

1 I hereby acknowledge that I am the authorized representative of registrant. On behalf of
2 the registrant, I further certify that I have read and understand the Notice and this Consent Order
3 and on behalf of the registrant I agree to the Board entering the Consent Order.

4
5 _____ Date 12/13/12
6 Authorized Representative
7 NEW ENGLAND COMPOUNDING
8 PHARMACY, INC. dba New England
9 Compounding Center
10 Registrant (Registration No. 00RP-0002151)

11 IT IS SO ORDERED.

12 BOARD OF PHARMACY FOR THE STATE OF OREGON

13 _____ Date 12/13/12
14 Gary Miner, R.Ph.,
15 Compliance Director

BEFORE THE BOARD OF PHARMACY
OF THE STATE OF OREGON

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In the Matter of the) Case No. 2011-0588
Drug Outlet Registration of)
NEW ENGLAND COMPOUNDING) NOTICE OF PROPOSED
PHARMACY INC dba:) DISCIPLINARY ACTION;
NEW ENGLAND COMPOUNDING CENTER) ANSWER REQUIRED
Registrant)

Under the authority granted pursuant to ORS 689.135, 689.145, 689.335, 689.405 and 689.445, the Oregon Board of Pharmacy proposes to take disciplinary action against your Certificate of Registration No. RP-0002151 because New England Compounding Center violated the Oregon Pharmacy Act and the Board of Pharmacy rules as set forth below:

On or about 2009 until 2012, your employees at New England Compounding Center in Framingham, Massachusetts, created inaccurate records and directed others to create inaccurate records. Registrant sent non-patient specific prescription medication into Oregon, then created a pharmacy prescription record for patients who had already received medication via information provided by the pharmacy or office where medication was delivered. Registrant provided a prescription form for purchasers to enter the name of a patient after that patient had been administered medication and provided patient specific medication to be used on a patient other than the patient on the label.

Registrant did not cooperate fully and truthfully to inquiries, nor comply with requests from the Board.

On October 3, 2012 Registrant was issued order to summarily suspend permit by North Carolina Board of Pharmacy.

The above conduct is unprofessional conduct as defined by OAR 855-006-0005(28)(a)(B), (a)(G), (e), (j), and (k) and in violation and grounds for discipline pursuant to OAR 855-001-0035, OAR 855-041-0020(2), and ORS 689.405(1)(a)(j) and (e)(B).

Based on these alleged violations, the Board proposes to revoke your registration and impose a \$10,000 civil penalty per violation.

HEARING RIGHTS

The corporation is entitled to a hearing as provided by the Administrative Procedures Act (ORS chapter 183). An attorney must represent the corporation. If the corporation wishes to have a hearing, the corporation's attorney must file a written request for hearing with the Board

47 within 21 days from the date this notice was mailed. The corporation's attorney may send or
48 deliver a request for hearing to:

49
50 Oregon Board of Pharmacy
51 800 NE Oregon Street, Suite 150
52 Portland, OR 97232
53 Fax: (971) 673-0002
54

55 If a request for hearing is not received within this 21-day period, the corporation's right
56 to a hearing shall be considered waived.
57

58 If the corporation requests a hearing, the corporation's attorney will be notified of the
59 time and place of the hearing. Before the commencement of the hearing, the corporation will be
60 given information on the procedures, right of representation and other rights of parties relating to
61 the conduct of the hearing.
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63 If the corporation does not request a hearing within 21 days, or if it withdraws a
64 hearing request, notifies the Board or Administrative Law Judge that it will not appear, or fails to
65 appear at a scheduled hearing, the Board may issue a final order by default imposing discipline.
66 If the Board issues a final order by default, it designates its file on this matter as the record.
67

68 ANSWER REQUIRED

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70 Pursuant to OAR 855-001-0010 and OAR 855-001-0015, if you request a hearing you
71 must also provide, within 21 days from the date this contested case notice was served, a written
72 answer to the allegations set forth in this contested case notice. Your written answer must
73 include an admission or denial of each factual matter alleged in the notice and a short and plain
74 statement of each relevant affirmative defense you may have. Except for good cause, factual
75 matters alleged in the notice and not denied in the answer shall be presumed admitted; failure to
76 raise a particular defense in the answer will be considered a waiver of such defense; new matters
77 alleged in the answer (affirmative defenses) shall be presumed to be denied by the agency; and
78 evidence shall not be taken on any issue not raised in the notice and the answer.
79

80 **Hearing Request and Answers:** 81 **Consequences of Failure to Answer** 82 **855-001-0015**

- 83
84 (1) A hearing request, and answer when required, shall be made in writing to the
85 Board by the party or his attorney and an answer shall include the following:
86 (a) An admission or denial of each factual matter alleged in the notice;
87 (b) A short and plain statement of each relevant affirmative defense the party
88 may have.
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90 (2) Except for good cause;
91 (a) Factual matters alleged in the notice and not denied in the answer shall be
92 presumed admitted;

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- (b) Failure to raise a particular defense in the answer will be considered a waiver of such defense;
- (c) New matters alleged in the answer (affirmative defenses) shall be presumed to be denied by the agency; and
- (d) Evidence shall not be taken on any issue not raised in the notice and the answer.

BOARD OF PHARMACY
FOR THE STATE OF OREGON

Gary Miner, R.Ph.,
Compliance Director

10/12/12
Date

DATE OF MAILING 10/15/2012