

**Lee County Board Of County Commissioners
Agenda Item Summary**

Blue Sheet No. **2002_0335**

1. REQUESTED MOTION:

ACTION REQUESTED:

Approve payment of \$5099 to the Agency for Health Care Administration (AHCA) for an inactive permit during the period of 2/01 to 12/01, for the storage of medical supplies for treating and euthanizing animals in the custody of Lee County Animal Services.

WHY ACTION IS NECESSARY:

Authorization of Board is required before dispersing payment to AHCA.

WHAT ACTION ACCOMPLISHES:

Resolves Agency for Health Care Administration inactive permit case PH 200200004.

**2. DEPARTMENTAL CATEGORY:
COMMISSION DISTRICT # CW**

C6C

3. MEETING DATE:

04-09-2002

4. AGENDA:

- CONSENT ADMINISTRATIVE
- APPEALS
- PUBLIC WALK ON
- TIME REQUIRED:

**5. REQUIREMENT/PURPOSE:
(Specify)**

- STATUTE
- ORDINANCE
- ADMIN. CODE

- OTHER State Administrative Rules

6. REQUESTOR OF INFORMATION:

- A. COMMISSIONER Countywide
- B. DEPARTMENT County Commissioners
- C. DIVISION Animal Services

BY: Scott Trebatoski, Director

7. BACKGROUND:

Animal Services received notice of an inactive permit from the Agency for Health Care Administration as the result of a routine audit of Animal Services by the Pharmacy Board. The license became inactive on 2/28/01 and was discovered on 12/10/01. No renewal notice was received by Animal Services and regular audits gave staff no indication that the license was due for renewal. Appropriate actions have been taken to provide a system of checks and balances and automated computer notices/reminders in order to assure that no permits or licenses will become inactive in the future - even if a notice of renewal is not received. Renewal was prepared immediately upon notification on the date of the audit, 12/10/01. Licensing process and review have been completed. Payment of the \$5099.00 fine will conclude all matters with the Agency for Health Care Administration and not expose the County to any further liability in this matter. The AHCA was approached requesting consideration of a reduced penalty alternative fine payment method (eg donation to low cost spay neuter program) - all alternatives were rejected by the agency. Funds will be available in account **KL5620200200.503190.**

8. MANAGEMENT RECOMMENDATIONS: Approve payment of \$5099.00 to AHCA.

9. RECOMMENDED APPROVAL:

A Department Director	B Purchasing or Contracts	C Human Resources	D Other	E County Attorney	F Budget Services				G County Manager
<i>Trebatoski</i>	N/A	N/A	N/A	<i>[Signature]</i>	OA N/A <i>3/27/02</i>	OM N/A <i>3/28/02</i>	Risk N/A <i>2/3/02</i>	G N/A <i>3/28</i>	<i>1560 DDS</i>

10. COMMISSION ACTION:

- APPROVED
- DENIED
- DEFERRED
- OTHER

Rec. by CoAtty

Date: *3/27/02*

Time: *2:30pm*

Forwarded To:

3/27/02 3:30 PM

RECEIVED BY

3/27/02

4:15pm

3/28 5:00

PROF. CODE- CITATION NO.

PH 200200004

DATE OF COMPLAINT

January 4, 2002

CASE NUMBER

200200004

**AGENCY FOR HEALTH CARE ADMINISTRATION
BOARD OF PHARMACY**

UNIFORM DISCIPLINARY CITATION

ISSUED TO: Lee County Animal Services
5600 Banner Drive
Ft. Myers, Florida 33912

LICENSE NUMBER : PH 16567

Pursuant to Section 456.077, Florida Statutes, formerly Section 455.617 (1997), the undersigned hereby certifies that she has probable cause to believe that on the 10th day of December, 2001, the licensee whose name appears above did violate the following provisions of law: Section 465.015(1)(a), Florida Statutes; By committing the following act: Operating a pharmacy with an inactive permit.

Pursuant to Rule 64B16-30.003(3)(b) Florida Administrative Code, the Board/Agency has set the following penalty for violation of the aforesaid provision: \$5000.00 plus costs in the amount of \$99.00.

Total amount due = \$5099.00

ISSUED this 26th day of February, 2002. RHONDA M. MEDOWS, MD, FAAFP, SECRETARY

By Sue E. Sharpe ID No. HA 83
Sue E. Sharpe, Investigation Specialist II

IF YOU DO NOT DISPUTE THE CITATION WITHIN THIRTY (30) DAYS OF SERVICE, THE CITATION AUTOMATICALLY BECOMES A FINAL ORDER OF THE BOARD. IN ORDER TO DISPUTE THIS CITATION, YOU MUST DO SO IN WRITING TO THE AGENCY FOR HEALTH CARE ADMINISTRATION, Consumer Services Unit, Post Office Box 14000, Tallahassee, FL 32317-1400, BY CERTIFIED MAIL, ENCLOSING A COPY OF THE CITATION.

NOTICE: YOU MAY ELECT TO HAVE THESE CHARGES PROSECUTED AS A DISCIPLINARY ACTION ACCORDING TO SECTION 456.073, FLORIDA STATUTES, FORMERLY 455.621 (1997) RATHER THAN ACCEPT THIS CITATION.

In the event that you elect to have these charges prosecuted pursuant to s.456.073, Florida Statutes the case will be presented to the appropriate probable cause panel or the agency for review. This will result in a finding of probable cause or no probable cause.

CHECK (1) I CHOOSE TO PAY THE PENALTIES ON THE CITATION.
ONE (2) I CHOOSE NOT TO PAY THE CITATION, AND WISH TO HAVE THIS CASE PROSECUTED UNDER s. 456.073, FLORIDA STATUTES.

Signed : _____ Date _____

PLEASE READ REVERSE SIDE OF THIS FORM

NOTICE

YOU HAVE A TOTAL OF SIXTY (60) DAYS FROM THE DATE THIS CITATION WAS SERVED UPON YOU TO PAY THE FINE AND COSTS SPECIFIED. THIS CITATION AUTOMATICALLY BECOMES A FINAL ORDER OF THE BOARD IF YOU DO NOT DISPUTE THE CITATION WITHIN THIRTY (30) DAYS OF THE DATE THIS CITATION WAS SERVED UPON YOU. AS A FINAL ORDER, THE FINE AND COSTS SHALL BE DUE TO THE BOARD WITHIN THIRTY (30) DAYS OF THE DATE OF THE FINAL ORDER. AFTER THIS CITATION HAS BECOME A FINAL ORDER, FAILURE TO PAY THE FINE AND COSTS SPECIFIED CONSTITUTES A VIOLATION OF A FINAL ORDER OF THE BOARD, AND MAY SUBJECT YOU TO FURTHER DISCIPLINARY ACTION. PAYMENT SHALL BE MADE TO THE Department of Health, HMQAMS/Client Services Unit, P.O. Box 6320, Tallahassee, Florida 32314-6320. **PLEASE ATTACH A COPY OF THIS CITATION WITH YOUR PAYMENT.**

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Citation has been served upon: **Lee County Animal Services**

At: **5600 Banner Drive**
Ft. Myers, Florida 33912

By Personal Service/U.S. Certified Mail, Restricted Delivery; this _____ day of _____, 2001.

Signature

A.H.C.A. REPRESENTATIVE

NOTICE OF APPELLATE RIGHTS

This citation becomes a Final Order of the Board if you have not contested it within thirty (30) days of the date upon which the Citation was served upon you. If this Citation becomes a Final Order of the Board, you have the right to appeal to the District Court of Appeal in your area or to the First District Court of Appeal.

YOU ARE HEREBY NOTIFIED, pursuant to Section 120.59, Florida Statutes, and 120.68, Florida Statutes, that you may appeal the Final Order by filing one copy of a Notice of Appeal with the Clerk of the Department of Health, Division HQA, Central Records Unit, 4042 Bald Cypress Way, Bin #00, Tallahassee, FL 32399-3250, and by filing one copy of the Notice of Appeal and the filing fee (\$ 250.00, pursuant to Sec. 35.22(3), Florida Statutes) with the District Court of Appeal within thirty (30) days of the effective date of the Final Order.



JEB BUSH, GOVERNOR

RHONDA M. MEDOWS, MD, FAAFP, SECRETARY
Reply To: Consumer Services Unit
P.O. Box 14000 Tallahassee, FL 32317-4000
Telephone # (850) 414-1976

February 27, 2002

CONFIDENTIAL TO:

Lee County Animal Services
5600 Banner Dr
Ft Myers, FL 33912

Complaint # 200200004

Dear Sir/Madam:

Pursuant to section 456.073(1), Florida Statutes, formerly 455.621(1) (1997) the Agency for Health Care Administration on behalf of the Department of Health is required to conduct investigations concerning legally sufficient complaints received alleging violations of the Pharmacy Practice Act. Section 456.073(1), Florida Statutes further states that when an investigation of any person is undertaken, the department shall promptly furnish to the person or his/her attorney a copy of the complaint or document which resulted in the initiation of the investigation.

Attached for your review is the complaint or document received by the Agency. At this time, we are concerned with operating a pharmacy with an inactive permit. If these allegations are indeed true, it would appear that they may constitute a violation of section 456.015(1)(a), Florida Statutes and F.A.C. 64B16-30.003(3)(b).

Pursuant to section 456.077, Florida Statutes, formerly 455.617 (1997) the Department of Health is authorized to issue a citation for violations of the Florida Statutes and Florida Administrative Code when the violation poses no substantial threat to the public health, safety and welfare. The Department is entitled to recover the costs of investigation in addition to any penalty that has been established by board rule.

Please be advised that the Agency is issuing you a Citation based on the allegations previously noted and as set forth on the enclosed Uniform Disciplinary Citation.

If you dispute the allegations(s) outlined above, you may elect to have this complaint prosecuted as a disciplinary action according to the provisions of section 456.073, Florida Statutes. In the event that you elect to dispute the Citation, this case will be investigated and presented to the probable cause panel of the appropriate board for review of possible disciplinary action. Their review will result in a finding of probable cause or no probable cause. To dispute this Citation, you must do so in writing **to the address above, by certified mail, within thirty (30) days of your receipt of the Citation**, enclosing a copy of the Citation.

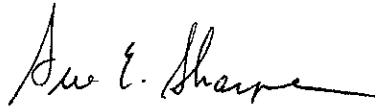


February 27, 2002

If you do not dispute the allegations(s) within thirty (30) days from the date you received this Citation, the Citation automatically becomes a final order of the board and public record. You have sixty (60) days from the date you received this Citation to pay the fine and costs specified on the Citation. If you do not elect to dispute this Citation in writing, your failure to pay the fine constitutes a violation of a final order of the board and may subject you to further disciplinary action. Please attach a copy of the Citation with your payment.

If you have any questions concerning this Citation or the Citation process, please contact us.

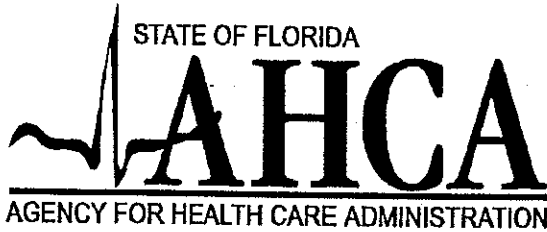
Sincerely,



Sue E Sharpe
Investigation Specialist II

/ecc
Enclosure

Return Receipt # 70010360000378248223



JEB BUSH, GOVERNOR

RHONDA M. MEDOWS, MD, FAAFP, SECRETARY

UNIFORM COMPLAINT FORM

CONFIDENTIAL

Complaint No: 200200004 Please use this number in all correspondence or contact with the Agency concerning this matter.

RESPONDENT INFORMATION

Name: Lee County Animal Services License No: 16567 Profession: 2205
Address: 5600 Banner Drive
City: Ft Myers State: Fl Zip: 33912
Home Phone: ()
Business Phone: ()

SOURCE INFORMATION

Name: Ahca/ft Myers Isu
Address:
City: State: FL Zip:
Home Phone: ()
Business Phone: ()
ATNI:

COMPLAINT INFORMATION

Date rec: 01/04/2002 Source Code: 30 Form Code: 1
Resp. Party: HA83 Status Code: 10 Patient Name:
Priority: 3 Classification Code: Incident Date: 02/28/2001
Allegation Code(s): 2, , , ,

Summary of Allegations: Violation of F.S. 465.023(1)(c) by violation of F.S. 465.015(1)(a)

Routine field inspection on 12/10/01 of the subject Animal Control Shelter found they were practicing with a delinquent license. The license became delinquent on 2/28/01.



Ann E. Harper 1/4/02

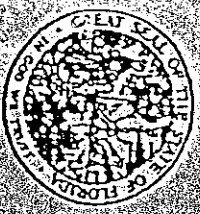
iHEADER PRAES Production (MQ-P) 01/02/02
jsmith 09:12:15
i*****
Øtnrbal12/2.16 MAINTAIN ANY LICENSE DATA 2205/PHARM-PHØ
ØFile: 7084
Ø Pharmacy
ØLic: 16567 DELINQUENT
ØName: LEE COUNTY ANIMAL SERVICES (DBA:0 Old:0)
ØAddr: 5600 BANNER DRIVE State: FL
Ø City: FT MYERS Zip: 33912
Ø County: LEE
ØCertificate No: 1009 First License: 04/29/1999
Ø " Date: 10/20/2000 In Rank Since: 04/29/1999
ØLast Renewal: License Method: APPL
ØCurrent Expiry: 02/28/2001 Renewal Notice: 11/28/2000
Ø In Directory? Include
ØStatus Date: 03/28/2001 Fee Exempt? Y
ØNote:
Ø
Ø
ØAction: Query Transfer A-Address B-Basic_Data C-PSD D-Contact_Hst ...
Ø Go to view only options
i*****

iHEADER PRAES Production (MQ-P) 01/02/02
jsmith 09:12:15

@tnrball2/2.16 MAINTAIN ANY LICENSE DATA 2205/PHARM-PH@
@File: 7084
@ Pharmacy @
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@ Zip: 33912 @
@City: FT MYERS County: LEE @
@
@Certificate No: 1009 First License: 04/29/1999 @

@LICENSE ALERTS @
@ Item 1 of 1 @
@ Description Date User Id Note @
@ Animal Control Shelter 04/29/99 CONV @
@
@ #####No More Items##### @
@Action: Notes Modifiers Exit @
@ View alert notes @

1 Sess-1 167.78.1.20 1 22/9



200200004
NW83

AGENCY FOR HEALTH CARE ADMINISTRATION
DIVISION OF MEDICAL QUALITY ASSURANCE
CONSUMER SERVICES UNIT
1940 NORTH MONROE STREET - TALLAHASSEE, FLORIDA 32399-0782

UNIFORM COMPLAINT FORM

Please return to: Agency for Health Care Administration
HQA Consumer Services Unit
P.O. Box 14000
Tallahassee, FL 32308

<i>Type or Print</i>	<i>Contact (other than yourself)</i>
Your Name: <u>AHCA IS</u>	Name: _____
Address: <u>FT. MYERS</u>	Address: _____
(ZIP) _____	(ZIP) _____
Telephone: <u>941-338-2621</u> ()	Telephone: _____
<small>Business</small> <small>Residence</small>	
Your Occupation: _____	

RECEIVED
CONSUMER SERVICES UNIT
02 JAN -2 AM 7:54

SUBJECT OF COMPLAINT/REPORT

Name: LEE COUNTY ANIMAL SERVICES
Person and/or Company

Address: 5600 BANNER DR Telephone: (B) 941-432-2083

City: FT. MYERS State: FL

Zip: 33912 License # (if known): PH 16567

Have you contacted subject concerning complaint? Yes No Date: _____

Private Attorney (if applicable) _____

<small>Name</small>	<small>Address</small>	<small>Telephone</small>
_____	_____	_____

Because of the Statute of Limitations, please do not delay in consulting with an attorney or initiating any actions to preserve your civil remedies in this matter. *The Agency cannot be your legal representative. Matters which involve monetary recovery or questions of restitution for damages are civil in nature and should be addressed to the court with appropriate jurisdiction.*

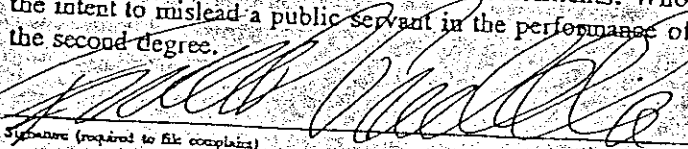
Witnesses (Please give full name and address) _____

Note: A copy of this form will be sent to the SUBJECT of your complaint/report pursuant to 455.225(1) Florida Statutes.

Please give full details of your complaint/report. Include facts, details, dates. Please attach copies of bills, documents, records, correspondence, and contracts.

ROUTINE INSPECTION AT PH 16567 ON 12-10-01
FOUND IT TO BE OPERATING WITH AN
EXPIRED PH LICENSE

Florida Statutes 837.06, False Official Statements: Whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his official duty shall be guilty of a misdemeanor of the second degree.



Signature (required to file complaint)

12-27-01
Date



STATE OF FLORIDA
 AGENCY FOR HEALTH CARE ADMINISTRATION
 INVESTIGATIVE SERVICES
 2727 Mahan Drive • Tallahassee, FL 32308



Exp H

File# _____ Insp # _____ Next Insp # _____

INVESTIGATIVE SERVICES INSPECTION FORM
ANIMAL CONTROL SHELTER

INSPECTION AUTHORITY – CHAPTER 465.017, CHAPTER 893.09 AND CHAPTER 456, FLORIDA STATUTES

ROUTINE CHANGE LOC NEW DOB CHANGE OWNER

www.fdhc.state.fl.us

NAME OF ANIMAL SHELTER LEE COUNTY ANIMAL SVCS		PERMIT NUMBER PH 16567	DATE OF INSPECTION 12-10-01
DOING BUSINESS AS SHANE		DEA NUMBER DL 0493596	ON-SITE MANAGER OF SHELTER TONI AVERSA
STREET ADDRESS 5600 SANDER CR		TELEPHONE # 904 432 2083	
CITY FT. MYERS	COUNTY LEE	STATE/ZIP 33912	

SHELTER HOURS OF OPERATION							
	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
Open	8						
Close	5					X	X

		SATISFACTORY	YES	NO
1	Current Modified Class II Institutional Pharmacy permit {F.S.465.019(2) (c)}			X
2	Board of Pharmacy Office notified of on-site manager change within 10 days. {64B16-29.002(6)}		/	
3	Current DEA registration for II N and III N Controlled Substances. {21 CFR1301.21}		/	
4	Controlled sub. Inventory taken on biennial and available for inspection {F.S. 893.07 (1)(a)}		/	
5	Controlled substance records readily retrievable. {F.S.893.07}		/	
6	DEA 222 order forms properly completed. {F.S.893.07}		/	
7	Purchase records for sodium pentobarbital and sodium pentobarbital with lidocaine maintained on premises and separate from administrative records. {64B16-29.004}		/	
8	Storage of sodium pentobarbital and sodium pentobarbital with lidocaine and DEA 222's located within a locked room. {64B16-29.005}		/	
9	Sodium pentobarbital and sodium pentobarbital with lidocaine only being used for euthanizing animals. {64B16-29.003}		/	
10	Sodium pentobarbital and sodium pentobarbital with lidocaine are the only medical drugs on the premises. {64B16-29.003}		/	
11	Controlled substance records maintained for 2 years. {21 CFR 1304.04 & 1306.22(b)(3) & F.S. 893.07(4)(b)}		/	
12	Shelter administration records show the date of use, identification of the animal, amount of the drug used and the signature of person administering the drug. {64B16-29.004}		/	
13	Administration and purchase records of the shelter reviewed and signed by on site manger at least monthly. {64B16-29.004}		/	

64B16-29.002 General Requirements

- The applicant shall apply to the Department of Health for a Modified Class II Institutional Pharmacy Permit.
- The applicant shall apply to the Drug Enforcement Administration, Department of Justice, by the appropriate DEA form for Registration as a practitioner, to be designated as "Animal Shelter" on the DEA form.
- The applicant shall be certified by the Board of Pharmacy to the department as having met the requirements of this rule prior to issuance of a permit. The certification process shall require inspection of the facility by authorized person.
- The consultant pharmacist requirements of Section 465.019(5), F.S. are waived as being inapplicable to this special restricted permit.
- Authorized employees of the department shall inspect animal shelters not less than twice per year to determine compliance with this rule.
- Each animal control shelter permittee shall designate an on-site manager of the shelter. The on-site manager and permittee shall notify the department within ten (10) days-of any change in the on-site manager of the shelter.

64 B16-29.003 Drug Requirement

Animal control shelter permittees are restricted by law to purchase sodium pentobarbital and sodium pentobarbital with lidocaine only for the purpose of euthanizing animals. Federal Schedule II order forms (DEA 222) are required for the purchase of sodium pentobarbital.

64B16-29.004 Records

Animal control shelter permittees shall maintain records of purchases and administration of sodium pentobarbital and sodium pentobarbital with lidocaine for a period of no less than two (2) years. Records of administration shall contain:

- the date of use;
- identification of the animal;
- the amount of drug used;
- the signature of the person administering the drug;
- the signature of the on-site manager certifying the accuracy of the records.

These records are subject to audit by DEA or authorized department employees to determine adequacy accuracy, and validity of the record keeping.

- The signature of the on-site manager certifying the accuracy of the records. These records are subject to audit by the Drug Enforcement Administration or authorized employees of the department to determine adequacy, accuracy and validity of the record keeping.

64B16-29.005 Storage

Sodium pentobarbital and sodium pentobarbital with lidocaine shall be stored in a safe place. At a minimum, this shall require that the drugs be kept in a securely locked cabinet within a locked storage room. Schedule II order forms are to be stored under the same conditions. Records of purchase of sodium pentobarbital and sodium pentobarbital with lidocaine shall be maintained in a separate file from the records of administration. The records of purchase and administration shall be maintained at the location.

Remarks: _____

I have read and have had this inspection report and the laws and regulations concerned herein explained, and do affirm that the information given herein is true and correct to the best of my knowledge.

On-site Manager: [Signature] Date: _____

Investigator/Sr. Pharmacist Signature/ID Number: [Signature] #31

WV 363 Revised 8/00 White Copy: Field Yellow Copy: Headquarters Gold Copy: Board Office Pink Copy: Licensee



View Statutes

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The 2001 Florida Statutes

Title XXXII

Regulation Of Professions And Occupations

Chapter 465

Pharmacy

[View Entire Chapter](#)

465.023 Pharmacy permittee; disciplinary action.--

(1) The department or the board may revoke or suspend the permit of any pharmacy permittee, and may fine, place on probation, or otherwise discipline any pharmacy permittee who has:

(a) Obtained a permit by misrepresentation or fraud or through an error of the department or the board;

(b) Attempted to procure, or has procured, a permit for any other person by making, or causing to be made, any false representation;

(c) Violated any of the requirements of this chapter or any of the rules of the Board of Pharmacy; of chapter 499, known as the "Florida Drug and Cosmetic Act"; of 21 U.S.C. ss. 301-392, known as the "Federal Food, Drug, and Cosmetic Act"; of 21 U.S.C. ss. 821 et seq., known as the Comprehensive Drug Abuse Prevention and Control Act; or of chapter 893; or

(d) Been convicted or found guilty, regardless of adjudication, of a felony or any other crime involving moral turpitude in any of the courts of this state, of any other state, or of the United States.

(2) If a pharmacy permit is revoked or suspended, the owner, manager, or proprietor shall cease to operate the establishment as a pharmacy as of the effective date of such suspension or revocation. In the event of such revocation or suspension, the owner, manager, or proprietor shall remove from the premises all signs and symbols identifying the premises as a pharmacy. The period of such suspension shall be prescribed by the Board of Pharmacy, but in no case shall it exceed 1 year. In the event that the permit is revoked, the person owning or operating the establishment shall not be entitled to make application for a permit to operate a pharmacy for a period of 1 year from the date of such revocation. Upon the effective date of such revocation, the permittee shall advise the Board of Pharmacy of the disposition of the medicinal drugs located on the premises. Such disposition shall be subject to continuing supervision and approval by the Board of Pharmacy.

History.--ss. 1, 7, ch. 79-226; ss. 2, 3, ch. 81-318; s. 38, ch. 83-216; ss. 35, 119, ch. 83-329; ss. 26, 27, ch. 86-256; s. 59, ch. 91-137; s. 6, ch. 91-156; s. 4, ch. 91-429; s. 33, ch. 95-144.

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The 2001 Florida Statutes

Title XXXII

Regulation Of Professions And Occupations

Chapter 465

Pharmacy

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465.015 Violations and penalties.--

(1) It is unlawful for any person to own, operate, maintain, open, establish, conduct, or have charge of, either alone or with another person or persons, a pharmacy:

(a) Which is not registered under the provisions of this chapter.

(b) In which a person not licensed as a pharmacist in this state or not registered as an intern in this state or in which an intern who is not acting under the direct and immediate personal supervision of a licensed pharmacist fills, compounds, or dispenses any prescription or dispenses medicinal drugs.

(2) It is unlawful for any person:

(a) To make a false or fraudulent statement, either for herself or himself or for another person, in any application, affidavit, or statement presented to the board or in any proceeding before the board.

(b) To fill, compound, or dispense prescriptions or to dispense medicinal drugs if such person does not hold an active license as a pharmacist in this state, is not registered as an intern in this state, or is an intern not acting under the direct and immediate personal supervision of a licensed pharmacist.

(c) To sell or dispense drugs as defined in s. [465.003\(8\)](#) without first being furnished with a prescription.

(d) To sell samples or complimentary packages of drug products.

(3)(a) It is unlawful for any person other than a pharmacist licensed under this chapter to use the title "pharmacist" or "druggist" or otherwise lead the public to believe that she or he is engaged in the practice of pharmacy.

(b) It is unlawful for any person other than an owner of a pharmacy registered under this chapter to display any sign or to take any other action that would lead the public to believe that such person is engaged in the business of compounding, dispensing, or retailing any medicinal drugs. This paragraph shall not preclude a person not licensed as a pharmacist from owning a pharmacy.

(4) Any person who violates any provision of subsection (1) or subsection (3) is guilty of a misdemeanor of the first degree, punishable as provided in s. [775.082](#) or s. [775.083](#). Any person who violates any provision of subsection (2) is guilty of a felony of the third degree, punishable as provided in s. [775.082](#), s. [775.083](#), or s. [775.084](#). In any warrant, information, or indictment, it shall not be necessary to negative any exceptions, and the burden of any exception shall be upon

4. The licensee's professional standing among his peers.
 5. Steps taken by the licensee to insure the non-occurrence of similar violations in the future including continuing education.
 6. The degree of financial hardship incurred by a licensee as a result of the imposition of fines or the suspension of his practice.
- (4) All fines imposed by the Board shall be paid within a period of thirty (30) days from the date of the final ordered entered by the Board. This time limitation may be modified by the Board for good cause shown in order to prevent undue hardship.

Specific Authority 456.072, 456.079, 465.005 F.S. Law Implemented 456.072, 456.079 F.S. History--New 3-1-87, Amended 5-11-88, Formerly 21S-17.001, 21S-30.001, 61F10-30.001, Amended 6-26-95, 1-30-96, Formerly 59X-30.001, Amended 12-3-97, 11-15-98, 5-3-00, 1-2-02.

64B16-30.002 Minor Violations.

(1) The Board sets forth the following guidelines for use by Department investigators when a licensee is in noncompliance of an initial offense of a minor violation. The Board deems the following violations, depending upon severity, to be consistent with 456.073(3), Florida Statutes.

- (a) Outdated pharmaceuticals – Rule 64B16-28.110, F.A.C.
- (b) Misbranded or adulterated products held for sale – Section 499.005, F.S.
- (c) Failure to meet regulation of daily operating hours – Rule 64B16-28.404, F.A.C.
- (d) DEA biennial inventory not current or available – Section 893.07, F.S.
- (e) Generic substitution sign not displayed – Section 465.025(7), F.S.
- (f) Information required on controlled substance prescriptions: practitioner's address, practitioner's DEA registration number, patient's address – Section 893.04, F.S.
- (g) Closed sign missing, prescription department not padlocked – Rule 64B16-28.109, F.A.C.
- (h) Daily hours not posted – Rule 64B16-28.404, F.A.C.
- (i) Failure to notify the Board of a change in prescription department manager – Section 465.018, F.S.
- (j) Failure to have certified by dispensing pharmacists the daily hard-copy printout or daily log – paragraph 64B16-28.140(3)(c) or (e), F.A.C.
- (k) Failure to have pharmacy minimally equipped i.e. references, compounding equipment, and a current copy of the laws and rules governing the practice of pharmacy in the State of Florida – Rule 64B16-28.107, F.A.C.
- (l) Failure to notify Board of change in Consultant Pharmacist – Rule 64B16-28.501, F.A.C.
- (m) Failure to properly identify pharmacy technicians – Rule 64B16-27.410, F.A.C.
- (n) Results of P&E quality assurance program not documented or available for inspection – paragraph 64B16-28.820(3)(d), F.A.C.
- (o) Policy and procedure manual not current or available for inspection – subsections 64B16-28.602(1), 64B16-28.702(5), 64B16-28.800(3), F.A.C.
- (p) Improper storage of legend drugs – Rule 64B16-28.120, F.A.C.
- (q) Improper documentation of destruction of controlled substances – Rules 64B16-28.301, 64B16-28.303, F.A.C.
- (r) Consultant pharmacist's monthly reports not current or available for inspection – Rule 64B16-28.501, subsection 64B16-28.702(2), F.A.C.
- (s) Controlled substance prescription labels lack transfer crime warning labeling – paragraph 64B16-28.502(2)(c), F.A.C.

(2) The Department's investigator may issue a Notice of Deficiencies when the above conditions occur and the requirements of Section 456.073(3), F.S. are met. In such cases licensees shall correct the violation and respond to the investigator on forms provided by the Department and with other evidence of compliance as may be necessary, within 30 days, to certify current compliance. Failure to do so shall subject the licensee to further proceedings.

Specific Authority 456.073(3), 465.005 F.S. Law Implemented 456.073(3) F.S. History--New 11-12-90, Formerly 21S-17.002, 21S-30.002, 61F10-30.002, 59X-30.002, Amended 12-9-98.

64B16-30.003 Citations.

(1) Pursuant to Section 456.077, F.S., the Board sets forth in (3) of this rule those violations for which there is no substantial threat to the public health, safety and welfare; or, if there is a substantial threat to the public health, safety and welfare, such potential for harm has been removed prior to the issuance of the citation. Next to each violation is the fine to be imposed.

(2) Prior to issuance of the citation, the Department must confirm that the violation has been corrected or is in the process of being corrected. If the violation is a substantial threat to the public health, safety and welfare, such potential for harm must be removed prior to issuance of the citation.

(3) The following violations with accompanying fines may be disposed of by citation:

- | | |
|------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------|
| (a) Practicing pharmacy as an inactive licensee (465.015(2)(b), F.S.) | Fine based on length of time in practice while inactive; \$200/month or \$5,000 maximum (penalty will require licensee to renew license or cease practice). |
| (b) Operating a pharmacy with an inactive permit (465.015(1)(a), F.S.) | \$500 per month to a maximum of \$5000 (penalty will require permittee to renew |

permit or cease practice).

(c) First time failure to complete the required continuing education during the biennial licensure period.
(456.072(3), F.S.)

Failure to complete less than 10 hours	\$500
Failure to complete 10 or more hours	\$1000

In addition, licensees shall take two additional hours of continuing education for each of the continuing education deficiencies. Said hours shall not count for continuing education renewal requirements for the next biennium.

(d) Failure to timely pay a fine or costs imposed by a final order. \$500 per month late to a maximum of \$5,000 (penalty will require permittee or licensee to also pay the original fine and/or costs).

(e) Failure to display any sign, license or permit required by statute or rule. \$500

(f) Failure to have any reference material required by statute or rule available. \$500

(g) Failure to notify the board of a change in a prescription department manager or consultant pharmacist. Fine based on the length of time prior to notifying board. \$200 a month to \$5,000 maximum.

(4) Once the citation becomes a final order, the citation and complaint become a public record pursuant to Chapter 119, F.S., unless otherwise exempt from the provisions thereof. The citation and complaint may be considered as aggravating circumstances in future disciplinary actions pursuant to paragraph 64B16-30.001(3)(a), F.A.C.

(5) The procedures described herein apply only for an initial offense of the alleged violation. Subsequent violation(s) of the same rule or statute shall require the procedures of Section 456.073, F.S., to be applied. In addition, should an initial offense for which a citation could be issued occur in conjunction with violations not described herein, then the procedures of Section 455.225, F.S., shall apply.

Specific Authority 456.073, 456.077, 465.005 FS. Law Implemented 456.077 FS. History—New 12-22-91, Formerly 21S-30.003, 61F10-30.003, 59X-30.003, Amended 4-3-00, 1-2-02.

64B16-30.0035 Mediation.

(1) "Mediation" means a process whereby a mediator appointed by the Department acts to encourage and facilitate resolution of a legally sufficient complaint. It is an informal and nonadversarial process with the objective of assisting the parties to reach a mutually acceptable agreement.

(2) The Board finds that mediation is an acceptable method of dispute resolution for the following violation as it is economic in nature or can be remedied by the licensee: failure of the licensee to timely pay any assessed administrative fines or costs.

(3) A "mediator" means a person who is certified in mediation by the Florida Bar, the Florida Supreme Court, or the Division of Administrative Hearings.

Specific Authority 456.078 FS. Law Implemented 456.078 FS. History—New 11-21-94, Formerly 59X-30.0035.

Money Order

388926660

534646 (100/pkg)

Pay To The Order Of Dollars	Date
Florida Board of Pharmacy	1-21-02

*****50AND 00/100



Sender
Lee County Animal Services
Address
5600 Banner Drive Fm 32912
For
Application for Animal Control Pharmacy Permitt

Terms: Purchaser/Sender agrees to enter the name of a payee and sign the instrument immediately upon purchase. Failure to do so will result in the purchaser/sender bearing the risk of any loss or theft of the instrument.

NOT NEGOTIABLE

CUSTOMER COPY

FLORIDA BOARD OF PHARMACY
P. O. BOX 6330
TALLAHASSEE, FL 32314-6330
(850) 245-4292 - Ext:3601

APPLICATION FOR ANIMAL CONTROL PHARMACY PERMIT

TYPE OF APPLICATION

New Establishment \$50.00
Change of Ownership \$50.00
Change of Location \$50.00

X - Old # PH-0016567 (not renewed in time)

PHARMACY PERMIT NUMBER _____ PHONE NUMBER 941-432-2090 x221
(Area Code) (Phone Number)

NAME OF ESTABLISHMENT Lee County Animal Services

DOING BUSINESS AS _____

ADDRESS 5600 Banner Drive
Fort Myers FL USA 33912
(city/state) (county) (zip)

CURRENT DEA REGISTRATION NUMBER ML0493596

TYPE OF OWNERSHIP: PLEASE CHECK ONE

INDIVIDUAL () CORPORATION () PARTNERSHIP () GOVERNMENT (X)

OWNERS/OFFICER: LIST NAMES, ADDRESSES AND PHONE NUMBERS
Scott Trebatoski Animal Services Director
Loretta Weigand Chief Animal Control Officer
Pamela Berens Animal Services - Office Manager
Toni Aversa Kennel Supervisor

Toni Aversa 12-10-01
SIGNATURE OF PERSON RESPONSIBLE FOR DRUG SECURITY AND RECORD KEEPING. DATE OF APPLICATION

NOTICE TO PERSON RESPONSIBLE FOR RECORD KEEPING AND SECURITY OF DRUGS: THE BOARD OF PHARMACY AMENDS THE PERMIT EACH TIME THERE IS A CHANGE IN THE PERSON RESPONSIBLE FOR RECORD KEEPING ACTIVITIES. PLEASE NOTIFY THE BOARD OFFICE IN WRITING WHENEVER THERE IS SUCH A CHANGE.