02-0025-PHR

BEFORE THE ARIZONA STATE BOARD OF PHARMACY

In the Matter of:

STEVEN S. WEBER Pharmacist License Number 8194	))))	**NOTICE OF HEARING** **NUMBER 02-0025-PHR**

DIRECTED TO: STEVEN S. WEBER
12339 E. Poinsetta Drive
Scottsdale, AZ 85259

This Notice of Hearing is prepared pursuant to the requirements established by A.R.S. § 32-1928, and A.A.C. § R4-23-104.

JURISDICTION

I

For the reasons stated herein below, and pursuant to A.R.S. § 32-1928, the Board of Pharmacy will conduct a hearing at 9:00 AM, the 16th day of January, 2003 at the Glendale Public Library, located at 5959 W. Brown Street, Glendale, Arizona to determine whether or not Pharmacist License number 8194 should be revoked, suspended, or placed on probation, censured or fined.

PARTIES

II

The Arizona State Board of Pharmacy is the body created and empowered pursuant to A.R.S. § 32-1904 to administer the laws of the State of Arizona relating to the practice of pharmacy.

III

STEVEN S. WEBER (Respondent) is the holder of Pharmacist License number 8194 which allows him to engage in the practice of pharmacy in the State of Arizona.

FACTUAL ALLEGATIONS

IV

1. STEVEN S. WEBER was the pharmacist in charge, at Sun Drug, a pharmacy located at 10810 E. Via Linda, Scottsdale, Arizona. "Pharmacist in charge" as defined in A.R.S. § 32-1901(55) means the pharmacist who is responsible to the board for a licensed establishment's compliance with the laws and administrative rules of this state and of the federal government pertaining to the practice

of pharmacy, the manufacturing of drugs and the distribution of drugs and devices. This definition does not relieve other pharmacists or persons from their responsibility to comply with state and federal laws and administrative rules.

2. On August 17, 2000, a Compliance Officer employed by the Board conducted a routine inspection of Sun Drug pharmacy. During that inspection, the Compliance Officer found that in 15 of 17 files reviewed, STEVEN S. WEBER failed to record or ensure that the patient's known diseases and medical conditions were recorded, and in 2 of 17 files reviewed failed to record or ensure that the patient's date of birth was recorded. After the inspection the Compliance Officer advised STEVEN S. WEBER that the failure to obtain the above information was a violation of A.A.C. R4-23-402 (A)(3).

3. On June 5, 2001, a Compliance Officer employed by the Board conducted a routine inspection of Sun Drug pharmacy. During that inspection, the Compliance Officer found that in 1 of 24 files reviewed, STEVEN S. WEBER failed to record or ensure that the patient's known drug allergies were recorded, and in 1 of the 24 files reviewed, failed to record or ensure that the patient's date of birth was recorded, in 13 of the 24 files reviewed failed to record or ensure that the patient's known diseases and medical conditions were recorded, and in 7 of the 24 files reviewed failed to record or ensure to record that correct information regarding the patient's known diseases and medical information was recorded. After the inspection the Compliance Officer advised STEVEN S. WEBER that the failure to obtain the above information was a violation of A.A.C. R4-23-402 (A)(3).

4. On May 9, 2002, a Compliance Officer employed by the Board conducted a routine inspection of Sun Drug pharmacy. During that inspection, the Compliance Officer found that in 4 of 20 files reviewed, STEVEN S. WEBER failed to record or ensure that the patient's date of birth was recorded, in 11 of 20 files reviewed failed to record or ensure that the patient's known diseases and medical conditions were recorded, and in 6 of 20 files reviewed failed to record or ensure that the correct information regarding the patient's known diseases or medical condition were recorded. After the inspection the Compliance Officer advised STEVEN S. WEBER that the failure to obtain the above information was a violation of A.A.C. R4-23-402 (A)(3).

CAUSE OF ACTION
V

1. The conduct and circumstances in paragraphs 1 through 4 of the Factual Allegations above, constitute violations of A.A.C. R4-23-402(A), which requires pharmacists to obtain from the patient or other listed individuals and record or assume the responsibility to record a patient's date of birth or age, individual history, including known diseases and medical conditions, known drug allergies or reactions and if available, a comprehensive list of current medications taken.

2. A.R.S. § 32-1927(A)(10) provides that the license of any pharmacist may be revoked or suspended or a pharmacist may be subject to other disciplinary action by the board when:

> The licensee is found by the Board to be guilty of violating any Arizona or federal law, rule or regulation relating to the manufacture and distribution of drugs, and devices or the practice of pharmacy.

3. A.R.S. § 32-1927(B)(2) provides that the license of any pharmacist may be revoked or suspended or may be placed on probation or censured and a civil penalty of not more than five hundred dollars ($500.00) for each offense may be imposed by the Board when:

> The licensee is found by the board of having violated state administrative rules pertaining to prescription-only drugs.

STEVEN S. WEBER is directed to mail to the Board no later than the 23rd day of December, 2002, a written response to the charges described above, specifically his defenses, assertions, or comments concerning such allegations.

STEVEN S. WEBER is hereby notified that he may appear with or without the assistance of an attorney, on the date and at the time specified in this Notice of Hearing and present testimony and argument in support of his defense with respect to the assertions contained in this Notice of Hearing. If the respondent fails to appear, the Board may proceed and determine the matter in his absence.

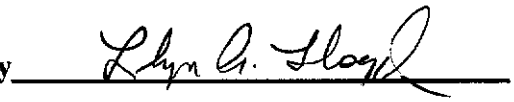
STEVEN S. WEBER is further notified that no continuance will be granted unless a request for continuance is submitted to the Board in writing, detailing the reasons for the requested continuance, and that request is granted by the Board. Except in the event of an emergency, a request for continuance shall be submitted to the Board no later than seven (7) days prior to the date of

hearing.

DATED this 12th day of December, 2002

ARIZONA STATE BOARD OF PHARMACY

SEAL

By 

Llyn A. Lloyd

Executive Director

Copies of the Foregoing Notice
of Hearing mailed by certified
mail this 12th day of December, 2002 to:

STEVEN S. WEBER
12339 E. Poinsetta Dirve
Scottsdale, AZ 85259

And by courier mail to:

Elizabeth Burns
Assistant Attorney General
Attorney General's Office
1275 W. Washington
Phoenix, AZ 85007
Attorney for the State

and

Victoria Mangiapane
Assistant Attorney General
1275 W. Washington
Phoenix, AZ 85007
Solicitor General's Office

02-25-HC

BEFORE THE ARIZONA STATE BOARD OF PHARMACY

In the Matter of:

STEVEN S. WEBER
Certificate of Registration
Number 8194

CONSENT TO ENTRY OF ORDER

NUMBER 02-0025-PHR

DIRECTED TO: STEVEN S. WEBER
12339 E. Poinsetta Dirve
Scottsdale, AZ 85259

Notice of Hearing No. 02-0025-PHR ("Notice") has been served on STEVEN S. WEBER charging him with violations of A.R.S. § 32-1927(A)(10) and A.R.S. § 32-1927(B)(2) to wit:

> The licensee is found by the Board to be guilty of violating any Arizona or federal law, rule or regulation relating to the manufacture and distribution of drugs, and devices or the practice of pharmacy.
>
> The licensee is found by the board of having violated state administrative rules pertaining to prescription-only drugs.

In lieu of a Board hearing in this matter, STEVEN S. WEBER agrees to waive his right to a hearing as provided for in A.R.S. § 32-1928. Further STEVEN S. WEBER has expressed a desire to execute a Consent to Entry of Order ("Consent") pursuant to A.R.S. § 41-1061 (D) in lieu of participating in a hearing concerning the allegations that he dispensed prescription only drugs without first obtaining the patient's medical conditions as required.

THEREFORE, in lieu of further proceedings and as a final disposition of this matter:

1. STEVEN S. WEBER admits that he is the holder of Certificate of Registration Number 8194, which permits him to engage in the practice of pharmacy in Arizona and that he was the pharmacist in charge of Sun Drug pharmacy at least since the 16th day of August, 2000.

2. STEVEN S. WEBER admits that the factual allegations contained in the Notice are true and accurate.

3. STEVEN S. WEBER admits that the conduct described in the Notice is conduct constituting

02-25-HO

BEFORE THE ARIZONA STATE BOARD OF PHARMACY

In the Matter of:

STEVEN S. WEBER Certificate of Registration Number 8194	**FINDINGS OF FACT, CONCLUSIONS OF LAW AND BOARD ORDER NUMBER 02-0025-PHR**

DIRECTED TO: STEVEN S. WEBER
12339 E. Poinsetta Drive
Scottsdale, AZ 85259

Pursuant to the foregoing Consent to Entry of Order, the evidence and records compiled and contained in the file for STEVEN S. WEBER and for good cause appearing, the Board on this 16th day of January, 2003 enters the following Finding of Fact, Conclusions of Law and Board Order in the Matter of Notice of Hearing (Notice) 02-0025-PHR.

FINDINGS OF FACT
I

1. STEVEN S. WEBER is the holder of Certificate of Registration Number 8194 issued by the Arizona State Board of Pharmacy which permits the holder to practice pharmacy in the State of Arizona.

2. That on the 20th day of December, 2002, STEVEN S. WEBER did enter into a Consent to Entry of Order with the Arizona State Board of Pharmacy admitting that factual allegations contained in the Notice of Hearing Number 02-0025-PHR are true and accurate.

3. STEVEN S. WEBER admits to the allegations in paragraph IV of the Notice.

4. That STEVEN S. WEBER is aware of the fact that the conduct contained in the factual allegations constitutes grounds for disciplinary action as provided for in A.R.S. § 32-1927(A)(10) and A.R.S. § 32-1927(B)(2).

. . .

CONCLUSIONS OF LAW
II

1. The Board concludes that it has jurisdiction in this Matter pursuant to A.R.S. § 32-1927 (A)(10) and A.R.S. § 32-1927(B)(2) .

2. The Board concludes that STEVEN S. WEBER, as pharmacist in charge at Sun Drug pharmacy, violated A.A.C. R4-23-402(A)(3) when dispensing a prescription only medication pursuant to a prescription order failed to :

> Obtain, or assume responsibility to obtain, from the patient, patient's agent, or medical practitioner and record, or assume responsibility to record, in the patient's profile, the following information:
>
> a. Name, address, telephone number, date of birth (or age), and gender;
> b. Individual history including known diseases and medical conditions, known drug allergies or drug reactions, and if available a comprehensive list of medications currently taken and medical devices currently used;

3. The Board further concludes that STEVEN S. WEBER is in violation of A.R.S. § 32-1927(A)(10) and A.R.S. § 32-1927(B)(2).

ORDER
III

The certificate of Registration Number 8194 issued to STEVEN S. WEBER is placed on probation for one (1) year commencing ten (10) days from the date of this Order. The probation is subject to the following conditions:

1. STEVEN S. WEBER shall obey all the laws and rules governing the practice of pharmacy.

2. STEVEN S. WEBER shall pay a civil penalty of three hundred dollars ($300.00) within sixty (60) days of the date of this Order.

3. If STEVEN S. WEBER violates this Order in any way or fails to fulfill the requirements of this Order, the Board, after giving the Respondent Notice and the opportunity to be heard, may revoke, suspend or take other disciplinary action against the Respondent.

. . .

DATED this 16th day of January, 2003

ARIZONA STATE BOARD OF PHARMACY

SEAL

By Llyn A. Lloyd

Llyn A. Lloyd

Executive Director

Copies of the foregoing Finding of Fact, Conclusions of Law and Board Order mailed by certified mail this 21st day of January, 2003 to:

STEVEN S. WEBER
12339 E. Poinsetta Dirve
Scottsdale, AZ 85259

and by Courier Mail to:

Elizabeth Burns
Assistant Attorney General
1275 W. Washington
Phoenix, AZ 85007
Attorney for the State

and

Victoria Mangiapane
Assistant Attorney General
1275 W. Washington
Phoenix, AZ 85007
Civil Appeals Section

SENDER: *COMPLETE THIS SECTION*

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Stephen S. Weber RPh
12339 E. Poinsetta Dr.
Scottsdale, AZ 85259

COMPLETE THIS SECTION ON DELIVERY

A. Received by *(Please Print Clearly)* | B. Date of Delivery 12/12

C. Signature
X M. Weber ☐ Agent ☐ Addressee

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
XX Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? *(Extra Fee)* ☐ Yes

2. Article Number 7000 1670 0009 3603 7162
(Transfer from service label)

PS Form 3811, March 2001 Domestic Return Receipt 102595-01-M-1424

SENDER: *COMPLETE THIS SECTION*

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Steven S.Weber
12339 E. Poinsetta Dr.
Scottsdale, AZ 85259

COMPLETE THIS SECTION ON DELIVERY

A. Received by *(Please Print Clearly)* Steve Weber | B. Date of Delivery 1-23-03

C. Signature
X [signature] ☐ Agent ☐ Addressee

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
XX Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? *(Extra Fee)* ☐ Yes

7000 1670 0009 3603 8251

Domestic Return Receipt 102595-01-M-1424

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

NOTICE/CONSENT/ORDER

Postage	$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	$

SENT 12/11/02
Postmark Here

Sent To Stephen S. Weber
Street, Apt. No.; or PO Box No. 12339 E. Poinsetta Dr.
City, State, ZIP+4 Scottsdale, AZ 85259

PS Form 3800, May 2000 See Reverse for Instructions

7000 1670 0009 3603 7162