

STATE OF ILLINOIS

ILLINOIS DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION
DIVISION OF PROFESSIONAL REGULATION

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ILLINOIS DEPARTMENT OF FINANCIAL AND PROFESSIONAL)
REGULATION, DIVISION OF PROFESSIONAL REGULATION)
of the State of Illinois, Complainant)
)
)
v.)
WALGREENS 3539)
License No. 54002494, Respondent)

No. 2005049071

NOTICE OF PRELIMINARY HEARING

TO: Dwayne A. Piñon, R.Ph.
Walgreen Co.
104 Wilmot Road MS #1447
Deerfield, IL 60015

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, 9th 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 9th 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/icar/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
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312/814-2886

¹ 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. 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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DEPARTMENT OF FINANCIAL AND PROFESSIONAL)
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of the State of Illinois, Complainant)
v.) No. 2005049071
WALGREENS 3539)
License No. 54002494, 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 Walgreens 3539, Respondent, complains as follows:

COUNT I
Failure to Dispense Contraceptives

1. Walgreens 3539 is presently the holder of a Certificate of Registration as a Division I pharmacy in the State of Illinois, License No. 54-002494, 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 11 E. 75th Street, Chicago, IL 60619.
3. On or about June 27, 2005, Respondent received a telephone call for a valid, lawful prescription for a patient SK for Plan B, an FDA-approved contraceptive.
4. The pharmacist on duty determined that prior to dispensing the medication the physician, Dr. Murray Pelta, must be contacted for drug utilization review.
5. Respondent then received a telephone call from Nurse Practitioner, Tiffany Athey, who attempted to issue the prescription for patient SK for Plan B.

6. Athey was informed by the pharmacist on duty that he would not fill the prescription until he "had a conversation with the physician on record."
7. Dr. Pelta then contacted the pharmacy and requested to speak to said pharmacist regarding the aforementioned prescription.
8. Dr. Pelta was informed that the pharmacist's shift had ended and that he was no longer there.
9. Dr. Pelta then spoke to the then pharmacist on duty and requested that she fill SK's Plan B prescription.
10. The pharmacist informed Dr. Pelta that she would not fill SK's Plan B prescription due to the frequency of use of this medication by SK.
11. Respondent did have said prescription in stock.
12. 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.
13. The foregoing acts and/or omissions are grounds to suspend, revoke or otherwise discipline a Certificate of Registration pursuant to 68 Ill. Adm. Code, Section 1330.91 (j) (1).

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 Chief of Prosecutions, prays that the pharmacy license of Walgreens 3539 be revoked, suspended or otherwise disciplined.

COUNT II
Unprofessional Conduct


- 1-11. The Department realleges paragraphs 1 through 11 of Count I as paragraphs 1 through 11 of Count II.

12. Respondent engaged in unprofessional conduct of a character likely to harm the public.
13. 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 Chief of Prosecutions, prays that the pharmacy license of Walgreens 3539 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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of the State of Illinois
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