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DEPARTMENT OF  
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STATE OF ILLINOIS

ILLINOIS DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION  
DIVISION OF PROFESSIONAL REGULATION

ILLINOIS DEPARTMENT OF FINANCIAL AND PROFESSIONAL )  
REGULATION, DIVISION OF PROFESSIONAL REGULATION )  
of the State of Illinois, Complainant )  
)  
v. )  
OSCO DRUG 3260 )  
License No. 54014060, Respondent )

No. 2005046812

NOTICE OF PRELIMINARY HEARING

TO: W. Randolph Teslik, Esq.  
Akin Gump Strauss Hauer & Feld, LLP  
1333 New Hampshire Avenue, N.W.  
Washington D.C. 20036-1564

PLEASE TAKE NOTICE that on Monday, November 21, 2005, at 9:30 a.m., you are directed to appear before the Administrative Law Judge for the Pharmacy Board of the Illinois Department of Financial and Professional Regulation's Division of Professional Regulation located at the James R. Thompson Center, 100 West Randolph Street, 9<sup>th</sup> Floor, Suite 9-100, Chicago, Illinois 60601, at which time a hearing date will be set. You are requested to present any and all routine motions you may wish to have heard regarding the charges contained in the attached Complaint. Any motions presented on the above date should be served on the Department's Clerk of the Court unit of the Division of Professional Regulation, at 100 West Randolph Street, Suite 9-100, Chicago, Illinois 60601, at least three (3) business days in advance of the scheduled meeting.

Your appearance on the scheduled date is mandatory and failure to so appear may result in the selection of a hearing date in your absence, unless a continuance has been secured in advance of the meeting. Your appearance may be made personally or through counsel. When you [and/or your attorney] arrive on the 9<sup>th</sup> Floor, you will be required to show photo identification to the security personnel. Please be sure to bring with you official photo identification such as a driver's license or State issued I.D. card or if you do not have those, a passport or other official photo identification.

It is required that you file a verified ANSWER to the attached Complaint with the Department of Professional Regulation by the date of the Preliminary Hearing. The Answer should address each numbered paragraph of the Complaint. The Answer shall be signed under oath and your signature must be verified by a notary public who affixes the notary seal to the document. For each paragraph, the Answer should either:

- a) admit the allegation in the paragraph,
- b) deny the allegation in the paragraph, or
- c) state under oath that you have insufficient information with which to admit or deny the allegation in the paragraph.

PLEASE BE ADVISED that the failure to file a verified Answer may subject you to being held in default. If you are held in default, the Board will assume the allegations to be true and will issue a recommendation based upon those facts without a hearing being held.

RULES OF PRACTICE IN ADMINISTRATIVE HEARINGS in the Division of Professional Regulation, Illinois Department of Financial and Professional Regulation, and before committees or boards of the Department, as well as practice acts and rules may be requested by calling the forms unit at 312/814-1695. [These might be available on the internet at: <http://www.ildpr.com/default2.asp> . The Rules of Practice in Administrative Hearings might also be available on the internet through the General Assembly's website: <http://www.legis.state.il.us/commission/jcar/admincode/068/06801110sections.html> .]

**ILLINOIS DEPARTMENT OF FINANCIAL AND  
PROFESSIONAL REGULATION  
DIVISION OF PROFESSIONAL REGULATION**  
of the State of Illinois

BY:



Eileen Lewalski  
Attorney for the Department

Eileen Lewalski  
Illinois Department of Financial and  
Professional Regulation  
Division of Professional Regulation  
100 West Randolph Street, Suite 9-100  
Chicago, Illinois 60601  
312/814-2886

<sup>1</sup> Pursuant to the Executive Order 2004-6 of Governor Rod Blagojevich, which was published at page 6194 of Volume 28, issue 16 of the Illinois Register, the Department of Professional Regulation has merged with other agencies to become the Illinois Department of Financial and Professional Regulation, and the former Department of Professional Regulation has become the Division of Professional Regulation within this new successor agency. See [http://ilsos.net/departments/index/register/register\\_volume28\\_issue16.pdf](http://ilsos.net/departments/index/register/register_volume28_issue16.pdf). Dean Martinez has become the Acting Secretary of the Illinois Department of Financial and Professional Regulation. Daniel E. Bluthardt has been appointed Acting Director of the Division of Professional Regulation.



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of the State of Illinois, Complainant )  
v. ) No. 2005046812  
OSCO DRUG 3260 )  
License No. 54014060, Respondent )

**COMPLAINT**

NOW COMES THE ILLINOIS DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION, DIVISION OF PROFESSIONAL REGULATION of the State of Illinois, (hereinafter "the Department") by its Chief of Prosecutions, John M. Lagattuta, and as its Complaint against Osco Drug 3260, Respondent, complains as follows:

**COUNT I**  
**Failure to Dispense Contraceptives**

1. Osco Drug 3260 is presently the holder of a Certificate of Registration as a Division I pharmacy in the State of Illinois, License No. 54014060, issued by the Department of Financial and Professional Regulation of the State of Illinois. Said license is presently in active status.
2. Respondent is located at 652 Kirk Road, St. Charles, IL 60174.
3. On or about July 5, 2005, Respondent received a telephone call for a valid, lawful prescription for patient MK for Plan B, an FDA-approved contraceptive.
4. On or about July 6, 2005, MK attempted to obtain said prescription.
5. Respondent did have said medication in stock.
6. Respondent refused to dispense said medication.
7. It is a violation of the Pharmacy Practice Act of 1987 for a Division I pharmacy to refuse to dispense a contraceptive without delay when in stock.

8. The foregoing acts and/or omissions are grounds to revoke, suspend or otherwise discipline a Certificate of Registration pursuant to 68 Ill. Adm. Code, Section 1330.91 (j) (1) and 225 ILCS 85/30 (a) (2).

WHEREFORE, based on these allegations, the Illinois Department of Financial and Professional Regulation, Division of Professional Regulation of the State of Illinois, by John M. Lagattuta, its Acting Chief of Health Related Prosecutions, prays that the pharmacy license of Osco Drug 3260 be revoked, suspended or otherwise disciplined.

**COUNT II**  
**Unprofessional Conduct**

- 1-6. The Department realleges paragraphs 1 through 6 of Count I as paragraphs 1 through 6 of Count II.
7. Respondent engaged in unprofessional conduct of a character likely to harm the public.
8. The foregoing acts and/or omissions are grounds to revoke, suspend or otherwise discipline a Certificate of Registration pursuant to 225 ILCS 85/30 (a) (2) and (7).

WHEREFORE, based on these allegations, the Illinois Department of Financial and Professional Regulation, Division of Professional Regulation of the State of Illinois, by John M. Lagattuta, its Acting Chief of Health Related Prosecutions, prays that the pharmacy license of Osco Drug 3260 be revoked, suspended or otherwise disciplined.

ILLINOIS DEPARTMENT OF FINANCIAL AND  
PROFESSIONAL REGULATION  
OF THE STATE OF ILLINOIS  
DIVISION OF PROFESSIONAL REGULATION

By:   
John M. Lagattuta  
Chief of Prosecutions

Eileen Lewalski, Attorney  
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Professional Regulation,  
of the State of Illinois  
Division of Professional Regulation  
100 W. Randolph, Suite 9-100  
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