

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

In the Matter of:
Rite-Aid #4166
License No. 0431
(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 Rite-Aid #4166 (“Respondent”), a pharmacy 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 operate pharmacy in the State of New Hampshire on September 12, 1994. Respondent holds license number 0431. Respondent is a pharmacy located in Bristol, New Hampshire.
3. On or about August 22, 2016, the Board received information indicating that Respondent may have been operating a pharmacy without a pharmacist-in-charge (“PIC”).

4. 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, V, by the following facts:
 - A. On or about July 19, 2016, Respondent's registered PIC ceased to be employed by Respondent.
 - B. On or about August 22, 2016, Respondent was given a Violation Notice.
 - C. Respondent did not request a special permit or file an in-state pharmacy application indicating a change in the PIC until September 6, 2016.
 - D. Respondent continued to operate as a pharmacy at all times.
5. The Board finds that Respondent committed the acts as described above and concludes that, by engaging in such conduct, Respondent violated RSA 318:29, V, (b) and (c).
6. Respondent acknowledges that this conduct constitutes grounds for the Board to impose disciplinary sanctions against Respondent's license to operate as a pharmacy in the State of New Hampshire.
7. Respondent consents to the Board imposing the following discipline, pursuant to RSA 318:29, IV, and 318:55.
 - A. Respondent is reprimanded.
 - B. Respondent is assessed an administrative fine in the amount of \$25,000. Respondent shall pay this fine in full within thirty (30) 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 121 South Fruit Street, Concord, New Hampshire 03301.

- C. Respondent is assessed \$500 in costs of investigation and prosecution.
- Respondent shall pay this total amount in full within thirty (30) 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 121 South Fruit Street, Concord, New Hampshire 03301.
8. 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.
9. 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 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.
10. This *Settlement Agreement* shall become a permanent part of Respondent’s file, which is maintained by the Board as a public document.
11. Respondent voluntarily enters into and signs this *Settlement Agreement* and states that no promises or representations have been made to them other than those terms and conditions expressly stated herein.

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.
13. Respondent understands that its action in entering into this *Settlement Agreement* is a final act and not subject to reconsideration or judicial review or appeal.
14. Respondent has had the opportunity to seek and obtain the advice of an attorney of its choosing in connection with its decision to enter into this *Settlement Agreement*.
15. 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 its right to a fair and impartial hearing in the future if this *Settlement Agreement* is not accepted by the Board.
16. Respondent certifies that an authorized agent has read this document titled *Settlement Agreement*. Respondent understands that it has the right to a formal adjudicatory hearing concerning this matter and that at said hearing it would possess the right to confront and cross-examine witnesses, to call witnesses, to present evidence, 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*, it waives these rights as they pertain to the misconduct described herein.

17. 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: 5/18/17

Daniel Miller
(Signature)

Daniel Miller
Senior Vice President, Pharmacy
Regulatory Affairs
(Print or Type Name)
Authorized Representative of Rite-Aid #4166

FOR THE BOARD/*

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

Date: 5/30/17

Michael D. Bullock
(Signature)

Michael D. Bullock
(Print or Type Name)
Authorized Representative of the
NH Board of Pharmacy

/* Board members, did not participate: