I do hereby certify the foregoing to be a true and certified copy of the document on file with the Massachusetts Board of Registration in Nursing.

Authorized Signature 2/23/15 Date

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

BOARD OF REGISTRATION IN NURSING

In the Matter of
Michael L. DeMello
License No. RN251080
Expire 05/19/14

Docket No. NUR- 2014-0178

CONSENT AGREEMENT FOR VOLUNTARY SURRENDER

The Massachusetts Board of Registration in Nursing (Board) and Michael L. DeMello (Licensee), a Registered Nurse (RN) licensed by the Board, License No. RN251080 do hereby stipulate and agree that the following information shall be entered into and become a permanent part of the Licensee's record maintained by the Board:

1. The Licensee acknowledges that a complaint has been filed with the Board against his Massachusetts Registered Nurse license (license[1]) related to the conduct set forth in paragraph 2, identified as Docket No. NUR-2014-0178 (Complaint).

2. The Licensee admits that while employed as a Registered Nurse at Kindred Nursing and Rehabilitation Center at Country Gardens in Swansea, MA on or about January to April 2014, he enaged in a pattern of unreliable and unsafe handling and documentation of Oxycodone. Specifically, he removed Oxycodone for patients without documenting administering or wasting the drug. He removed Oxycodone for pateints without substantiating a need for pain medication. On or about December 2010, whiled employed at Saint Anne's Hospital in Fall River, Licensee diverted hydromorphone and morphine. On September 23, 2014, Licensee surrendered his New Hampshire nursing license. He was disciplined by the New Hampshire Nursing Board for a positive drug test while on duty.

   Licensee acknowledges that his conduct constitutes failure to comply with the Board's Standards of Conduct at 244 Code of Massachusetts Regulations (CMR) 9.03(5), (35), (36) and (47) and warrants disciplinary action by the Board under Massachusetts General Laws (G.L.) Chapter 112, section 61 and Board regulations at 244 CMR 7.04, Disciplinary Actions.

[1] The term "license" applies to both a current license and the right to renew an expired license.

3. The Licensee agrees to SURRENDER his nursing license for no less than three (3) years commencing with the date on which the Board signs this Agreement (Effective Date).

4. After the Surrender Period when the Licensee can complete to the satisfaction of the Board all of the requirements set forth in this Paragraph the Licensee may petition the Board for reinstatement of his license. The petition must be in writing and must include the following documentation of the Licensee's ability to practice nursing in a safe and competent manner, all to the Board's satisfaction:

   a. Evidence of completion of all continuing education required by Board regulations for the two (2) renewal cycles immediately preceding the date on which the Licensee submits his petition ("petition date");

   b. A performance evaluation sent directly to the Board from each of the Licensee's employers, prepared on official letterhead that reviews the Licensee's attendance, general reliability, and specific job performance during the year immediately prior to the petition date[2].

   c. Written verification sent directly to the Board from each of the Licensee's medical care providers, which meets the requirements set forth in Attachment **B1**;

   d. A report of a mental health evaluation, prepared within thirty (30) days of the petition date and sent directly to the Board, which meets the requirements set forth in Attachment **B 2**[3].

   e. Authorization for the Board to obtain a Criminal Offender Record Information (CORI) report of the Licensee conducted by the Massachusetts Department of Criminal Justice Information Services.

   f. Documentation that the Licensee has completed, at least one (1) year prior to the petition date, all requirements imposed upon him in connection with all criminal and/or administrative matter(s) arising from, or related to, the conduct identified in Paragraph 2[4]. Such documentation shall be certified and sent directly to the Board by the appropriate court or administrative body and shall include a description of the requirements and the disposition of each matter.

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[2] If the Licensee has not been employed during the year immediately prior to the petition date, licensee shall submit an affidavit to the Board so attesting.

[3] May be incorporated into the addictionologist evaluation

[4] If there have been no criminal or administrative matters against the Licensee arising from or in any way related to the conduct identified in Paragraph 2, the Licensee shall submit an affidavit so attesting.

g. Certified documentation from the New Hampshire Board of Registration in Nursing verifying that the Licensee successfully met all requirements imposed by the Board in connection with their discipline of his nursing license and that his New Hampshire license is, or is eligible to be, reinstated in good standing and free of any restrictions or conditions[5]. Also, certified documentation from the state board of nursing of each jurisdiction in which the Licensee has ever been licensed to practice as a nurse, sent directly to the Massachusetts Board identifying his license status and discipline history, and verifying that his nursing license is, or is eligible to be, in good standing and free of any restrictions or conditions.

h. Submit documentation that he has successfully completed the following continuing education[6] within sixty (60) days after the Effective Date,

   i. Six (6) contact hours of continuing education on the topic of Medication Administration and Documentation in Nursing.

   ii. Three (3) contact hours of continuing education on the topic of Legal and Ethical Aspects of Nursing.

   iii. Three (3) contact hours of continuing education on the topic of Pain Management in Nursing.

   iv. Three (3) contact hours of continuing education on the topic of Critical Thinking and Judgment in Nursing Practice.

5. In addition to the items identified in Paragraph 4, the Licensee shall submit the following documentation of the Licensee's stable and fully sustained recovery from substance abuse, dependency and/or addiction for three (3) years immediately prior to the petition date, all to the Board's satisfaction:

   a. The results of random supervised urine tests for substances of abuse sent directly to the Board and collected from the Licensee according to the conditions and procedures outlined in **Attachment A**, no less than fifteen (15) times per year during the two (2) years immediately preceding the petition date. All such results are required to be negative.

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[5] Licensee shall also submit certified documentation from the state board of nursing of each jurisdiction in which the Licensee has ever been licensed to practice as a nurse, sent directly to the Massachusetts Board, identifying his license status and discipline history, and verifying that his license is, or is eligible to be, in good standing and free of any restrictions or conditions.

[6] These continuing education courses must be *in addition to* any contact hours required for license renewal. They may be taken as home study or as correspondence course, *provided that* they meet the requirements of Board Regulations at 244 CMR 5.00, Continuing Education.

b. Documentation that the Licensee has obtained a sponsor and has regularly attended Alcoholics Anonymous (AA) and/or Narcotics Anonymous (NA) meetings at least three (3) times per week during the the two (2) years immediately preceding the petition date. This documentation must include a letter of support from the Licensee's sponsor and signatures verifying the required attendance.

c. Documentation prepared within thirty (30) days of the petition date and sent directly to the Board from a licensed mental health provider verifying that the Licensee has regularly attended group or individual counseling or therapy, or both, conducted by the mental health provider. Such documentation shall specify the frequency and length of the therapy and/or counseling and shall include a summary of the Licensee's progress in therapy and specific treatment recommendations for the Licensee's sustained recovery from substance abuse, dependency and addiction.

6. The Board may choose to reinstate the Licensee's license if the Board determines that reinstatement is in the best interests of the public at large. Any reinstatement of the Licensee's license may be conditioned upon the Licensee entering into a consent agreement for the PROBATION of his license for a two (2) year duration, and including requirements, that the Board determines at the time of relicensure to be reasonably necessary in the best interests of the public health, safety and welfare.

7. The Licensee agrees that he will not practice as a Registered Nurse in Massachusetts from the Effective Date unless and until the Board reinstates his license[7].

8. The Board agrees that in return for the Licensee's execution of this Agreement it will not prosecute the complaint.

9. The Licensee understands that he has a right to formal adjudicatory hearing concerning the allegations against him and that during said adjudication he would possess the right to confront and cross-examine witnesses, to call witnesses, to present evidence, to testify on his own behalf, to contest the allegations, to present oral argument, to appeal to the courts, and all other rights as set forth in the Massachusetts Administrative Procedures Act, G. L. c. 30A, and the Standard Adjudicatory Rules of Practice and Procedure, 801 CMR 1.01 *et seq.* The

[7] The Licensee understands that practice as a Registered Nurse includes, but is not limited to, seeking and/or accepting a paid or voluntary position as a Registered Nurse, or a paid or voluntary position requiring that the applicant hold a current Registered Nurse license. The Licensee further understands that if he accepts a voluntary or paid position as a Registered Nurse, or engages in any practice of nursing after the Effective Date and before the Board formally reinstates his license, evidence of such practice shall be grounds for the Board's referral of any such unlicensed practice to the appropriate law enforcement authorities for prosecution, as set forth in G. L. c. 112, ss. 65 and 80.

Licensee further understands that by executing this Agreement he is knowingly and voluntarily waiving his right to a formal adjudication of the complaints.

10. The Licensee acknowledges that he has been at all times free to seek and use legal counsel in connection with the complaint and this Agreement.

11. The Licensee acknowledges that after the Effective Date, the Agreement constitutes a public record of disciplinary action by the Board. The Board may forward a copy of this Agreement to other licensing boards, law enforcement entities, and other individuals or entities as required or permitted by law.

12. The Licensee certifies that he has read this Agreement. The Licensee understands and agrees that entering into this Agreement is a final act and not subject to reconsideration, appeal or judicial review.

1/30/15
Michael L. DeMello (sign and date)

Gregory Kimball
Witness Print

1/30/15
Witness (sign and date)

Rula Harb
Rula Harb, MSN, RN
Executive Director
Board of Registration in Nursing

February 19, 2015
Effective Date of Surrender Agreement

Fully Signed Agreement Sent to Licensee on 2-19-15 by Certified

Mail No. 7012 3460 0002 3702 8962

Michael L. DeMello
RN251080
NUR-2014-0178