

IN THE MATTER OF	*	BEFORE THE
CVS PHARMACY, INC.; and	*	MARYLAND BOARD
MARYLAND CVS PHARMACY, LLC	*	OF PHARMACY
Pharmacy Permit Holder		*
* * * * *		* * * * *

CONSENT ORDER

This Consent Order is made by and among the Maryland Board of Pharmacy (the “Board”) and CVS Pharmacy, Inc., and Maryland CVS Pharmacy, LLC, which hold pharmacy permits to operate community pharmacies in Maryland (hereafter collectively referred to as “CVS”). The Board received credible information indicating that on August 27, 2013, CVS had entered into an Assurance of Discontinuance with the Consumer Protection Division of the Maryland Office of the Attorney General based on allegations of improper disposal of personal identifying information and the sale of outdated products.

In consideration of the remedial efforts taken by CVS, and the dated allegations involved in this matter, the Board has voted to resolve this matter as set forth in this Consent Order in lieu of pursuing an independent investigation and instituting formal proceedings against CVS, in accordance with the Maryland Pharmacy Act, Md. Code Ann., Health Occ. § 12-101 *et seq.*

FINDINGS OF FACT

1. On or about August 27, 2013, the Maryland Attorney General’s Office and CVS entered into an Assurance of Discontinuance (attached as Exhibit A) in which CVS agreed to pay \$250,000.00 as part of an agreement resolving allegations that CVS Pharmacies in Maryland sold outdated products and improperly disposed personal identifying information in dumpsters that were accessible to the general public.

2. In addition to the payment of the fine, the Assurance of Discontinuance includes other provisions to ensure the proper maintenance and disposal of personal identifying information and appropriate inventory management of outdated products.
3. The Assurance of Discontinuance does not constitute an admission of liability by CVS, and CVS expressly denies any liability or wrongdoing related to the allegations therein.
4. On or about January 15, 2009, CVS entered into an agreement with the United States Department of Health and Human Services, Office of Civil Rights ("OCR"), resolving similar allegations that CVS improperly disposed of personal identifying information.
5. Under the terms of settlement with OCR, CVS was required to develop, maintain and monitor compliance with policies and procedures that include administrative and physical safeguards for the disposal of all non-electronic personal identifying information.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes that CVS, on behalf of its active pharmacy permits located in Maryland, is subject to this Order in accordance with Md. Code Ann., Health Occ. §§ 12-403(b)(1), (12) and (21).

ORDER

Based upon an affirmative vote of the Board, and finding the within disposition adequately protective of the public health, safety, and welfare, on this 26th day of March, 2014, it is hereby,

ORDERED that CVS Pharmacy, Inc., and Maryland CVS Pharmacy, LLC, shall collectively pay a FINE in the amount of \$1,000.00, payable to the Maryland Board of Pharmacy within thirty (30) days of the date of this Order; and be it further,

ORDERED that CVS Pharmacy, Inc., and Maryland CVS Pharmacy, LLC, shall comply with all laws and regulations governing the operation of pharmacies in the State of Maryland;

and be it further,

ORDERED that this is a formal order and as such is a public document pursuant to Md. Code Ann., State Gov't § 10-611 *et seq.* (2004).

3/26/14
Date

for Lenna Israbian-Jamgochian
Lenna Israbian-Jamgochian, Pharm.D.
Board President

CONSENT

1. By signing this Consent, CVS Pharmacy, Inc., and Maryland CVS Pharmacy, LLC, as the permit holder for the current and active pharmacies located in Maryland, submit to the foregoing Consent Order as a resolution of this matter and agree to be bound by its terms and conditions.
2. CVS Pharmacy, Inc., and Maryland CVS Pharmacy, LLC, acknowledge the validity of this Consent Order as if it were made after a hearing in which it would have had the right to counsel, to confront witnesses, and to all other substantial procedural protections provided by law.
3. CVS Pharmacy, Inc., and Maryland CVS Pharmacy, LLC, acknowledge that, by entering into this Consent Order, CVS Pharmacy, Inc., and Maryland CVS Pharmacy, LLC, are waiving the right to appeal any adverse ruling of the Board that might have followed such an evidentiary hearing.
4. CVS Pharmacy, Inc., and Maryland CVS Pharmacy, LLC, acknowledge the legal authority and the jurisdiction of the Board to enter and enforce this Consent Order.
5. By execution of this consent, CVS Pharmacy, Inc. and Maryland CVS Pharmacy, LLC, make no admission of liability by CVS, and CVS expressly denies any violation of

Maryland law.

6. CVS Pharmacy, Inc., and Maryland CVS Pharmacy, LLC, sign this Consent Order freely and voluntarily, after having had the opportunity to consult with counsel, and with full understanding of the language, meaning, and effect of this Consent Order.

2/11/14
Date

Name: Misty D. Rager
Title: Director, Regulatory Compliance

STATE OF Rhode Island
COUNTY/CITY OF Providence :

I hereby certify that on this 11th day of February, 2014, before me, a Notary Public of the State and County/~~City~~ aforesaid, personally appeared Misty Rager, and made an oath in due form that the foregoing Consent was his/her voluntary act and deed on behalf of CVS Pharmacy, Inc. and Maryland CVS Pharmacy, LLC.

Brenda J. Herb
Notary Public

My commission expires:

Brenda J. Herb
Notary Public of Rhode Island
My Commission Expires: 3-8-2018

IN RE: * IN THE CONSUMER
CVS PHARMACY, INC.; and * PROTECTION DIVISION,
MARYLAND CVS PHARMACY, L.L.C. * OFFICE OF THE ATTORNEY
*** GENERAL OF MARYLAND**

* * * * *

ASSURANCE OF DISCONTINUANCE

This Assurance of Discontinuance (“Assurance”) is being entered into between the Office of the Attorney General, Consumer Protection Division (the “Division”) and CVS Pharmacy, Inc. and Maryland CVS Pharmacy, L.L.C. (referred to collectively as “CVS”). The Division and CVS agree as follows:

- 1) The Division is responsible for enforcement of Maryland consumer protection laws, including the Maryland Consumer Protection Act, Md. Code Ann., Com. Law §§ 13-101 through 13-501 (2005 & Supp. 2012) (“Consumer Protection Act”).
- 2) CVS Pharmacy, Inc. is a Rhode Island corporation with its principal place of business at One CVS Drive, Woonsocket, Rhode Island 02895.
- 3) Maryland CVS Pharmacy, L.L.C. is a Maryland limited liability company with its principal place of business at One CVS Drive, Woonsocket, Rhode Island 02895.
- 4) Unless otherwise specified, “CVS” means CVS Pharmacy, Inc., and includes its successors, assigns, and later-acquired entities, including limited liability corporations, that operate retail pharmacy stores in the State of Maryland, including Maryland CVS Pharmacy, L.L.C., with whom CVS Pharmacy, Inc., is a parent corporation, and any retail pharmacy entities CVS Pharmacy, Inc., owns operates, acquires or has control over, including entities of which

CVS Pharmacy, Inc., has acquired all or substantially all of the assets, that operate retail pharmacy stores in the State of Maryland.

5) CVS operates, directly or through various subsidiaries, approximately 165 retail pharmacy stores in Maryland. CVS stores sell prescription and Over-the-Counter Drugs, vitamins and dietary supplements, an assortment of food products - including infant formula, milk, and eggs - and other consumer goods.

APPLICATION

6) The terms of this Assurance apply to CVS, and its officers, employees, agents, pharmacists, other workforce members, affiliates, merged or acquired entities, parent or controlling entities, wholly-owned subsidiaries, and all other persons acting in concert or participation with CVS, in which they, either individually or collectively, offer or sell pharmacy and other consumer goods and services to Maryland consumers at CVS retail pharmacy stores located in Maryland.

7) The terms of the Assurance apply to the maintenance and disposal of non-electronic Personal Identifying Information.

8) This Assurance shall take effect on the latest date on which it has been executed by all parties (the "Effective Date").

DEFINITIONS

For the purpose of this Assurance, the following definitions shall apply:

9) "Consumers" are purchasers, prospective purchasers or recipients of goods or services for personal, household, or family purposes.

10) "Covered Conduct" shall mean the disposal of consumers' Personal Identifying Information, including personal health information ("PHI"), in dumpsters or other trash

receptacles of CVS retail pharmacies in Maryland that were accessible to the general public, and the offering for sale and sale of Outdated Products to consumers, including baby formula; dairy products (milk and eggs); and Over-the-Counter Drugs, including infant, children and adult medications; and vitamins, and includes the conduct alleged in paragraphs 15 through 18.

11) “Outdated Products” means Over-the-Counter Drugs, edible products, and vitamins and dietary supplements that contain “Expiration” or “Sell By” dates whose “Expiration” or “Sell By” dates have passed.

12) “Over-the-Counter Drugs” or “OTC Drugs” means non-prescription drugs regulated by the United States Food and Drug Administration.

13) “Personal Identifying Information” for the purposes of this Assurance, means individually identifiable information in CVS’s possession from or about an individual consumer in hard-copy, non-electronic format relating to the dispensing of medication, including but not limited to:

- a. first name or first initial and last name;
- b. date of birth;
- c. home or other physical address, including street name and name of city or town;
- d. email address or other online contact information, such as an instant messaging user identifier or screen name;
- e. telephone number;
- f. social security number, driver’s license number, taxpayer identification number or other government-issued identification number;
- g. mother’s maiden name;
- h. unique biometric data, including the individual’s fingerprint, voiceprint, and

retina or iris image;

- i. prescription or Over-the-Counter Drug information, such as medication and dosage, prescribing physician name, address, and telephone number, health insurer name, insurance account number, insurance member number, or insurance policy number;
- j. a financial account number, including a bank account, debit card, or credit card number;
- k. bank or loan account information, including routing number, and/or account number;
- l. unique electronic identification number, address, or routing code;
- m. debit and credit card information; or
- n. any other information from or about an individual that is combined with any of the above.

ALLEGATIONS

14) In 2008, the Division conducted an investigation of CVS's practices with respect to the disposal of consumers' Personal Identifying Information, and rotation and removal of Outdated Products from Maryland retail stores. Based on that investigation, the Division makes the following allegations.

Personal Identifying Information

15) The Division alleges that CVS represents to consumers that its Maryland retail pharmacies will protect and maintain the privacy of consumers' Personal Identifying Information, including their individually identifiable health information (personal health information) ("PHI"). However, the Division alleges that on more than one occasion

consumers' Personal Identifying Information, including PHI, was found in dumpsters of CVS retail pharmacies in Maryland that were accessible to the general public.

16) The Division further alleges that prior to the incident(s) described in the preceding paragraph, CVS's policies, practices and procedures for the disposal of Personal Identifying Information by its Maryland retail stores were not adequately designed, monitored or enforced to appropriately and reasonably safeguard Personal Identifying Information, including PHI.

Outdated Over-the-Counter Drugs and Products

17) The Division alleges that CVS represents to consumers that the products it sells in its Maryland retail locations are safe for the consumer, effective for intended use, and not outdated. However, the Division alleges that CVS retail pharmacies in Maryland, on multiple occasions, offered for sale and sold Outdated Products to consumers, including baby formula, dairy products (milk and eggs), and Over-the-Counter Drugs, including infant, children and adult medications, and vitamins.

18) The Division further alleges that CVS's policies, practices and procedures for their rotation and removal of Outdated Products in Maryland retail pharmacies were not, at the time of the alleged conduct, adequately designed, monitored or enforced to appropriately and reasonably prevent the offer and sale of Outdated Products.

19) The Division alleges that the conduct described in Paragraphs 15 through 18 constitutes unfair and deceptive trade practices pursuant to Md. Code Ann., Com. Law § 13-303, as defined by Md. Code Ann., Com. Law §§ 13-301(1), 13-301(2)(i) & (iv), and 13-301(3).

DENIAL

20) CVS denies the Division's allegations. CVS is willing to enter into this Assurance in order to resolve the Division's concerns under the Consumer Protection Act as to

the matters addressed in this Assurance and thereby avoid unnecessary expense, inconvenience, and uncertainty. CVS is entering into this Assurance solely for the purpose of settlement, and nothing contained herein may be taken as or construed to be an admission or concession of any violation of law, rule or regulation, or of any other matter of fact or law, or of any liability or wrongdoing, all of which CVS expressly denies. CVS does not admit any violation of the Consumer Protection Act, and does not admit any wrongdoing that was or could have been alleged by the Division before the Effective Date of the Assurance. By agreeing in paragraph 56 of this Assurance that future violations of this Assurance may be subject to the penalty provision of § 13-401(b), CVS in no manner agrees or concedes that it has engaged in any prior violations of the Act. It is the intent of the parties that no part of this Assurance, including its statements and commitments, shall constitute evidence of any liability, fault, or wrongdoing by CVS.

RECITALS

21) On or about January 15, 2009, CVS entered into an agreement with the United States Department of Health and Human Services, Office of Civil Rights (“OCR Resolution Agreement”), a copy of which is attached hereto as Exhibit A, resolving alleged conduct which was the same or similar to the conduct alleged in Paragraphs 15 and 16 of this Assurance.

22) Under the terms and conditions of the OCR Resolution Agreement, CVS was required to develop, maintain, and revise, as necessary, uniform, written policies and procedures (“Privacy Policies and Procedures”) that (a) addressed alleged conduct the same or similar to the allegations contained in Paragraphs 15 and 16 of this Assurance; and (b) were consistent with the federal standards that govern the privacy of individually identifiable health information (45 C.F.R. Part 160 and Subparts A and E of Part 164, the “Privacy Rule”). Under the terms and conditions of the OCR Resolution Agreement, CVS’s Privacy Policies and Procedures are

required to include, at minimum, administrative and physical safeguards for the disposal of all non-electronic PHI, application of appropriate sanctions for failing to comply with the policies and procedures, training, certification of training, and annual review and updating.

23) Under the terms and conditions of the OCR Resolution Agreement, CVS is required to internally monitor compliance with its Privacy Policies and Procedures and report on such monitoring.

24) Under the terms and conditions of the OCR Resolution Agreement, CVS is required to engage a qualified, objective, independent third-party assessor to conduct assessments and report on compliance by CVS with the Corrective Action Plan contained in Exhibit 2 of the OCR Resolution Agreement.

25) The Division acknowledges that during the pendency of the investigation, CVS has strengthened its policies and practices regarding Personal Identifying Information and Outdated Products.

INJUNCTIVE PROVISIONS

For purposes of resolving disputes concerning the above allegations, CVS agrees to do as is set forth below:

A. PERSONAL IDENTIFYING INFORMATION

26) CVS, in connection with the advertising, marketing, promotion, offering for sale, or sale of any consumer good or service, shall not misrepresent in any manner, expressly or by implication, the extent to which it maintains and protects the privacy, confidentiality, security, or integrity of Personal Identifying Information collected from or about Maryland consumers.

Maintenance and Disposal of Records

27) CVS shall maintain Personal Identifying Information so that it will be

inaccessible to persons without authority to view such information. CVS shall maintain Personal Identifying Information in secure areas to prevent the unlawful use, dissemination or disposal of such information.

28) CVS shall not dispose of records that contain Personal Identifying Information of a Maryland consumer unless CVS first modifies such records by shredding, erasing, or by some other means making Personal Identifying Information unreadable or undecipherable. In the event that CVS contracts for these services, CVS shall protect Personal Identifying Information until such time as the third-party vendor obtains possession of the information, by placing the information in designated containers, maintained in a restricted area, or otherwise stored appropriately to prevent the unlawful use, dissemination, or disposal of such records. For purposes of complying with this paragraph, if CVS elects to contract with a third-party provider for the disposal of Maryland consumer Personal Identifying Information, CVS shall, for a period of not less than three (3) years from the Effective Date of this Assurance, require that the third-party provider dispose of records consistent with the requirements contained in this paragraph and be certified by the National Association of Information Destruction (or some similar association) and comply with such association's additional security practices and procedures.

Policies and Procedures

29) CVS shall maintain, revise as necessary, abide by and enforce Privacy Policies and Procedures and minimum training requirements developed in accordance with the OCR Resolution Agreement that (a) address the allegations contained in Paragraphs 15 and 16 of this Assurance and (b) are consistent with the federal standards that govern the privacy of individually identifiable health information.

Training

30) CVS shall provide training regarding the Privacy Policies and Procedures to all officers, employees and agents with access to Personal Identifying Information. CVS shall provide this training to all required employees or agents of Maryland retail stores within six (6) months from the Effective Date of this Assurance.

31) For a period of not less than two (2) years from the Effective Date of this Assurance, CVS shall provide the training required under the previous paragraph to newly hired officers, employees or agents with access to Personal Identifying Information within thirty (30) days of their date of hire, except that new employees acquired by CVS as part of an acquisition of an existing store shall receive training within ninety (90) days of becoming officers, employees or agents of CVS.

Reporting

32) For a period beginning on July 1, 2013, and ending on June 30, 2014 (“Reporting Period”), CVS shall designate a Compliance Representative to be responsible for providing copies of the following reports to the Division, which may be submitted either in hard copy or electronically:

- a. The Implementation Report, described at pages 17-18 of the OCR Resolution Agreement, which shall be submitted to the Division within thirty (30) days of the Effective Date of this Assurance.
- b. Periodic Reports covering CVS retail stores in Maryland, in a form as described at pages 18-19 of the OCR Resolution Agreement, shall be provided to the Division no later than ninety (90) days after the end of each calendar year during the Reporting Period.
- c. Notice of any Reportable Event, as defined on page 17 of the OCR Resolution

Agreement, which occurs at a CVS retail store in Maryland, within thirty (30) business days of the occurrence of the event.

Reporting of Non-Compliance

33) For a period of not less than three (3) years from the Effective Date of this Assurance, CVS shall institute the following measures:

- a. CVS shall provide Maryland retail employees with access to Personal Identifying Information with the name, telephone number, and/or email address of a suitable CVS designee or designees to whom they can anonymously report non-compliance with its Privacy Policies and Procedures, which may include CVS's Ethics Line, and shall advise such Maryland retail employees that they are obligated to report instances or suspected instances of non-compliance.
- b. Upon receiving any reports that any CVS officer, employee or agent may have violated the Privacy Policies and Procedures in a Maryland retail store, the Compliance Representative, as defined in the OCR Resolution Agreement, shall use best efforts to investigate the report and take whatever steps are necessary to mitigate any harm, take remedial measure to prevent future violations, and impose appropriate sanctions.
- c. For the investigations described in (b), CVS shall, upon request, provide the Division within thirty (30) days of the request, the following information:
 - (i) a description of the event, including the relevant facts, the persons involved, and the date, time and place on which the event occurred;
 - (ii) a description of the actions taken by CVS to mitigate any harm and any further steps to be taken to address the problems that gave rise to the violation and prevent it from recurring, including any sanctions imposed; and

- (iii) the names and contact information of the Maryland consumers involved, if known.

B. OUTDATED PRODUCTS

34) CVS shall not offer for sale or sell any expired products, including but not limited to Outdated Products, to Maryland consumers in violation of the Consumer Protection Act.

Policies and Procedures

35) Within ninety (90) days from the Effective Date of this Assurance, CVS shall establish and implement, if not already existing, written policies and procedures that are reasonably designed to ensure that Outdated Products are not offered for sale or sold to Maryland consumers and that CVS otherwise complies with the terms of this Assurance. CVS shall maintain, revise as necessary, abide by, and enforce such policies and procedures. The policies and procedures shall, at a minimum: (i) contain administrative, technical and physical safeguards to ensure that Outdated Products are removed from shelves and are not sold to Maryland consumers; (ii) address inventory in the retail stores; and (iii) provide for training, compliance checks, and sanctions for non-compliance (“Outdated Product Policies”). CVS shall also maintain, revise as necessary, abide by and enforce policies and procedures reasonably designed to prevent the distribution of Outdated Products and short-dated products (products likely to expire prior to the useful life of the product) from its distribution centers to retail stores in Maryland (“Distribution Center Policies”).

36) A written copy of the Outdated Product Policies and Distribution Center Policies shall be provided to the Division upon request.

37) Within ninety (90) days from the Effective Date of this Assurance, CVS shall distribute, and have readily available upon request, the written Outdated Product Policies to all of

its officers, employees and agents involved in the stocking, rotation, and sale of dated consumer goods in Maryland retail locations (“Covered Maryland Retail Personnel”). The distribution may be made electronically in a written, visual format.

38) At the time CVS distributes the Outdated Product Policies to its Covered Maryland Retail Personnel, CVS shall notify them, in writing, that:

- a. compliance with the Outdated Product Policies is mandatory;
- b. compliance of each store will be monitored; and
- c. failure to comply with the Outdated Product Policies may constitute grounds for sanctions.

39) Covered Maryland Retail Personnel required to receive the Outdated Product Policies shall, within thirty (30) days of such receipt, certify, either in writing, via Interactive Voice Response (“IVR”) system, or electronically, that they have received, reviewed, understood and agree to abide by the Outdated Product Policies.

40) The certifications required herein shall be maintained by CVS for a period of not less than four (4) years from the Effective Date of this Assurance. Copies of the certifications shall be provided to the Division upon request.

Training

41) CVS shall provide all Covered Maryland Retail Personnel with training regarding the Outdated Product Policies. The training shall include, at a minimum, how to implement and comply with the policies and procedures, duties of reporting non-compliance, applicable sanctions for non-compliance, an explanation of the importance of providing quality, fresh products and the importance of quality control checks. CVS shall provide this training to all

current Covered Maryland Retail Personnel within six (6) months from the Effective Date of this Assurance.

42) For a period of not less than two (2) years from the Effective Date of this Assurance, CVS shall provide the training required under the previous paragraph to newly hired Covered Maryland Retail Personnel within thirty (30) days of their date of hire, except that new employees acquired by CVS as part of an acquisition of an existing store shall receive training within ninety (90) days of becoming employees of CVS.

43) All Covered Maryland Retail Personnel required to undergo training as provided herein must complete a written, IVR or electronic certification confirming completion of the training. CVS shall maintain the training certifications for a period of not less than four (4) years from the Effective Date of this Assurance. Copies of the training materials and certifications of training required herein shall be provided to the Division upon request.

44) CVS shall, for a period of not less than two (2) years from the Effective Date of this Assurance, provide all Covered Maryland Retail Personnel required to be trained as provided herein with subsequent, periodic training, at least annually to ensure they maintain the requisite knowledge, skill and motivation regarding the Outdated Product Policies.

Product Inspection

45) Each Maryland retail store shall require regular physical inspection of categories of consumer goods contained on shelves, off-shelf (e.g., end caps, wings, floor stacks, clip strips), over stock areas, refrigerators and direct store vendor displays by CVS officers, employees or agents, to ensure that any Outdated Products are removed and not offered for sale to consumers. CVS shall establish a schedule for the inspection of each category of items and the frequency of inspections of a given category shall be appropriate to ensure that products in

that category are pulled from shelves before they become Outdated Products.

46) For a period of not less than two (2) years from the Effective Date of this Assurance, dairy products shall be inspected daily, and food items, beverages, baby feeding products, vitamins, dietary supplements, and OTC Drugs, including children's remedies, shall be inspected during weekly inspections. The specific categories of products to be included in a given week's inspection shall be determined according to a schedule appropriate to the shelf life of each product category. CVS shall establish a schedule for the inspection of each category of items and the frequency of inspections of a given category shall be appropriate to ensure that products in that category are pulled from shelves before they become Outdated Products. The schedule shall be reduced to writing and a copy of the current schedule in effect shall be provided to the Division within forty-five (45) days from the Effective Date of this Assurance. To the extent any changes are made to the schedule under this paragraph, the new schedule shall be provided to the Division within forty-five (45) days from the effective date of the change. The inspections shall be consistent with the requirements outlined in paragraph 45.

Point of Sale Verification

47) For a period of at least three (3) years from the Effective Date of this Assurance, CVS shall ensure that a register prompt will appear at the point of sale when dairy products, baby food, infant formula, and children's OTC Drugs are scanned at the cash register to ensure that Outdated Products are not sold to consumers. The prompt shall ask the cashier: "Is this item expired?" or similar words to that effect. The cashier shall then check the expiration date on the item and validate whether or not it is expired. If the cashier selects "Yes" the item is expired, CVS shall not sell the product, shall remove the product from the store's inventory, and shall check the remaining shelved inventory of that product for additional expired items. The cashier

may only select “No” after validating that the product is not expired. Following the three year time period required herein, if CVS wishes to implement alternative procedures or methods that are as least as effective in preventing the offer or sale of Outdated Products as the point of sale verification system, CVS may institute the enhanced advancements.

48) CVS shall, for a period of not less than two (2) years from the Effective Date of this Assurance, institute the following additional measures:

Inventory Management: Distribution Centers

a. For each distribution center servicing Maryland retail stores, CVS shall capture item dating upon receipt and identify products that are likely to expire prior to the useful life of the product (“short-dated products”) in accordance with the Distribution Center Policies. CVS shall not ship short-dated products to any Maryland retail store, except with specific management approval under special circumstances consistent with the Distribution Center Policies and use of the products prior to expiration. CVS shall not ship expired products to any Maryland retail store.

b. On at least a monthly basis, each distribution center servicing Maryland retail stores shall fill and divert an entire store order to manually check for Outdated Products.

Coupon Program

c. CVS agrees to implement a program in Maryland retail stores whereby consumers shall be entitled to receive a coupon in the amount of \$2.00 off of any purchase of any item at any CVS retail pharmacy store if the consumers: (i) find an Outdated Product offered for sale while shopping at a CVS store in Maryland; (ii) notify a workforce member that they have found such an Outdated Product; and (iii) give the Outdated Product to a cashier. CVS workforce members shall advise the consumer of the availability of the coupon if presented with an

Outdated Product. This program is limited to one coupon for each unique expired SKU found, per visit.

Aisle Signs

d. CVS shall prominently post notices in the aisles where baby food, infant formula, dairy products, vitamins, dietary supplements, and OTC Drugs are offered for sale, reminding customers to check the expiration and “sell by” dates of those products and asking them to notify a CVS workforce member if they find expired products.

Reporting of Non-Compliance

e. CVS shall provide Covered Maryland Retail Personnel with the name, telephone number, and/or email address of a suitable CVS designee or designees to whom they can anonymously report non-compliance with the Outdated Product Policies, which may include CVS’s Ethics Line, and shall advise them that they are obligated to report instances or suspected instances of non-compliance.

f. If a violation of the Outdated Products Policies in a Maryland retail store is reported to CVS by contact with the reporting line established in accordance with paragraph 48 (e) or the results of CVS’s third party audit program, CVS shall use best efforts to investigate the report and take whatever steps are necessary to mitigate any harm, take remedial measure to prevent future violations, and impose appropriate sanctions.

g. For the investigations described in (f), CVS shall, upon request, provide the Division within 30 days of the request, the following information:

(i) a description of the event, including the relevant facts, the persons involved, and the date, time and place on which the event occurred;

- (ii) a description of the actions taken by CVS to mitigate any harm and any further steps to be taken to address the problems that gave rise to the violation and prevent it from recurring, including any sanctions imposed; and
- (iii) the names and contact information of the Maryland consumers involved, if known.

Store Audits

h. CVS shall retain a qualified, independent third-party vendor (“Auditor”) to conduct audits of Maryland retail stores for compliance with the Outdated Product Policies. The Auditor shall audit every CVS retail store located in Maryland with every store audited at least once each month during the three year period following the Effective Date of this Assurance. The Auditor shall check at least thirty-two (32) SKUs at each store in each audit, which shall include products from the dairy and infant feeding and OTC Drug categories, as well as products from other categories on an alternating basis. No members of the management team, officers, employees or agents of the store shall be informed in advance, directly or indirectly, of the date the store will be the subject of an audit.

i. In the event that any audit reflects that a Maryland retail store, distribution center servicing Maryland stores or Covered Maryland Retail Personnel are not complying with any requirement of the Outdated Product Policies, CVS shall document any violation(s), investigate the violation(s), take whatever steps are necessary to mitigate any harm, provide notice to consumer(s) as required by law, take remedial measures to prevent future violations, and impose appropriate sanctions. CVS shall take additional appropriate action to ensure future compliance at the particular location that shall, at a minimum, consist of conducting additional audits of the non-compliant store. For a period of not less than three (3) years from the conclusion of the

investigation, CVS shall maintain the completed investigative documents and provide them to the Division upon request.

C. SANCTIONS

49) CVS shall institute meaningful sanctions for each distribution center, store, officer, employee and agent servicing Maryland consumers who are found to be non-compliant with the Privacy Policies and Procedures and the Outdated Product Policies.

50) CVS shall not penalize distribution centers, stores, officers, employees or agents for pulling Outdated Products in accordance with the terms of the Outdated Product Policies.

51) CVS shall not penalize cashiers for reduction in numbers of items scanned as a result of compliance with the point-of-sale verification system.

PAYMENT

52) Within forty-five (45) days of the Effective Date of this Assurance, CVS shall pay to the Division the sum of Two Hundred and Fifty Thousand Dollars (\$250,000.00). The money received by the Maryland Attorney General's Office pursuant to this paragraph may be used, in accordance with Maryland law, to reimburse the Maryland Attorney General's Office for costs incurred during the investigation of this matter, for consumer education, and/or for other consumer protection purposes, at the sole discretion of the Attorney General, or for any other public purpose.

53) The payment required under this Assurance shall be made payable to the Attorney General of Maryland and shall be delivered on or before the due date(s) provided herein to the Office of the Maryland Attorney General, Consumer Protection Division, 200 St. Paul Place, 16th Floor, Baltimore, MD 21202, and shall be made in lawful money of the United States in immediately available funds. Payments may be made by wire transfer pursuant to wire instructions to be provided by the Division.

RELEASE

54) By its execution of this Assurance, and effective upon payment by CVS of the amounts due under this Assurance, the Division releases and discharges CVS, and its officers, employees, agents, pharmacists, other workforce members, affiliates, merged or acquired entities, parent or controlling entities, wholly-owned subsidiaries, and all of its past and present subsidiaries, affiliates, and predecessors from all civil administrative claims or other civil causes of action, damages, restitution, costs, attorney fees, fines and civil penalties that the Division could have brought or asserted under the Consumer Protection Act based upon the Covered Conduct that occurred prior to the Effective Date of this Assurance. The Division does not release any claim arising under any statutes, laws or regulations other than the Consumer Protection Act, nor does it release claims under the Consumer Protection Act for conduct other than the Covered Conduct. This Release does not apply to any claims arising from CVS's failure to comply with the terms of this Assurance or to other complaints or matters of compliance which may be pending with the Division and/or other Maryland state units or agencies. Further, nothing contained herein shall release any private cause of action that any Maryland citizen may have against CVS.

ENFORCEMENT

55) This Assurance of Discontinuance is enforceable by the Consumer Protection Division pursuant to the Consumer Protection Act and any violation of this Assurance is a violation of the Consumer Protection Act.

56) Any future material violation of this Assurance may be subject to a penalty of up to \$ 5,000 for each violation in accordance with the enhanced penalty provisions contained in §13-410(b) of the Consumer Protection Act.

57) The provisions of this Assurance and the rights of the parties mentioned herein shall be governed by the laws of the State of Maryland and interpreted and construed in accordance with such laws, except to the extent that federal law may preempt Maryland law.

58) No delay or failure by a party in exercising any right, power or privilege under this Assurance shall affect such right, power or privilege; nor shall any single or partial exercise thereof or any abandonment or discontinuance of steps to enforce such right, power or privilege preclude any further exercise thereof, or any other right, power or privilege.

ADDITIONAL PROVISIONS

59) This Assurance represents the full and complete terms of the settlement entered into by the parties hereto. In any action undertaken by the parties, no prior versions of this Assurance and no prior versions of any of its terms may be introduced for any purpose whatsoever.

60) This Assurance shall not be construed or used as a waiver or limitation of any defense otherwise available to CVS in any action, or of CVS' right to defend itself from, or make any arguments in, any private individual, regulatory, governmental, or class claims or suits relating to the subject matter or terms of this Assurance. This Assurance is made without trial or adjudication of any issue of fact or law or finding of liability of any kind and shall have no preclusive or res judicata effect against CVS in any other proceeding. Notwithstanding the foregoing, the Division may file an action to enforce the terms of this Assurance.

61) No part of this Assurance shall create a private cause of action or confer any right to any third party for violation of any federal or state statute.

62) This Assurance is for conciliation purposes only and does not constitute an admission by any party that the law has been violated.

63) The Division agrees to protect any documents or information it receives from CVS pursuant to CVS's obligations under this Assurance in accordance with the Maryland Public Information Act.

64) Any notices, statements, or other written documents required by this Assurance shall be provided by first class mail to the intended recipient at the address set forth below, unless a different address is specified in writing by the party changing such address:

For the Division:

Office of the Attorney General
Consumer Protection Division
Attn: Philip Ziperman, Deputy Chief and
Kimberly Cammarata, Assistant Attorney General
St. Paul Place, 16th Floor
Baltimore, MD 21202

For CVS:

CVS Pharmacy, Inc.
Attn: Legal Department
One CVS Drive
Woonsocket, RI 02895

- and -

CVS Pharmacy, Inc.
Attn: Chief Compliance Officer
One CVS Drive
Woonsocket, RI 02895

65) The Chief of the Division or his designee shall resolve any disputes that arise concerning this Assurance of Discontinuance and may enter any supplemental orders needed to effectuate its purpose.

66) In the event that technological advances provide a greater opportunity to protect consumers' Personal Identifying Information or provide systems more likely to prevent the offer or sale of Outdated Products than the terms contained in this Assurance, CVS may seek to amend this Assurance by request made to the Division.

67) If any provision of this Assurance is held to be invalid, illegal, unenforceable or in conflict with the law of any jurisdiction, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

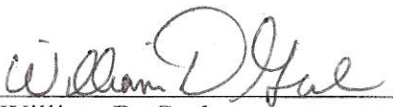
68) This Assurance may be executed in counterparts, and a facsimile or PDF signature shall be deemed to be, and shall have the same force and effect as, an original signature.

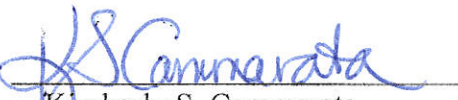
[signatures on next page]

AGREED THIS 27th DAY OF August, 2013.

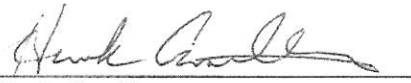
FOR STATE OF MARYLAND, CONSUMER PROTECTION DIVISION:

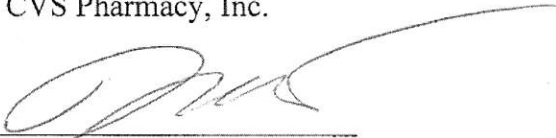
Douglas F. Gansler,
Attorney General of Maryland
200 Saint Paul Place, 16th Floor
Baltimore, MD 21202


By: 
William D. Gruhn
Chief, Consumer Protection Division

By: 
Kimberly S. Cammarata
Assistant Attorney General

FOR CVS PHARMACY, INC., AND MARYLAND CVS PHARMACY, L.L.C.

By: 
Hank Casillas
Vice President, Store Operations
CVS Pharmacy, Inc.


By: 
Thomas S. Moffatt
President
Maryland CVS Pharmacy, L.L.C.

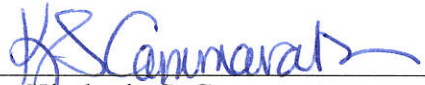
By: 
Thomas M. Gallagher, Esquire
Pepper Hamilton LLP
3000 Two Logan Square
Eighteenth and Arch Streets
Philadelphia, PA 19103

AGREED THIS 27th DAY OF August, 2013.


FOR STATE OF MARYLAND, CONSUMER
PROTECTION DIVISION:

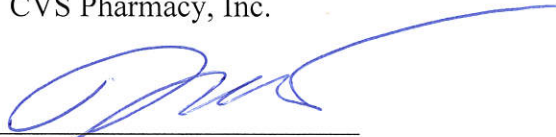
Douglas F. Gansler,
Attorney General of Maryland
200 Saint Paul Place, 16th Floor
Baltimore, MD 21202

By: 
William D. Gruhn
Chief, Consumer Protection Division

By: 
Kimberly S. Cammarata
Assistant Attorney General

FOR CVS PHARMACY, INC., AND
MARYLAND CVS PHARMACY, L.L.C.

By: 
Hank Casillas
Vice President, Store Operations
CVS Pharmacy, Inc.

By: 
Thomas S. Moffatt
President
Maryland CVS Pharmacy, L.L.C.

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