respondent would destroy the invoice, and take the Nicotrol NS for himself. There orders were paid for by CVS and respondent

did not reimburse CVS for the cost. Respondent took at least 64 boxes of Nicotrol NS from CVS over this period of time.

- E. On May 18, 2016, Respondent was confronted by CVS personnel about the stolen Nicotrol NS boxes. Respondent attempted to leave the building with the intention of destroying the invoice for the Nicotrol NS shipment he had received that day. Respondent was eventually arrested, and admitted the ongoing theft of the Nicotrol NS to the police.
  - F. Following his arrest, Respondent signed a preliminary agreement not to practice on May 25, 2016.
  - G. Respondent also entered into a treatment program with the Maine Medical Professionals Health Program. In this program respondent is treated by several providers and undergoes random drugs tests for Nicotine.
  - H. Respondent has a prescription fluoxetine. While he worked at CVS, Respondent occasionally dispensed fluoxetine tablet(s) to himself from the pharmacy stock when he forgot to take his prescription at home. Respondent would then deduct a tablet from his next prescription refill.
6. The Board finds that Respondent committed the acts as described above and concludes that, by engaging in such conduct, Respondent violated RSA 318:29, II, (c), (e), (g); Ph 501.01 (b), (5), (6), & (10); and Ph 701.01 (r), (1 & (5).

7. Respondent acknowledges that this conduct 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. Respondent consents to the Board imposing the following discipline, pursuant to RSA 318:29, IV, and 318:55.
  - A) Respondent is **reprimanded**.
  - B) Respondent's license is **suspended** for a period of nine (9) months.  
Respondent's suspension period shall apply retroactively, beginning on the date Respondent's Preliminary Agreement Not to Practice was signed by Respondent, May 25, 2016.
  - C) Respondent's license is **restricted** with regard to the number of hours he may work consecutively. Respondent may not work as a pharmacist for more than twelve (12) hours consecutively and may not work as a pharmacist for at least eight (8) hours following a shift. Respondent may not work as a Pharmacist-in-Charge (PIC) in any pharmacy. After working as a pharmacist for at least one (1) year, Respondent may petition the Board to lift these restrictions. In his petition, Respondent must show why he is fit to practice in an expanded scope.
  - D) Respondent shall continue to comply with the terms of the Monitoring Agreement Respondent entered into with the Maine Medical Professionals Health Program ("MPHP") for the duration of the agreement, until at least July

17, 2019. In addition to the terms listed in the MPHP monitoring agreement, Respondent agrees to the following conditions:

- (a) The Board must approve any and all changes to Respondent's Monitoring Contract with MPHP prior to such changes being implemented.
- (b) Respondent must give MPHP full authority to share information with the Board and New Hampshire Professional's Health Program ("NHPHP") regarding the Monitoring Agreement, including monitoring, treatment, and drug testing. Respondent must further authorize MPHP to give status updates about Respondent to NHPHP.
- (c) Respondent must submit any and all Toxicology Screening Results to the Board and NHPHP within thirty (30) days of receiving the results.
- (d) Respondent must submit to urine testing at least quarterly, for the duration of the monitoring agreement.
- (e) Respondent must ensure MPHP sends status updates and drug alcohol screen results at least quarterly, for the duration of the Monitoring Agreement to the NHPHP to the attention of Dr. Sally Garhart, Medical Director, NHPHP, P.O. Box 6274, Amherst, NH 03031.
- (f) Any reports provided to MPHP from monitors, treatment providers, or other sources in relation to the Monitoring Agreement, must be provided to the Board and NHPHP within (30) days.

- E) Respondent is required to meaningfully participate in four (4) hours of **continuing education** in the areas of ethics. These hours shall be in addition to the hours required by the Board for renewal of licensure and shall be completed within one (1) year from the effective date of this *Settlement Agreement*. Within fifteen (15) days of completing these hours, Respondent shall notify the Board and provide written proof of completion.
- F) Respondent is assessed an **administrative fine** in the amount of \$20,000. This fine is due in full five (5) years from the date this *Settlement Agreement* is executed. Respondent must make minimum payments of \$100 monthly. The first payment shall be due thirty days after the Board accepts this *Settlement Agreement*, and each payment after that shall be due every thirty (30) days. Respondent shall submit payment by delivering a money order or bank check, made payable to “Treasurer, State of New Hampshire”, to the Board’s office at 121 South Fruit Street, Concord, New Hampshire 03301. After Respondent has made a total payment of \$7500, he may petition the Board to dismiss the remaining amount of the fine. Whether to dismiss the remaining amount owed shall be in the Board’s sole discretion.
- G) Respondent shall bear all costs of the treatment, evaluation, and reporting required by this *Settlement Agreement*, but he shall be permitted to share such costs with third parties.

- H) The Board may consider Respondent's compliance with the terms and conditions herein and with the recommendations of the treating mental health professional in any subsequent proceeding before the Board regarding Respondent's license.
- I) Within ten (10) days of the effective date of this *Settlement Agreement*, Respondent shall furnish a copy of the *Settlement Agreement* to any current employer for whom Respondent performs services as a pharmacist or work which requires a degree in pharmacy and/or license to practice pharmacy or directly or indirectly involves access to legend drugs, and to any agency or authority which licenses, certifies or credentials pharmacists, with which Respondent is presently affiliated.
- J) For a continuing period of three (3) years from the effective date of this *Settlement Agreement*, Respondent shall furnish a copy of this *Settlement Agreement* to any employer to which Respondent may apply for work as a pharmacist or for work in any capacity which requires a degree in pharmacy and/or license to practice pharmacy or directly or indirectly involves access to legend drugs, and to any agency or authority that licenses, certifies or credentials pharmacists, to which Respondent may apply for any professional privileges or recognition.


9. Respondent's breach of any terms or conditions of this *Settlement Agreement* shall constitute unprofessional conduct pursuant to RSA 318:29, II (c), and a separate and sufficient basis for further action by the Board.
10. Except as provided herein, this *Settlement Agreement* shall bar the commencement of further disciplinary action by the Board based upon the misconduct described above. Additionally, the Board may consider the fact that discipline was imposed by this *Settlement Agreement* as a factor in determining appropriate discipline should any further misconduct be proven against Respondent in the future.
11. This *Settlement Agreement* shall become a permanent part of Respondent's file, which is maintained by the Board as a public document.
12. Respondent voluntarily enters into and signs this *Settlement Agreement* and states that no promises or representations have been made to him other than those terms and conditions expressly stated herein.
13. 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.
14. Respondent understands that his action in entering into this *Settlement Agreement* is a final act and not subject to reconsideration or judicial review or appeal.
15. 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*.



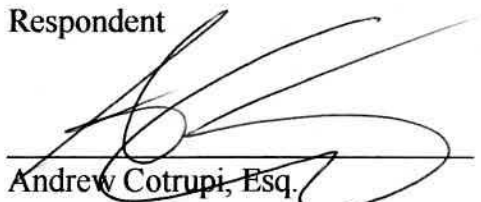
16. Respondent understands that the Board must review and accept the terms of this *Settlement Agreement*. If the Board rejects any portion, the entire *Settlement Agreement* shall be null and void. Respondent specifically waives any claims that any disclosures made to the Board during its review of this *Settlement Agreement* have prejudiced his right to a fair and impartial hearing in the future if this *Settlement Agreement* is not accepted by the Board.
17. Respondent is not under the influence of any drugs or alcohol at the time he signs this *Settlement Agreement*.
18. Respondent certifies that he has read this document titled *Settlement Agreement*. Respondent understands that he has the right to a formal adjudicatory hearing concerning this matter and that at said hearing he would possess the rights 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, qualities and dimensions of these rights. Respondent understands that by signing this *Settlement Agreement*, he waives these rights as they pertain to the misconduct described herein.
19. This *Settlement Agreement* shall take effect as a Final Order of the Board on the date it is signed by an authorized representative of the Board.

**FOR THE RESPONDENT**

Date: 1/24/2017

  
\_\_\_\_\_  
Andrew Gyorda, Jr.

Date: 1/24/17

Respondent  
  
Andrew Cotrupi, Esq.  
Counsel for Respondent

**FOR THE BOARD/\***

This proceeding is hereby terminated in accordance with the binding terms and conditions set forth above.

Date: 1/31/17

  
(Signature)

JOSEPH G. SHOEMAKER  
(Print or Type Name)  
Authorized Representative of the  
New Hampshire Board of Pharmacy

/\* Board members, did not participate.  
  
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