

STATE OF NEW HAMPSHIRE
BOARD OF PHARMACY
CONCORD NH 03301

In the Matter of:
Kevin Rivard
Pharmacist Lic. #R3253

Docket No. 2022-PHARM-004

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 Kevin Rivard (“Respondent”), a pharmacist currently licensed in the State of New Hampshire, agree to resolve certain allegations of professional misconduct now pending before the Board in accordance with the following terms and conditions:

1. Pursuant to RSA 318:30, RSA 318:31, RSA 310-A:1-j, RSA310-A:1-l, and RSA 541-A:31, V, the Board has jurisdiction and authority to investigate and commence a disciplinary proceeding pertaining to allegations of professional misconduct committed by licensees. Pursuant to RSA 318:31, IV, RSA 310-A:1-k, III and RSA 541-A, V, the Board may at any time before or during a disciplinary proceeding resolve allegations of professional misconduct by a written *Settlement Agreement* approved by the board and licensees provided the complainant has an opportunity to comment upon the terms of the *Settlement Agreement* before the *Settlement Agreement* has been executed.
2. The Board first granted Respondent Pharmacist Lic. #R3253 on June 29, 2000. The Respondent’s license is active and will expire on December 31, 2022
3. On March 21, 2022, the Board received a complaint alleging that the Respondent was filling prescriptions for controlled substances for his own use and without the authority of

the purported prescribers while employed as a pharmacist at the Colonial Pharmacy in New London, NH. On March 23, 2022, the Respondent entered a Preliminary Agreement Not to Practice with the Board.

4. In response to the complaint received, the Board commenced an investigation and obtained information from various sources including the Respondent pertaining to whether the Respondent's conduct constitutes misconduct pursuant to the Board's statutes and rules.
5. Respondent stipulates that if a disciplinary proceeding were to take place, Hearing Counsel could prove that Respondent engaged in misconduct pursuant to RSA 318:29, II(c) and/or RSA 318:29, II(d) according to the following facts:
 - a. Respondent is a licensee of the Board.
 - b. Respondent has no history of prior disciplinary actions.
 - c. Respondent was employed as a pharmacist at the Colonial Pharmacy in New London, NH at all times relevant to this settlement.
 - d. On or between March 4, 2018 and March 16, 2022, the Respondent filled 25 prescriptions for Zolpidem for his own use by utilizing fabricated prescriptions.
 - e. On or between May 11, 2019 and March 19, 2022, the Respondent filled 16 prescriptions for Alprazolam 0.5 mg (60 count) for his own use by utilizing fabricated prescriptions
 - f. On or between March 4, 2018 and March 25, 2019, the Respondent filled 3 prescriptions for Clonazepam 0.5 mg (120 count) for his own use by utilizing fabricated prescriptions.

- g. On or between March 4, 2018 and November 17, 2019, the Respondent filled 6 prescriptions for Metformin 500 mg (360 count) for use by a family member by utilizing fabricated prescriptions.
 - h. The Respondent executed a Preliminary Agreement Not to Practice on March 23, 2022 and voluntarily contacted and enrolled in monitoring by the New Hampshire Professionals Health Program (“NHPHP”). His monitoring under that program will continue until at least May 8, 2024.
 - i. The Respondent appeared for a voluntary interview with Board Inspector Jay Queenan on August 25, 2022. The Respondent admitted that he diverted the medications using fabricated prescriptions. The Respondent paid cash for all prescriptions and did not bill insurance. He stated that he has never practiced pharmacy while impaired.
6. Respondent acknowledges that this conduct set forth in paragraph 5 constitutes grounds for the Board to impose disciplinary sanctions against Respondent pursuant to the RSA 318:29, II(c) and RSA 318:29, II(d).
7. WHEREFORE, the Respondent consents to the Commission imposing the following discipline pursuant to RSA 318:29, IV:
 - a. The Respondent is **REPRIMANDED** pursuant to RSA 318-B:29, IV(a).
 - b. 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.

8. The Board may consider Respondent's compliance with the terms and conditions herein in any subsequent proceeding before the Board regarding Respondent's license.
9. Should Respondent fail to comply with any of the terms of this Settlement Agreement, the Board reserves the right to suspend Respondent's licenses or impose other authorized discipline, in accordance with the following process: The Board will notify Respondent, in writing, of the Board's finding of Respondent's non-compliance and the suspension and/or additional discipline it intends to impose for such non-compliance. Respondent will have ten (10) working days, from the date of the Board's notification of non-compliance, to request a show cause hearing before the Board. If Respondent timely requests such a hearing, the Board will schedule a show-cause hearing for its next available hearing slot. At the hearing, Respondent will have the burden of demonstrating to the Board either why their license should not be suspended or additional discipline imposed for non-compliance or that he is in compliance with this Settlement Agreement. Respondent has stipulated to the facts set out in Section 4 of this Settlement Agreement and acknowledges and agrees that those facts cannot be challenged in any hearing regarding enforcement of this Settlement Agreement. After the hearing, the Board will issue an order explaining its reasons for imposing, or not imposing, a suspension of Respondent's license, and/or any other discipline within the terms of RSA 318-A:29, iv. If Respondent does not request a show cause hearing within ten days of the date of the Board's notification of non-compliance, the license suspension and/or additional discipline outlined in the notice of non-compliance shall be imposed. Any imposed suspension or additional discipline shall remain in effect until Respondent comes into compliance with this Settlement Agreement and the Board notifies Respondent in writing

that the suspension or additional discipline has been lifted, unless such discipline is a license revocation.

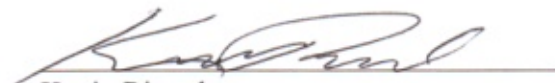
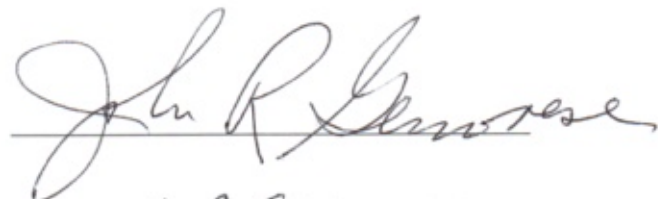
10. Except as provided herein, this *Settlement Agreement* shall bar the commencement of further disciplinary action by the Board based upon the misconduct described above. However, the Board may consider this misconduct as evidence of a pattern of conduct in the event that similar misconduct is proven against Respondent in the future.
11. This *Settlement Agreement* shall become a permanent part of the 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 Respondent other than those terms and conditions expressly stated herein.
13. The Board agrees that in return for Respondent's executing this *Settlement Agreement*, the Board will not proceed with the formal adjudicatory process based upon the facts described herein.
14. Respondent understands that Respondent's 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 Respondent's 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* has prejudiced

Respondent's 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 and is otherwise of sound mind at the time the Respondent signs this agreement.
18. Respondent certifies that Respondent has read and understands this document titled *Settlement Agreement*. Respondent understands that Respondent has the right to a formal adjudicatory hearing concerning this matter and that at said hearing Respondent would possess the right to confront and cross-examine witnesses, to call witnesses, to present evidence, to testify on Respondent's 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*, Respondent waives these rights as they pertain to the misconduct described herein. 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.

FOR RESPONDENT

I, Kevin Rivard, have reviewed the foregoing *Settlement Agreement* settling misconduct allegations pending against me and, of my own free will and without duress, and being knowledgeable about all of the consequences, admit to the validity thereof, and agree to all of the terms of this *Settlement Agreement*. Further, I knowingly and freely waive the right to further notice, opportunity for hearing, substantial evidence, and findings and conclusions with regard to the allegations, which have been settled by the terms of this *Settlement Agreement*.

Dated: 11/16, 2022
Kevin Rivard
Respondent**FOR THE BOARD**Dated: 11-16, 2022
JOHN R GENOVESE
(Print Name)
NH Office of Professional Licensure and
Certification
Authorized Representative of the NH Board of
Pharmacy